



**CARMEN FARIÑA, *Chancellor***

**MULTIPLE TASK AWARD CONTRACT SOLICITATION**

**MTAC #R1120**

**TITLE: Professional Development Services for Early Childhood Educators**

**INITIAL DUE DATE: May 18, 2016 by 1:00PM**

**PROPOSALS WILL CONTINUE TO BE ACCEPTED ON AN ON-GOING BASIS**

**OPEN UNTIL:** Indefinitely

Sealed proposals will be received by the Division of Contracts and Purchasing, 65 Court Street, Room 1201, Brooklyn, New York 11201

**PRE-PROPOSAL CONFERENCE WILL BE HELD ON:**

**Tuesday, April 26, 2016 at 9:00 AM**

**AT**

**Tweed Courthouse**

**52 Chambers Street, 2<sup>nd</sup> Floor Conference Room**

**New York, NY, 10007**

**FOR ADDITIONAL PROCUREMENT INFORMATION SEE:**

**<http://schools.nyc.gov/dcp>**

This Multiple Task Award Contract Solicitation is issued by the Division of Contracts and Purchasing 65 Court Street, Room 1201 Brooklyn, NY 11201

**EACH ENVELOPE SUBMITTED MUST BE LABELED AND EVERY LABEL MUST REFERENCE THE MTAC NUMBER**

**Vendor Hotline 718-935-2300**

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**FOR THE PURPOSES OF THIS DOCUMENT THE TERM “MTAC” IS USED TO DEFINE THE METHOD OF SOLICITATION USED.**

**FOR THE PURPOSES OF THIS MTAC, “WE,” “US” OR “OUR” SHALL MEAN THE NEW YORK CITY DEPARTMENT OF EDUCATION (NYCDOE), AND “YOU” OR “YOUR” SHALL MEAN THE ENTITY SUBMITTING THE PROPOSAL TO THE NYCDOE.**

**ALTHOUGH THIS AGENCY IS BEING REFERRED TO AS THE NYCDOE, FOR CONTRACT AND INSURANCE PURPOSES, THE AGENCY IS STILL THE BOARD OF EDUCATION AND THEREFORE THE CONTRACTS AND INSURANCE CERTIFICATES MUST STILL REFERENCE THE BOARD OF EDUCATION OF THE CITY OF NEW YORK.**

**COMPONENT INFORMATION PAGE**

**To All Proposers:**

This procurement contains three (3) service components. Proposers must provide at least one (1) service from the following list:

**Components:**

- A - Professional Development designed for teachers, paraprofessionals (i.e., assistant teachers, teacher aides), family workers, parent coordinators, teacher leaders and/or coaches across all Pre-K for All settings inclusive of New York City Early Education Center (NYCEECs), district schools, charter schools, and Pre-K Centers.
  - B - Professional Development designed for principals, site administrators, coaches, borough administrators, and/or NYCEEC directors.
  - C - Professional Development designed for building the capacity of the Division of Early Childhood Education staff that support programs on ongoing basis such as Instructional Coordinators and Social Workers.
- 
- Proposers may respond to **one or multiple** components.
  - Proposers must check each service component you wish to propose.
  - Proposers must submit a **separate Program Plan (Appendix E2)** for each service component.

## **SECTION. 1 PROGRAM SUMMARY, BACKGROUND, AND PURPOSE**

### **1.1 PROGRAM SUMMARY**

The Mayor and the Chancellor have committed to providing a universal pre-kindergarten system in New York City that provides every 4 year old with high-quality, full day pre-K. Every student in NYC should have the foundation of skills, knowledge, and approaches to learning needed to succeed. Evidence demonstrates quality pre-K contributes student achievement and other long term benefits. New York City expanded its full-day program starting in 2014 and reached full scale in the 2015-16 school year. It is now offering a high quality full-day pre-k to all four year olds and their families who want to participate.

The Division of Early Childhood Education (DECE) administers Pre-K for All programs for NYC students in public elementary schools and New York City Early Education Centers (NYCEECs). DECE provides families access to high quality early childhood options that prepare their children for success in school and life. Together with families and programs, DECE ensures that children are engaged, nurtured and supported with the tools needed to develop into independent learners and creative problem-solvers.

On behalf of the New York City Department of Education (“NYCDOE” or the “Department”), the Division of Early Childhood Education (DECE) is seeking proposals from organizations experienced in providing professional development in early childhood education and service. DECE will collaborate with selected vendors to provide targeted professional development to identified pre-k and NYCDOE early childhood staff to increase the level of quality in prekindergarten programs in New York City. Proposals are being sought to address three areas of professional development and support:

**Component A** - Professional Development designed for teachers, paraprofessionals (i.e., assistant teachers, teacher aides), family workers, parent coordinators, teacher leaders and/or coaches across all Pre-K for All settings inclusive of New York City Early Education Center (NYCEECs), district schools, charter schools, and Pre-K Centers.

**Component B** - Professional Development designed for principals, site administrators, coaches, borough administrators, and/or NYCEEC directors.

**Component C** – Professional Development designed for building the capacity of the Division of Early Childhood Education staff that support programs on ongoing basis such as Instructional Coordinators and Social Workers.

Vendors proposing for Component A will provide professional development to staff who provide direct services to prekindergarten students, families, administrators, and/or teachers. The recipients of the professional development in Component B are primarily involved in providing direction for staff who serve in a program leadership capacity. The recipients of the professional development in Component C are primarily involved in supporting pre-k programs on an ongoing basis through on-site coaching and other professional learning opportunities. Vendors may propose for one, two or three components. The contracts resulting from this solicitation will be for a term of five years. The goal of this MTAC is to award multiple requirements contracts to vendors so that professional development options are available to schools, NYCEECs, administrators, and support staff (e.g. instructional coordinators and social workers).

The MTAC is an on-going, open enrollment process through which qualified pools of organizations are awarded contracts. NYCDOE will enter into requirements contracts with multiple vendors that meet the needs of this MTAC. Requirements contracts do not constitute a guarantee that services will be procured. Only a purchase order issued and approved by a designated NYCDOE school or office will authorize that services may be purchased.

Contracts resulting from this MTAC will be for a term of 5 years. Purchase orders issued and approved by NYCDOE schools or offices will determine the specific duration and scale of any programs or services purchased under the contract.

## 1.2 BACKGROUND AND PURPOSE

The Mayor's citywide pre-k expansion forwards pre-k as universally accessible and available to all children and families in all five boroughs of the New York City. DECE is releasing this MTAC to advance and maintain our standards and objectives for early childhood education. Those standards are described in the NYCDOE's Pre-k for All Program Quality Standards: [http://schools.nyc.gov/NR/rdonlyres/175F24FE-E23E-4B93-BF6C-0C4EF35663D2/0/NYC PreK for All Quality Standards.pdf](http://schools.nyc.gov/NR/rdonlyres/175F24FE-E23E-4B93-BF6C-0C4EF35663D2/0/NYC%20PreK%20for%20All%20Quality%20Standards.pdf). The NYC Pre-K for All Program Quality Standards define the NYCDOE's vision for high-quality for Pre-K for All programs in NYC. They describe the key practices of family engagement, rigorous and developmentally appropriate instruction, professional collaborations, and leadership that support children in gaining the knowledge and skills outlined in the [New York State Prekindergarten Foundation for the Common Core](#) (PKFCC). Grounded in the NYCDOE's vision for school improvement across the pre-K to 12 continuum, the [DOE Framework for Great Schools](#), the Pre-K for All Program Quality Standards establish a shared set of expectations for pre-K programs across all settings. The DECE staff, pre-K program leaders and teachers, and pre-K families will use the Program Quality Standards to understand and advance program quality and positive outcomes for children.

At the heart of New York City's prekindergarten expansion are intensive efforts to raise the level of quality programming and instruction that is provided to our children to support their development into skillful, lifelong learners. Targeted professional development can support programs and, ultimately, prekindergarten students' progress by strengthening the quality of instruction and family engagement necessary to provide all children with a solid foundation for future success in all domains of learning and development. The purpose of this MTAC is to provide professional development for staff who either directly interface with children or those who lead programs and support the adults that serve children and families in pre-k programs across the city. Through collaboration with DECE and the selected vendors, the resulting contracts will support the differing needs of schools and NYCEECs and provide professional development to enhance the quality of early childhood programs in New York City.

The NYCDOE is seeking vendors who can support NYCDOE's efforts to build the capacity of programs and NYCDOE support staff to offer high quality pre-k instruction. Proposals should highlight evidenced based strategies that meet the needs of educators, leaders, and NYCDOE staff supporting pre-k programs with varied backgrounds and experiences. Given the size and diversity of NYC's pre-k system, differentiated supports to improve quality at all levels are critical to the ongoing success of the program.

## SECTION. 2 MINIMUM QUALIFICATIONS

All proposals will be evaluated to determine if they meet the minimum qualifications set forth in this section. Proposals that fail to meet the minimum qualifications will not be considered.

- 2.1 Proposer must have a minimum of three (3) years demonstrated successful experience in New York City or other large urban school systems providing systemic professional development in a comprehensive standards-based approach to early childhood education for role-specific stakeholders in early childhood education, specifically as it relates to supporting different levels of expertise, skill sets, experiences, and knowledge of teachers, social workers, early childhood coordinators, educational assistants, family assistants, parent coordinators, teacher leaders, coaches and school district administrators and/or combination of the above-listed.

- 2.2 Proposer must have the ability to provide services throughout the five boroughs.
- 2.3 Proposer should submit approximately three (3) references or contacts from any schools where services were provided. References should include the contact name, position within their company, telephone number and email addresses.

**IF YOUR PROPOSAL DOES NOT CLEARLY EXHIBIT ALL OF THE ABOVE, THEN YOUR PROPOSAL WILL NOT BE FURTHER EVALUATED.**

**IN APPENDIX E1 – PROPOSAL FORM, VENDORS MUST PROVIDE THE RESPONSE TO EACH MINIMUM QUALIFICATION NEXT TO ITS CORRESPONDING SUBSECTION NUMBER. THIS INFORMATION MUST BE DETAILED IN SECTION 2 OF APPENDIX E1, THE PROPOSAL FORM.**

### **SECTION. 3 SCOPE OF SERVICES**

Successful proposer(s) shall be required to deliver the high quality professional development program sought below. Specifically, proposers shall be required to demonstrate how they will perform, coordinate and manage all proposed service offerings described below and including the following scope of content:

- Pre-K for All Program Quality Standards
- New York State Pre-k Foundation for the Common Core (Guiding Principles and Learning Standards)
- Special Education – Promising Practices in Prekindergarten
- The Teaching/Learning Cycle – What are the Essential Components for Teaching and Learning in the Prekindergarten Classroom?

#### General Information:

Research indicates that the most effective professional development incorporates the explorations of underlying theory, demonstrates exemplary practice in classroom coaching, provides opportunities for peer exchanges, and highlights opportunities to try out new skills with support and supervision, all accompanied by collegial feedback.

Successful proposals will include professional development models that are scientifically research-based and demonstrate best practices and strategies for effective early childhood instruction and adult learning. The focus of the services of the provider(s) should be on improvement of teaching and learning services with the ultimate outcome of supporting student learning and development in all domains described in the Prekindergarten Foundation for the Common Core.

Specifically, these services should be designed so that the instructional capacity of pre-k programs is expanded and enhanced to meet high standards with a particular emphasis on having all students develop a foundation of skills, knowledge, and approaches to learning. Professional development should build the capacity of educators, leaders, and those who support programs to build on the strengths and backgrounds children and families bring to the classroom, including students with identified/unidentified disabilities and students of all ability levels. Services should reflect the school community (students, staff, and families), addressing the needs of culturally and linguistically diverse students and families.

Proposers should be familiar with the following DECE frameworks which should be reflected in the proposals:

- New York City's Pre-k for All Program Quality Standards - [http://schools.nyc.gov/NR/rdonlyres/175F24FE-E23E-4B93-BF6C-0C4EF35663D2/0/NYC\\_PreK\\_for\\_All\\_Quality\\_Standards.pdf](http://schools.nyc.gov/NR/rdonlyres/175F24FE-E23E-4B93-BF6C-0C4EF35663D2/0/NYC_PreK_for_All_Quality_Standards.pdf)
- New York State Prekindergarten Foundation for the Common Core Learning Standards and Guiding Principles - [http://www.p12.nysed.gov/ciai/common\\_core\\_standards/pdfdocs/nyslsprek.pdf](http://www.p12.nysed.gov/ciai/common_core_standards/pdfdocs/nyslsprek.pdf)
- New York City Department of Education's Framework for Great Schools – <http://schools.nyc.gov/AboutUs/schools/framework/vision>
- All Pre-k Policies and Resources (e.g., Positive Behavior Guidance, Program Assessments) - <http://schools.nyc.gov/Academics/EarlyChildhood/educators/UPK.htm>
- New York City Department of Education's Division of Early Childhood Education's Approved Authentic Assessment Systems – <http://schools.nyc.gov/Academics/EarlyChildhood/educators/screening.htm>
- The National Association for the Education of Young Children's Developmentally Appropriate Practice in Early Childhood Programs - <https://www.naeyc.org/DAP>
- New York City Early Childhood Professional Development Institute's Core Body of Knowledge <http://www.earlychildhoodnyc.org/resources/corebodyofknowledge.cfm>

**All successful Proposers shall be required to perform services described in Section 3.1 in addition to the services for the component(s) Proposer selects as described below:**

**3.1 Professional development services approximately four times a year regardless of component covering the following:**

- 3.1.1 Design coursework that offers participants the opportunity to develop and implement strategies to support students of all ability levels and all backgrounds and for those who support teachers and administrators to meet the needs of early childhood educators and leads with a wide range of experiences and backgrounds. Participants should have opportunity to reflect on specific educational approaches that are aligned with the Prekindergarten Foundation for the Common Core Learning Standards and the impact of evidence-based practices on instruction.
- 3.1.2 Provide support in assessing and supporting the learning needs of all students including students with identified/unidentified disabilities, students of all ability levels, and culturally and linguistically diverse students.
- 3.1.3 Develop structures to help prekindergarten programs and early childhood educators build capacity and sustain knowledge and strategic practices that support the learning needs of all students including students with identified/unidentified disabilities, students of all ability levels, and culturally and linguistically diverse students. Training in using a system of authentic assessment. These structures can include mentoring, inter-visitation, professional learning communities etc.
- 3.1.4 Provide an interdisciplinary approach by integrating developmentally appropriate instruction into various curriculum areas including the arts, social studies, oral language

development, literacy, science, mathematics, physical development, music, family literacy, family involvement and technology (where applicable).

**Component A:****3.2 In addition to services in Section 3.1, provide professional development services described below to approximately 8,000 teachers, teacher assistants (i.e. paraprofessionals, assistant teachers), family workers, parent coordinators, teacher leaders and coaches across all Pre-k for All settings (NYCEECs, district schools, charter schools, and Pre-k Centers)**

- 3.2.1 Consultants to work one-on-one with teachers in targeted classrooms, modeling effective inquiry practices (approx. 2 times a month over 7 months, 500 classrooms).
- 3.2.2 Consultants to facilitate meetings with teachers, early childhood coordinators, instructional specialists and school-based coaches, provide follow-up lessons, and arrange inter-visitations that will focus on objectives determined by teachers and early childhood instructional coordinators (approx. 3 times a year, 500 classrooms).
- 3.2.3 Consultants to lead seminars on identifying best practices in parent/family engagement, effective communication with parents and community members, developing family involvement activities, etc. (approx. 5 sessions a month, 100 participants).
- 3.2.4 Consultants to meet regularly with the principal, NYCEECs, and other school leaders to reflect on the program's implementation and progress in achieving the school's early childhood education goals and objectives (approx. 3 times a year, 2000 programs).
- 3.2.5 Consultants to develop summer training opportunities as needed to meet the needs of the DOE. For example, approx. 3 days, 100 small groups (~ 30-35) and 1 large group (~1,000).
- 3.2.6 Consultants to facilitate and support development of resources aligned with developmentally appropriate practices in prekindergarten (approx. 1 set, 4,500 classrooms).

**Component B:****3.3 In addition to services in Section 3.1, provide Professional Development services described below to approximately 2,000 principals, assistant principals, school leaders and administrators, borough administrators, NYCEEC Directors and superintendents**

- 3.3.1 Regular meetings to plan ways to support teachers, early childhood instructional coordinators and coaches in developing effective developmentally appropriate instruction (approx. 1 meeting per month, 2000 programs).
- 3.3.2 Regular meetings regarding best practices in parent engagement and effective communication with parents and community members through family involvement activities (approx. 4 meetings a year, 1000 programs).

**Component C:****3.4 In addition to services in Section 3.1, provide services described below to Early Childhood Education support staff including but not limited to Instructional Coordinators and Social Workers (approx. 300 staff)**

- 3.4.1 Facilitate meetings and arrange inter-visitations that will focus on objectives determined by participants and their supervisors (approx. 3 times a year, 300 staff).
- 3.4.2 Lead seminars on identifying best practices in parent/family engagement, effective communication with parents and community members, developing family involvement activities, etc. (approx. 3 times a year, 300 staff).
- 3.4.3 Consultants to facilitate and support development of resources aligned with developmentally appropriate practices in prekindergarten (approx. 1 set, 300 staff).

**All professional development program designs should provide:**

- Professional facilitation
- Clear objectives aligned with DECE's expectations
- Opportunity for presenter to share
- Opportunity for participants to engage in small groups
- Qualitative and quantitative feedback through a combination of online and written surveys and verbal focus groups
- Follow up/evaluation verbal and/or written

**SECTION. 4 PROPOSAL SUBMISSION REQUIREMENTS**

The NYCDOE requests that all proposals be typed on both sides of 8 ½" X 11" paper and that proposals be submitted on paper having at least 30% post-consumer material content, i.e., the minimum recovered fiber content level for reprographic papers recommended by the United States Environmental Protection Agency (for any changes to that standard please consult <http://www.epa.gov/cpg/products/printing.htm>). Pages should be paginated. The proposal will be evaluated on the basis of its content, not length.\*

(\*Failure to comply with any of the instructions in this paragraph will not be considered non-responsive.)

Your proposal must fully address the services you have identified in your Scope of Services listed in Section 3. Using Appendices E1, E2, F, and G (also see Section 6), organize your proposal in the following sections:

#### 4.1 Organizational Capacity (Appendix E1)

In this section, you must show evidence of adequate human, organizational, technical, and professional resources and abilities to meet the needs of this MTAC. Organizational capacity shall include compliance with NYCDOE and other relevant administrative and operating policies and procedures, in addition to the capacity to provide services. Include, but do not limit to the following:

- 4.1.1 An organizational chart identifying specific employees slated to work on programs proposed, and their respective titles.
- 4.1.2 Resumes and copies of appropriate licenses/certification of key employees who will provide the proposed services.
- 4.1.3 Personnel available for the various components of proposed services, such as speakers, consultants, on-site mentors and workshop presenters who are not full-time employees.
- 4.1.4 Your organization's maximum capacity, in terms of number of schools and students or staff that your organization provide services to within a school year and/or summer, based on current staffing levels.

#### 4.2 Demonstrated Effectiveness (Appendix E1)

Describe all prior experience providing the proposed services or similar services. Describe the impact your services had on schools, students and staff, and/or families, and provide documentation attesting to the outcomes.

In addition to the information submitted to meet the Vendor Qualifications required in Section 2, above, provide the following to demonstrate your effectiveness:

- 4.2.1 Details of your organizational background, qualifications and experience in providing the proposed services.
- 4.2.2 Detail the methods used and objective, measurable data that demonstrate the results/outcomes achieved by using these methods.
- 4.2.3 List of previous contracts with NYCDOE and other agencies of the City of New York, within the past 5 years. Provide objective, quantifiable data, if available.
- 4.2.4 Experience working in public schools, charter schools, private schools or with a school system.
- 4.2.5 Three (3) letters of references from organizations that have paid you directly for your services. Each reference must state the date(s), location(s), and description of the service(s) provided.
- 4.2.4 Evidence of support that demonstrates the effectiveness of your program(s), such as awards, funding received, positive evaluations from districts, professional organization sponsorship, press coverage/mentions, etc.

NYCDOE reserves the right to verify any experience presented.

**4.3 Program Plan/Narrative (Appendix E2)**

The Program Plan/Narrative must clearly and concisely describe the overall program content, structure and methodology of how your program will provide the services required in the Scope of Services in Section 3, above. Proposers must provide a clear understanding of the needs noted in this MTAC and a detailed description of the methods to be employed, indicating approximate dates and frequency of the services to be provided to meet the goals and objectives. The program plan/narrative should:

- 4.3.1 Describe the goals and objectives of your program. Indicate what population you intend to serve and where services will be provided.
- 4.3.2 Describe the methodology and exemplary features of your program and discuss how they are linked to research-based practice, as applicable.
- 4.3.3 Describe the program structure such as total duration, hours per day, activities per day, staffing levels, targeted number of participants served, your plan for differentiating based on experience, background, strengths, and needs, etc.
- 4.3.4 Describe the expected outcomes of the services and discuss how you will assess and evaluate whether expected outcomes are met. Provide a sample of your program’s evaluation tools and/or reports.
- 4.3.5 Proposed time line or schedule for training of personnel and projected number of visits to school(s) for the services proposed.
- 4.3.6 Describe how you will assess and report the expected outcomes have been met.
- 4.3.7 Describe how your program is an exemplary professional development program as evidenced by professional organization sponsorship, positive evaluations from districts across the country, etc.
- 4.3.8 Describe how your program is supported by the research from peer-reviewed journals or scientifically conducted studies used for the design and delivery of the proposed adult learning experiences.
- 4.3.9 Describe how you will collaborate with the DOE Team to ensure that PD plans are aligned with NYC’s pre-K quality expectations and the needs of our large, diverse system.
- 4.3.10 Define your target audience(s), the grade level of instruction, service(s) to be provided, a plan for collaborating with DOE to ensure plans are designed meet a diverse system and aligned to quality expectations and the expected outcomes(s) of the services(s) as in the example below:

Template of Sample Services and Outcomes:

TARGET AUDIENCE	EXAMPLE SERVICES	OF	EXAMPLE OUTCOMES	OF	COLLABORATION WITH DOE PLAN

#### 4.4 Pricing/Charges and Cost Price Analysis (Appendices F and G)

Proposers must submit a Pricing Form that provides pricing details for the proposed services as a separate Excel file (Appendix F). This form will be reviewed for rates associated with your services. Also submit a Cost Price Analysis Form for a breakdown of the proposed pricing into the various components of cost as a separate Excel file (Appendix G). The cost price analysis should be completed based on the total program price. If you are selected, the NYCDOE reserves the right to review records used for cost calculations that support your prices before entering into a contract with you.

- 4.4.1 Price Forms require unit prices. Prices should include all of your costs, including direct labor, indirect labor, General and Administrative costs, and profit. See Section 6.4, below.
- 4.4.2 Unit must be Hourly, Per Diem or Per Workshop. Please propose pricing per unit of service. It should be clearly indicated your unit of service a required minimum and/or maximum number of participants. Note, however, you may only invoice for hours or workshops that you have provided. You will be required to support your invoices with attendance records signed by participants.
- 4.4.3 Any materials offered through this contract must be ancillary to the professional development services provided.

#### **NOTE:**

**In addition to Appendices F & G, you may also include additional pricing information if you need to further clarify your pricing structure.**

### **SECTION. 5 PROPOSAL EVALUATION PROCEDURE**

All proposals received by the NYCDOE will be reviewed to determine if they meet all of the submission and Vendor Qualifications prescribed in this MTAC. Proposals meeting these requirements will be evaluated and rated by an Evaluation Committee applying the evaluation criteria prescribed below. The NYCDOE reserves the right to conduct site visits to verify facility or other information contained in your proposal and may require a demonstration/presentation of services or submit additional written material in support of a proposal, where applicable. The Evaluation Committee makes every attempt to match the submitted capacities of the highest rated firms with the Department of Education's projected needs.

#### **5.1 EVALUATION CRITERIA**

All proposals received by the New York City Department of Education will be reviewed to determine if the proposal meets all of the submission requirements and Minimum Qualifications prescribed in this solicitation. If the proposal meets each of these requirements, an Evaluation Committee will review and evaluate each proposal, applying the evaluation criteria prescribed below. The NYC DOE reserves the right to conduct site visits to verify facility to other information contained in a proposal and may require a Proposer to make a demonstration of their services or oral presentation in support of a proposal.

The criteria matrix below will be used to evaluate each submitted proposal. Proposals applying to provide services in one or more components will be evaluated according to their identified Component(s). Criteria are worth 40 points for Program Plan and 20 points each per remaining three response categories adding up to a

maximum possible total of 100 points. The closer your proposal achieves the Desired Characteristics, the higher points it will receive in each related Response Category. Proposals that achieve an average total score of 80 points or above will be recommended for an award.

<b><u>Response Category</u></b>	<b><u>Desired Characteristics</u></b>	<b><u>Maximum Points</u></b>
<b>Program Plan</b>	Program design meets the specifications of the scope of services including, but not limited to, the following characteristics: <ul style="list-style-type: none"> <li>• a solid interdisciplinary approach</li> <li>• a comprehensive evaluation and assessment tool</li> <li>• an inclusive design that is research based and provides best practices for early childhood development</li> </ul>	<b>40</b>
<b>Organizational Capacity</b>	Strong evidence that organization's and program's resources, abilities, systems, structure and policy can deliver professional development and support the proposed scope of services including, but not limited to, the following characteristics: <ul style="list-style-type: none"> <li>• Resumes of key personnel demonstrate the qualifications to deliver the program plan</li> <li>• Organization demonstrates systems for planning, providing, monitoring, assessing impact of and reporting on impact of support to school(s) and central offices</li> <li>• Organization demonstrates the capacity to provide on-going follow-up for participants</li> <li>• Organization demonstrates the ability to customize services for the DOE</li> </ul>	<b>20</b>
<b>Demonstrated Effectiveness</b>	Show evidence of prior success with professional development including effective program design, management, and evaluation. In addition, proposer must: <ul style="list-style-type: none"> <li>• Describe all prior experience in the provision of these or similar services</li> <li>• Demonstrate success in NYC or other urban districts and schools</li> <li>• Provide data supporting positive effects of professional development services</li> <li>• Provide references which offer evidence of success</li> <li>• Demonstrate success with diverse student populations</li> <li>• Provide evidence of ongoing program evaluation for continuous improvement</li> </ul>	<b>20</b>
<b>Pricing</b>	Proposed pricing should be reflected in a detailed pricing plan including details regarding costs (labor and overhead expenses) based on scale and need. Unit costs should be provided for all activities.  The lowest reasonable standardized price for the proposed services. Workshop pricing should identify area of professional development, the targeted audience, whether materials are included, etc.	<b>20</b>
<b>Total Maximum Points</b>		<b>100</b>

## SECTION. 6 PROPOSAL PACKAGE FORMAT

Each Proposal must be submitted in Microsoft Word '98 or a later version. Additionally, this MTAC has five (5) forms for you to use in your proposal, Appendices E1, E2, F, G and H which **must** be downloaded from our website at: <http://schools.nyc.gov/Offices/DCP/Vendor/MTAC/Default.htm> . These forms are in Microsoft Word, Excel, and Adobe Acrobat (pdf). Qualified and interested vendors are invited to respond, provided they use these forms to submit responses to the NYCDOE.

### TO ALL VENDORS:

This solicitation is open indefinitely. However, to ensure that services are available for the **2016-2017 SCHOOL YEAR, proposals MUST be submitted no later than** the initial due date of May 18, 2016 by 1:00 PM EST.

#### 6.1 Proposal Form Instructions

Proposers **must** prepare their proposals in the format and sequence supplied in this section. **Failure to comply with this stipulation could be a basis for proposal disqualification.** Supplemental information about the Proposer's products or services may be included as an addendum to the proposal but not in place of the required forms.

Proposals must include a cover letter, Table of Contents, and page numbers. There is no specific limit on the number of pages applications may contain but **please be concise**.

#### 6.2 Proposal Form (Appendix E1)

Please review each of the following sections and subsections and respond accordingly:

1. Company Information
2. Minimum Qualifications
  - a. List of experience
  - b. Three names of references from organizations that have received services from the proposer. Include the contact person's name, title, telephone number and email address.
3. Organizational Capacity
  - a. General Organization Chart
  - b. Resumes, licenses/certification of key employees
  - c. List of non-employees who may provide services
4. Demonstrated Effectiveness
  - a. Previous NYCDOE and other City Contracts.
 

Include in your proposal a list of all NYCDOE and other City contracts held by your organization within the last five (5) years, specifying the following information:

    - i. City entity or department that administered the contract
    - ii. Contract number
    - iii. Dollar amount of the contract
    - iv. Dates during which the contract was in effect
    - v. A short description of the services covered by the contract
  - b. Evidence of Support (e.g. awards, funding received, positive evaluations from districts, professional organization sponsorship, press coverage/mentions, etc.)
5. Exceptions and Deviations Form (will delay process if not signed)
6. Signature Page (will delay process if not signed)

### 6.3 Program Plan-Narrative Form (Appendix E2)

As required in Section 4.3 of this MTAC, describe in Appendix E2 in clear detail the overall program content, structure and methodology for **each** service component selected. Include a sample one-week or one-month schedule of activities, (there is no need to see a work order) along with a brief description of topics for workshops, activities, etc. Use as much space as needed, **but please be concise**. Your work plan should indicate approximate dates and frequency of the proposed services. **If proposing more than one component please submit a separate program plan for each component.**

### 6.4 Pricing & Cost Price Analysis Forms (Appendices F & G)

Pricing information must be entered in the Pricing/Charges Form included as a separate Excel file (Appendix F), with detailed cost information provided in the Cost Breakdown Worksheet (Appendix G). This template has been developed to standardize pricing submissions. Carefully read and follow the directions on the forms and in Section 4.4.

Please note: The program description provided in column E, for Appendix F will be used to populate the MTAC database. Please be concise and clear. Submit a pricing form for each proposed component.

### 6.5 Doing Business Data Form (Appendix H)

Pursuant to Local Law 34 of 2007, amending the City's Campaign Finance Law, the City is required to establish a computerized database containing the names of any "person" that has "business dealings with the city" as such terms are defined in the Local Law. In order for the City to obtain the necessary information to establish the required database, vendors responding to this solicitation should complete the Doing Business Data Form, which can be downloaded from the attached link located here: <http://schools.nyc.gov/NR/ronlyres/1A55B041-045B-4854-84CE-69A4CA4727A1/0/DoingBusinessDataFormDOE.pdf>, and return it with this proposal. The submission of a Doing Business Data Form that is inaccurate and incomplete may result in appropriate sanctions.

### 6.6 Prepare and submit the proposal package as follows:

1. One (1) original hard copy, with original signatures
  2. Four (4) paper photocopies
  3. One (1) flash drive or CD/DVD containing electronic copies of each Appendix. Create an individual file for each Appendix using Microsoft Word and Excel format, for a total of five (5) separate files. Save them in one computer folder.
- 6.7 Do not submit audio/video demonstrations tapes, diskettes, CDs, PowerPoint, or samples of materials unless otherwise specified.
- 6.8 Applicants are required to have current Vendor Information Exchange System (VENDEX) forms on file with the Mayor's Office of Contract Services (MOCS). The City is legally required to use this computerized data system to help it make well informed decisions when selecting a vendor. VENDEX provides the City with comprehensive management information so that it may better serve the needs of the citizens of New York City. VENDEX information and forms can be accessed at: <http://nyc.gov/html/mocs/html/research/vendex.shtml>.

DO NOT SUBMIT COPIES of your VENDEX forms with your proposals. Any questions regarding VENDEX procedures can be addressed by the “Vendor’s Guide to VENDEX”, which can be accessed on the Mayor’s Office of Contract Service’s website at <http://www.nyc.gov/html/selltonyc/html/vendor/forms.shtml>.

Note: We may request a Certification of No Change from your organization if a determination is made to award a contract.

6.9 Each envelope submitted in response to the MTAC **must** be addressed as follows:

**FROM:            Proposer Name/Address**  
**Street Address**  
**City, State, and Zip Code**

**TO:                New York City Department of Education**  
**Attn:              Division of Contracts and Purchasing**  
**UPK Unit**  
**65 Court Street, Room 1201**  
**Brooklyn, NY 11201**  
**MTAC # R1120**

## **SECTION. 7    MULTIPLE TASK AWARD CONTRACT SOLICITATION TIMETABLE**

The **Multiple Task Award Contract (MTAC)** is an on-going open enrollment process through which qualified pools of organizations are awarded contracts. Though open indefinitely, organizations are encouraged to submit their proposal early as a five-month evaluation period is required.

### **7.1 Request for Clarification and Addenda**

Any inquiry regarding this solicitation must be made in writing, with the exception being oral inquiries that are addressed at the Pre-Proposal Conference if such a conference is scheduled and conducted by the NYCDOE. No telephone calls will be accepted regarding this MTAC. All written inquiries can be emailed to [COPContracts@schools.nyc.gov](mailto:COPContracts@schools.nyc.gov).

Proposers should not rely on any representations, statements, or clarifications not made in this MTAC, a formal addendum, or at the pre-proposal conference. Notwithstanding the foregoing, if the NYCDOE issues an addendum with a digest of the inquiries made and answers given at the pre-proposal conference, proposers shall rely on the information contained in such addendum rather than those given orally at the conference.

### **7.2 Pre-Proposal Conference**

A pre-proposal conference, at which vendors will have the opportunity to ask questions related to this MTAC, will be held on **Tuesday, April 26, 2016 at 9:00 A.M. at Tweed Courthouse, 52 Chambers Street, 2<sup>nd</sup> Floor Conference Room, New York, 10007.**

Specific questions concerning this MTAC should be submitted in writing to the above email address prior to the pre-proposal conference. Written questions should reference the MTAC by page and paragraph numbers. If possible, these questions will be answered at the pre-proposal conference and additional questions may be submitted orally at the conference.

### 7.3 Incurring Costs

The NYCDOE shall not be held liable for any pre-contract activity or costs incurred by proposers in the preparation of their proposals or during any negotiations on proposed contracts or for any work performed or materials provided in connection therewith.

### 7.4 Oral Presentations/Demonstrations

The NYCDOE may require proposers to give oral presentations regarding their proposals after submission. At such presentations, proposers may be required to demonstrate or exhibit aspects relating to their proposal as requested by the NYCDOE.

### 7.5 Negotiations

The NYCDOE reserves the right to:

1. reject all proposals submitted;
2. accept any proposal or alternate as submitted without negotiations;
3. accept or negotiate on all proposals submitted which fall within a competitive range;
4. require revisions to, corrections of, or other changes to any proposal submitted as a condition to its being given any further consideration;
5. select for negotiations only the overall best proposal or alternate submitted, as determined by the NYCDOE;
6. negotiate with one or more Proposers in any manner it deems fit, (such negotiations may be concurrent or sequential as the NYCDOE determines);
7. following the conclusion of any such negotiations, the NYCDOE may solicit Best and Final Offers (BAFO) utilizing an appropriate procedure;
8. re-open negotiations after the BAFO procedure, if it is in the Department's best interest to do so.

No Proposer shall have any rights against the NYCDOE arising at any stage of the solicitation from any negotiations that take place, or from the fact that the NYCDOE does not select a Proposer for negotiations.

### 7.6 Withdrawal of Proposals

After receipt of proposals, a request by a proposer to withdraw its proposal, because of an error made by the proposer will be considered only under the following terms and conditions:

- 7.6.1 Request to withdraw bid must be received in writing providing reasons for the request. This request is to be sent to the Director, within five (5) business days following the date and time set for the opening of proposals.
- 7.6.2 The Executive Director may grant or reject such request in any case which it deems just and proper.
- 7.6.3 The request shall be made and such consent to withdraw shall be granted, if so determined by the Executive Director, upon the express condition that the proposer shall be excluded from proposing again for the re-solicitation of proposals for the same contract should no award be made.
- 7.6.4 Following the three (3) business days after the proposal due date, a proposer may not withdraw its proposal for any reason before the expiration of one hundred twenty calendar days from the date of proposal opening of said proposal. A proposer may withdraw its proposal after

that date only if such intent is stated in writing prior to the mailing by the DOE of a purchase order, notice of award, or acceptance of proposals.

### 7.7 Terms and Conditions

All contracts resulting from this MTAC shall be subject to the attached General Terms and Conditions (Appendix B: Department of Education, Terms and Conditions).

### 7.8 Contract Award

The New York City Department of Education reserves the right to award a contract(s) to other than the proposer(s) offering the lowest overall cost. The contract(s) resulting from this solicitation shall be awarded to the qualified proposer(s) whose proposal(s) the New York City Department of Education has determined to be the most advantageous, based on the evaluation criteria set forth in the Multiple Task Award Contract (MTAC). All contracts resulting from this MTAC shall be signed by the proposer(s) within a reasonable time upon receipt, which period shall not exceed 30 days. Thereafter the proposer(s) is (are) deemed delinquent, at the NYCDOE's option, the contract(s) may be voided.

Contract award (s) shall be subject to the following conditions, where applicable. They are not required to be part of your proposal submission.

- 7.8.1 Completion and submission of an appropriate Office of Equal Opportunity form. E.g. Workforce profile or Company's Equal Opportunities Work plan; does **not** apply to M/WBE certification.
- 7.8.2 Completion and submission of the Affirmation Sheet.
- 7.8.3 Submission of an appropriate Certificate of Insurance. If your insurance expires during the course of this process, it is your responsibility to forward renewal documents.
- 7.8.4 All vendors are required to maintain accurate contact information.
- 7.8.5 All vendors are required to maintain accurate contact information - organization contact person, address, telephone number and email. If changes occur; vendor must notify [COPContracts@schools.nyc.gov](mailto:COPContracts@schools.nyc.gov) of said change.

7.9 Any proposer(s) recommended for award that is (are) incorporated outside of the State of New York that has or will be doing business in the state will be required to be registered with the New York State Department of State Division of Corporations. If not currently registered, proposer(s) will be required to file an "Application for Authority" with the New York State Department of State and shall provide proof to the Board of such filing. Instructions and statutory filing fee can be found at the following link: <http://www.dos.ny.gov/corps/buscorp.html#appauth>.

### 7.10 Termination of Contract

Any contract(s) resulting from this MTAC may be terminated at any time upon thirty (30) days written notice, by the Chancellor, and/or his designee. No claim for damages will be made by, or allowed to, the Contractor because of such termination.

**7.11 Prohibition of Communication During MTAC Evaluation Period**

After the submittal of proposals and continuing until a contract has been awarded, all DOE Personnel involved in the project will be specifically directed against holding any meetings, conferences or technical discussions with any proposer regarding this MTAC except as provided in the MTAC. Proposers shall not initiate communication in any manner with DOE personnel regarding this MTAC or the proposals during this period of time, unless authorized, in advance, by the selection committee. Failure to comply with this requirement will automatically terminate further consideration of that firm's or individual's proposal.

**7.12 No Discrimination (the following provision 7.12 replaces/supersedes the provision with the same title in the attached Standard Board Terms & Condition)**

- 7.12.1 Compliance: the Contractor, and all of the Contractor's employees, will strictly comply with all applicable Federal, State and local laws pertaining to the subject of discrimination and harassment on any protected ground, as they may now read or as they may hereafter be amended. In addition, the Contractor, and all of the Contractor's employees, will comply with all applicable internal Board rules and regulations, including Chancellor's Regulation A-830, the Board's unlawful discrimination/harassment policy.
- 7.12.2 Equal Employment Opportunity Policy: the Contractor is, and will remain, an Equal Opportunity Employer. In addition to the other requirements of paragraph 37, the Contractor shall provide employment opportunities for all qualified persons, without regard to race, color, creed, ethnicity, national origin, alienage, citizenship status, age, marital status, partnership status, disability, sexual orientation, gender (sex), military status, prior record or arrest or conviction (except as permitted by law), predisposing genetic characteristics, or status as a victim of domestic violence, sexual offenses and stalking. Furthermore, the Contractor will maintain an environment free of harassment on the above-referenced protected categories.
- 7.12.3 Pursuant to the provisions of the New York State Labor Law, the Contractor agrees, in its operations performed within the State of New York:
  - 7.12.3.1 That in the hiring of employees for the performance of work under this contract hereunder, neither the contractor, nor any person acting on behalf of such contractor, shall by reason of race, creed, color, disability, sex or national origin discriminate against any citizen of the state of New York who is qualified and available to perform the work to which the employment relates;
  - 7.12.3.2 That no contractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, creed, color, disability, sex or national origin;
  - 7.12.3.3 That there may be deducted from the amount payable to the contractor by the state or municipality under this contract a penalty of fifty dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract;
  - 7.12.3.4 That this contract may be cancelled or terminated by the state or municipality, and all moneys due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the contract;

7.12.3.5 The aforesaid provisions of this section covering every contract for or on behalf of the state or a municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the State of New York; and

7.12.3.6 That the Board is, for purposes of this subparagraph C., a "state or municipality."

**7.13 Equal Employment Opportunity Requirements for Contractors (the following provision 7.13 replaces/supersedes the provision with the same title in the attached Standard Board Terms & Conditions)**

7.13.1 Definition of Terms for the Implementation of an Affirmative Action Program.

The following terms, when used in this paragraph, shall have the meanings given for them.

7.13.1.1 "Employee": Any person employed full or part-time in any capacity by the Contractor.

7.13.1.2 "Minorities and Women": Blacks, Hispanics, Asian or Pacific Islanders, Native Americans, and females.

7.13.1.3 "Affirmative Action Program": an affirmative action program is a management tool designed to ensure equal employment opportunity. The Contractor will submit a detailed written Affirmative Action Plan which, when implemented with the Equal Employment Opportunity Policy herein, ensures an identification of problem areas, an analysis of workforce utilization, and the implementation of good faith efforts to address any instances of underutilization for minorities and women at all levels and in all segments of the Contractor's work force. A sample compliant Affirmative Action Plan will be provided to all Contractors.

An effective Affirmative Action Program shall include, but is not limited to, the following elements:

1. Designation of responsibility for implementation: an employee of the Contractor is responsible for implementing the Affirmative Action Program;
2. The identification of problem areas: this includes an analysis of the Contractor's workforce to identify underutilization for minorities and females, the establishment of placement goals where underutilization is identified, and a survey of other areas of the workforce that may impact the Plan.
3. Action oriented programs: this segment discusses outreach efforts. If there is underutilization for minorities and women, this section will include specific and practical steps (such as good faith efforts) to address the underutilization. This includes corrective actions taken, or to be taken, toward the elimination of any employment policy or practice having a discriminatory effect on minorities and women;
4. Internal audit and report systems: conduct an analysis of the Contractor's personnel activity data;

5. Development or reaffirmation of the Contractor's Equal Opportunity Policy and dissemination of the Policy;
6. Development or reaffirmation of the Contractor's Sex Discrimination and Religious and National Origin Discrimination policies; and
7. Adoption of affirmative action plan for individuals with disabilities and for covered veterans.

7.13.1.4 "Placement Goals": used to measure progress towards achieving equal employment opportunity in an affirmative action program. Placement goals are annual targets that are reasonably attainable by applying good faith efforts (such as outreach). If there is underutilization for a particular job group or job title, then a placement goal will be set. The placement goal is equal to the availability figure for minorities or females in the geographic area the Contractor would use to find workers to fill positions in the job group or job title. Placement goals do not represent quotas and should never operate as quotas.

7.13.1.5 "Underutilization": Having fewer minorities or women in a particular job group or job title than would reasonably be expected by their availability in the geographic area the Contractor would seek workers to fill positions within the job group.

7.13.1.6 "OEO": The Office of Equal Opportunity & Diversity Management of the Board.

7.13.1.7 "Director": The Executive Director of OEO.

#### 7.13.2 Required Affirmative Action Program

7.13.2.1 The Contractor is required to identify and eliminate overt and covert discriminatory practices and implement the Affirmative Action Program. Upon OEO's demand, the Contractor will have ten (10) business days to submit to OEO a detailed written Affirmative Action Program (hereinafter referred to as an "AAP"). If the Contractor cannot submit an AAP within ten business days, the Contractor must immediately contact OEO to request an extension. If granted, the extension deadline must be adhered to by the Contractor. In the event the Contractor submits an AAP that is not acceptable, OEO will require the submission of a revised AAP that complies with OEO's standards and the terms and conditions herein. The revised AAP must be submitted by the deadline established by OEO.

7.13.2.2 In the event the Contractor fails to submit such an acceptable AAP within the time specified by OEO's demand,, OEO has the authority to declare the Contractor as being in default.

7.13.2.3 The Director of OEO shall be the sole judge of the AAP's acceptability. The AAP shall:

1. Apply to all Board of Education contracts with the Contractor;
2. Encompass all phases of the employment process, including evaluation of job classification to ensure job relatedness, recruitment, selection, validity of

examinations, retention, layoffs, seniority, assignments, training, promotion, salary and benefits;

3. Fulfill the following requirements:
  - a. Adhere to all the requirements of the OEO paragraphs herein;
  - b. Include measurable goals, reasonable timetables and specific programs to be implemented by the contractor to identify deficiencies in employment practices with resulting in the underutilization of minorities and females;
  - c. Include the submission of a completed Workforce Profile Form, provided by OEO, which represents the present utilization of minorities and women in the Contractor's work force. This Form will also include the salary range for each job title or job group.;
  - d. Include all of the Contractor's facilities within the continental limits of the United States. If the Contractor wishes to request a variance from this requirement, the Contractor must contact OEO immediately. Variances regarding the specific regions covered by the AAP will be granted at OEO's discretion;
  - e. Specify the union(s) or other employee organizations to which the Contractor's employees belong, and shall include commitments to good faith efforts to effect Equal Opportunity changes directly or indirectly, in programs by such unions or organizations to recruit, train, qualify or otherwise select members, if such changes are deemed necessary. The AAP shall also include a copy of any agreement with an employee association which affects employment policies and practices;
  - f. Be submitted in such format as shall be specified by the Director of OEO.

#### 7.13.3 Implementation of AAP

During the Term of the Contract, the Contractor shall successfully implement the AAP approved by OEO.

If OEO determines that the Contractor breached any of the requirements of the OEO paragraphs herein, OEO will seek to have the Contractor declared in default by the Chancellor's designee as provided elsewhere herein.

For further information concerning these rules, regulations or procedures, contractors may consult with the Office of Equal Opportunity & Diversity Management of the Board.

## **SECTION. 8 CONTRACT TERM**

The contract(s) resulting from this MTAC will be for a term of five (5) years.

**SECTION. 9 TYPE OF CONTRACT**

This MTAC may result in the award of one or more system-wide requirements agreements. Requirements agreements are not commitments to purchase. Only a purchase order issued by a school, district, or central office constitutes such a commitment. The estimated contract award for a requirements contract is based upon the NYCDOE's estimated requirement for that service over the contract period. NYCDOE may purchase all, none, part, or more than the estimated quantity identified.

**SECTION. 10 MULTIPLE TASK AWARD CONTRACT (MTAC) PROCESS**

The MTAC is an ongoing open enrollment procedure that is intended to create a qualified pool of vendors eligible to deliver specific services for the NYCDOE. If a vendor is approved and placed on the pre-qualified list for a specific service, the vendor is available to receive a contract to deliver said services. Each vendor will have two (2) opportunities to submit a proposal within six (6) months of the original proposal submittal date for the open enrollment. Any vendor that has submitted an initial proposal for consideration where a request for additional information is made will have ten (10) business days from the date of notification to reply with the second submission, inclusive of all changes, corrections and recommended modifications. For services valued at \$25,000 or less the Client (Schools/Central Offices) issues a purchase order. For services valued over \$25,000 the Multiple Task Award Contract (MTAC) tool will apply.

The MTAC tool is a "mini-bid" process that allows clients to draw services from a pool of pre-qualified vendors identified via the MTAC solicitation. Clients (Schools/Central Offices) will create a scope and solicit proposals from contractors who are specifically qualified to deliver the needed services. Contractors will receive a request (via email) to propose on an MTAC directly from the Client, and will indicate his/her organization's intent to submit a proposal. A MTAC service request will be awarded to the most cost-effective and capable vendor as determined by the client's selection committee.

All MTAC service request must be associated with an existing MTAC contract in order to be awarded. The MTAC, vendor's proposal and the MTAC contract must be the same and cannot be materially different – including, scope, program plan, price, etc. In particular, vendors may not increase the pricing agreed upon within the related MTAC contract but may offer a lesser unit cost as part of the MTAC process. In addition, clients can not split the dollar value of a contract. If a split occurs the vendor will not be paid. Vendors must comply with the stated guidelines to receive a contract award, and compensation for the services rendered.

**SECTION. 11 FINGERPRINTING/SECURITY CLEARANCE REQUIREMENTS**

Any person who is "employed" by your organization, whether as salaried/hourly/per-diem staff or hired consultants would be considered "staff". Any person representing your organization/agent of your organization who will have direct contact (interaction with students, such as, but not limited to classroom workshops, off-site visits, in-school interactive assemblies) with students and/or will have access to personal student information such as student ID numbers, home addresses and class schedules, must be fingerprinted. An example of indirect contact is, but not limited to, artist performing on stage (without any contact with students), crews setting up for a performance, drivers delivering stage equipment and subcontractors who create materials that is used to deliver services but who will not participate in the contracted programs.

Please visit the Department's Division of Human Resources website at

<http://schools.nyc.gov/Offices/DHR/Fingerprinting+Employee+IDs+and+Smart+Cards.htm> for all fingerprinting requirements and instructions. Though this information refers to employment with NYC DOE, the information is applicable to vendors who are seeking a contract with the DOE that would involve direct contact with students and/or personal student information. You should not start the fingerprinting process unless you have received

notification of contract award. You may contact the Program Office overseeing your contract for fingerprinting referrals.

- 11.1 Contractors' staff shall be subject to security clearance reviews, which may include, but not be limited to, fingerprint checks. Staff members who will provide services to students or will have access to personal student information must be fingerprinted at the DOE, or at a place designated by the DOE, prior to the commencement of service, with the cost of fingerprinting to be incurred by the Contractor or the individual staff member. The Chief Executive Officer of the DOE's Division of Human Resources or designee shall determine whether any of the Contractors' employees subject to security clearance procedures shall be denied access to DOE students or their personal information, for security reasons.
- 11.2 Contract agencies will be responsible for entering, updating and maintaining the names and personal information of their staff and other required information into the DOE's Personnel Eligibility Tracking System (PETs) system. As part of this procedure, the vendor must also enter the provider's e-mail address(es) into the system.
- 11.3 At the time of fingerprinting, each member of the Contractor's staff shall present an official letter of introduction from the Contractor and shall complete a New York City Employment History Form. This form shall apply to all staff that is proposed to provide services to DOE students or have access to their personal information, and is to be updated as changes in personnel occur.
- 11.4 It is important to note that no member of the Contractor's staff may provide services pursuant to this Agreement prior to receiving security clearance from the DOE's Human Resources PETs system. The Contractor may not assign any referrals for services to a staff member unless they have received security clearance from the Office of Personnel Investigation and been listed in PETS as both active and eligible.
  - 11.4.1 If such clearance is denied by the Chief Executive Officer of the Division of Human Resources or designee for any reason:
    - 11.4.1.1 The DOE will notify the employee of the specific grounds for the decision, and afford the employee an opportunity to present information on his or her behalf; and
    - 11.4.1.2 The Contractor will immediately bar the staff member from any contact with DOE's students or their personal information during the term of this Agreement unless and until the decision to deny clearance is reversed.
  - 11.4.2 Any Contractor whose staff member is barred in this fashion shall be granted a period of no more than three (3) business days from the time clearance is denied to present a second staff member capable of performing the services required. If the second staff member presented in this manner is currently providing service, the Contractor must demonstrate that work proposed for referral to said staff member shall not conflict with the staff member's other assignments undertaken pursuant to this Agreement. If such a conflict does exist, the decision of the Responsibility Center regarding any conflicts shall be final. In the event that the replacement staff member presented is similarly denied security clearance, the Contractor shall not have the opportunity to present any further replacement, and the Contractor shall be liable for any increased cost incurred by the DOE to provide services as a consequence of the Contractor's inability to provide acceptable personnel.
  - 11.4.3 The increased cost for which the Contractor shall be liable shall include the difference, if any, between the Contractor's rate and the rate paid to another Contractor for service, as well as any reasonable administrative costs incurred by DOE.

- 11.5 In cases where staff are refused security clearance and Contractors are unable to: (a) name a satisfactory replacement; (b) have the replacement receive security clearance; and/or (c) commence service within the timeframes described herein, the authorization to serve the student(s) may be withdrawn.
- 11.6 In cases where three (3) or more staff are refused security clearance within a thirty (30) calendar day period, the Chancellor or his designee may consider the Contractor in material breach of the Agreement, and may seek to have the Contractor declared in default pursuant to the terms of this Agreement.
- 11.7 The Contractor is responsible for notifying, in writing, each staff member who is assigned to work with students pursuant to the contract that, in the event the staff member is arrested and charged with a felony, misdemeanor or violation, the staff member must immediately notify the Contractor in writing. Upon learning of the arrest, the Contractor must immediately notify DOE's Office of Personnel Investigation, in writing, by fax (718) 935-4366, or hand delivery to 65 Court Street, Room 223, Brooklyn, NY, and the Responsibility Center.

## **SECTION. 12 BACKGROUND DISCLOSURE INFORMATION**

Background checks are performed for all contract awards and purchase orders in excess of \$100,000.

## **SECTION. 13 SUBCONTRACTOR REQUIREMENT**

Please identify all subcontractors that will assist with the delivery of your company's proposed services. Provide Subcontractor's Name, EIN Number, and a detail program plan for the work proposed (see, Section 4.3). Please be advised that a subcontractor will be required to submit VENDEX questionnaires in accordance with the same guidelines that govern contractors.

## **SECTION. 14 PROPOSER CHECKLIST**

Check whether you submitted each of the required documents for your response:

- Cover Letter
- Table of Contents
- 3 References
- A list of previous contracts with NYCDOE and other agencies of the City of New York, within the past 5 years
- Multiple Task Award Contract Solicitation
- Amendments (if applicable)
- Question and Answers
- Proposal Form (Appendix E1, Microsoft Word File)
- Program Plan-Narrative (Appendix E2, Microsoft Word File)
- Prices/Charges Form (Appendix F, Microsoft Excel File)
- Cost Breakdown Worksheet (Appendix G, Microsoft Excel File)
- Doing Business Data Form (Appendix H, Adobe Acrobat File)

Form - <http://schools.nyc.gov/NR/ronlyres/1A55B041-045B-4854-84CE-69A4CA4727A1/0/DoingBusinessDataForm.pdf>

Instructions - <http://schools.nyc.gov/NR/ronlyres/4E80E068-C2D3-435F-9F14-C17BBC80F479/39723/DBDFQA.pdf>

Also please be sure to:

1. Review the entire Multiple Task Award Contract Solicitation to ensure you understand the scope of the requirements and the role of each of the attached forms. Please review the Scope of Services for this MTAC carefully before completing the response sections.
2. View the Terms & Conditions (Appendix B) in this document. Some of the Terms & Conditions may have changed since the last MTAC.
3. Attend the Pre-Proposal Conference (optional).

**APPENDIX A1: NO-PROPOSAL RESPONSE FORM**

**MTAC Number and Title:** R1120

**Proposal Opening Date:** May 18, 2016

PLEASE COMPLETE AND RETURN THIS FORM IF YOU WILL NOT BE SUBMITTING A PROPOSAL BUT WISH TO REMAIN ON THE NEW YORK CITY DEPARTMENT OF EDUCATION'S BIDDERS LIST.

The preparation and mailing of the Multiple Task Award Contract Solicitation is time consuming and expensive. In instances where proposers fail to respond or notify the New York City Department of Education of their future intentions, the preparation and mailing of the MTAC solicitation package represents an unnecessary expense to the New York City Department of Education. Feedback from proposers is also encouraged so that any reasons for not proposing may be evaluated with the intention of improving future solicitations for this commodity or service in the hopes of encouraging and expanding the field of competition.

All proposers who respond with a "No Response" response or choose not to propose are requested to provide the information below and return this form in time for the proposal opening.

**REASONS FOR NOT PROPOSING AT THIS TIME:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DO YOU WISH TO RECEIVE REQUESTS FOR THIS PARTICULAR PRODUCT OR SERVICE IN THE FUTURE?  YES  NO

**VENDOR NAME AND ADDRESS:**

\_\_\_\_\_  
\_\_\_\_\_

**SIGNED:** \_\_\_\_\_ **TITLE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**APPENDIX A2: INSURANCE**

The Contractor **shall** maintain during the period(s) of this contract, inclusive of guarantee periods when applicable, insurance(s) covering the personnel employed by the contractor, equipment (vehicles) used, public servants, and property of the Department of Education while the supplies, equipment, goods, products, etc. called for herein are being delivered or while the services/work outlined herein is being performed.

If a proposal is selected for potential contract negotiations, the vendor will be required to submit certifications(s) from insurance companies licensed or authorized to do business in the State of New York, to the effect that said insurers, will furnish to the vendor the insurance coverage listed. In addition, certifications submitted must name the "Board of Education of the City of New York" and the "City of New York", and their officials and employees, as Additional Insureds. Failure by the vendor to furnish the above certification(s) may result in rejection of the proposal.

All insurance policies shall be primary (and non-contributing) to any insurance or self-insurance maintained by the City. Certificates of Insurance or certified copies of policies for insurance required in this Article must be submitted to and accepted by the Board prior to or upon execution of this Agreement. All such Certificates of Insurance shall be accompanied by the required additional insured endorsements and either a duly executed "Certification by Insurance Broker or Agent" in the form attached to this Agreement and available at: [http://schools.nyc.gov/NR/rdonlyres/4E80E068-C2D3-435F-9F14-C17BBC80F479/184302/NYBoardofEducationForm\\_FINAL\\_62515.pdf](http://schools.nyc.gov/NR/rdonlyres/4E80E068-C2D3-435F-9F14-C17BBC80F479/184302/NYBoardofEducationForm_FINAL_62515.pdf) or copies of all policies referenced in such Certificate of Insurance as certified by an authorized representative of the issuing insurance carrier. If complete policies have not yet been issued, binders are acceptable, until such time as the complete policies have been issued, at which time such policies shall be submitted. All relevant policy numbers shall be included on the "Certification by Insurance Broker or Agent." Upon receipt of a written request from the NYCDOE, the Contractor shall supply complete copies of all policies required under this Agreement that shall be implicated in any claim(s) that shall or may arise.

The most common form used to transmit this information is entitled ACORD Certificate of Insurance (form ACORD 25-S (7/90)). The Contractor is required to include the Insurance Company's Five Digit NAIC code along with the Certificate of Insurance. All relevant policy numbers shall be included on the ACORD Certificate of Insurance.

All required insurance policies shall be maintained with companies that are authorized to issue the policy and have an A.M. Best rating of at least A-/ "VII" or a Standard and Poor's rating of at least A, unless prior written approval is obtained from the Board.

Contractor shall provide the Board with a copy of any policy required under this Article upon the demand for such policy by the Board or the New York City Law Department.

Insurance coverage in the amounts provided for herein shall not constitute a limit of Contractor's liability and shall not relieve Contractor for any liability that might exceed such amounts, nor shall the Board or the City be precluded from taking such other actions as are available to the Board under any other provisions of this Agreement or otherwise.

Whenever notice of loss, damage, occurrence, accident, claim or suit is required under the Commercial General Liability policy, Contractor shall provide the insurer with timely notice thereof on behalf of the Board and the City of New York. Such notice shall be given even where Contractor may not have coverage under such policy (for example, where one of Contractor's employees was injured). Such notice shall expressly specify that "this notice is being given on behalf of the Board of Education of the City of New York and the City of New York as Additional Insureds" and contain the following information: the number of the insurance policy; the name of the named

insured; the date and location of the damage, occurrence, or accident; the identity of the persons or things injured, damaged, or lost; and the title of the claim or suit, if applicable. Contractor shall simultaneously send a copy of such notice to the City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007 and the Chancellor and/or her designee. If Contractor fails to comply with the requirements of this paragraph, Contractor shall indemnify the Board and City for all losses, judgments, settlements and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice by or on behalf of the Board and City.

If Contractor's or any Subcontractor's Certificate of Insurance provides that notice of cancellation, non-renewal or material coverage reduction "will be delivered in accordance with policy provisions" or words to similar effect: (1) the Contractor and/or any affected Subcontractor shall provide to the Board a written endorsement or other acceptable written statement from its insurance carrier regarding what type and length of notice shall be provided to the Board as an additional insured; (2) the Board shall have the right to prescribe that Contractor undertake to secure an alternative means for the Board to receive such notice including, but not limited to, notice from Contractor's or Subcontractor's insurance broker or consultant; and (3) if, during the Term, the Board discovers that any of the insurance required under this Section has been cancelled, the Board may immediately terminate this Agreement. In the event of said termination by the Board, no claim for damages will be made by or allowed to Contractor because of said termination and Contractor will be entitled to payment for any work satisfactorily completed, pursuant to this Agreement, prior to said termination date.

The policies mentioned herein shall insure the New York City Department of Education and the City of New York, and their officials and employees, against claims outlined in the coverage's mentioned herein in the same amounts as are required in specifications for the Contractor or Subcontractor when applicable. Such coverage may be by separate policies or by endorsement to this effect on existing policies.

The policies mentioned herein, insuring the New York City Department of Education and the City of New York, and their officials and employees, against claims arising out of negligence of the Contractor or Subcontractor, when applicable, shall contain, by rider attached to such policies, the following provisions:

1. Notice under this policy by the Insurance Company should be addressed to the Executive Director, Division of Contracts and Purchasing, 65 Court Street 12<sup>th</sup> Floor Brooklyn NY 11201.
2. Notice of accident should be given by the insured to Insurance Company within sixty (60) days after notice to the said Executive Director, Division of Contracts and Purchasing of such accidents.
3. Notice of claim against the insured shall be given to the Insurance Company within sixty (60) days after such claims shall be filed with said Executive Director, Division of Contracts and Purchasing.
4. The policy shall not be canceled, terminated, modified or changed by the Insurance Company unless thirty (30) days prior written notice is sent to the insured by registered mail and addressed to the Executive Director, Division of Contracts and Purchasing, nor shall it be canceled, terminated, modified or changed by the Contractor securing such policy without the prior consent by the Department of Education of the City of New York.
5. The policy shall not be invalidated by reason of any violation of any of the terms of any policy issued by the Insurance Company to the Contractor.
6. **INSURANCE POLICY DEDUCTIBLES OR RETENTIONS**

Any deductibles or retentions in excess of Five Thousand Dollars (**\$5,000.00**) shall be disclosed by the Contractor and shall be subject to advance written approval by the Chancellor. Any deductible or

retention amounts elected by the Contractor and/or imposed by the Contractor's insurer(s) shall be the sole responsibility of the Contractor. The Contractor shall be permitted to provide insurance of any type required under this **Paragraph** by means of a self-insurance program (or make use of any self-insured retention)<sup>[1]</sup> **only** in the event **(a)** such program provides the NYCDOE and the City with all rights that would be provided by traditional insurance required under this **Paragraph** including, but not limited to, the defense obligations that insurers are required to undertake in liability policies, and **(b)** such self-insurance program is approved in advance by the Chancellor. If the Contractor desires to provide any such insurance by means of a self-insurance program, the Contractor shall submit a statement satisfactory to the Chancellor, signed by a Person authorized to bind the Contractor and acknowledged by a notary public, by which the Contractor **(i)** affirms that such self-insurance program provides at least the same level of coverage as required by this **Paragraph**, **(ii)** agrees to assume responsibility for satisfying all obligations of the self-insurance program if such program for any reason fails to do so, and **(iii)** provides the NYCDOE with the name and address of the office or official of its self-insurance program who is responsible for satisfying the self-insurance obligations. The foregoing requirements for advance approval include, but are not limited to, the Contractor's formation of, and/or participation in, any other alternative risk management arrangement(s) as a substitute for a traditional insurance policy(ies). In addition, the Contractor must provide the NYCDOE Contract Manager with a written set of detailed rules and procedures for the NYCDOE and/or the City to file a claim(s) and to obtain coverage under any risk retention fund(s) and/or any other alternative risk management arrangement(s) including, but not limited to, any required claim form(s), contact information, and any information required to be submitted with a claim(s). The Contractor's rules and procedures for submitting a claim(s) and obtaining coverage under any risk retention fund(s) and/or any other alternative risk management arrangement(s) shall be subject to approval by the Chancellor. Approval of any proposed self-insurance program, other alternative risk management arrangement(s) and the rules and procedures for submitting a claim(s) and obtaining coverage is at the sole discretion of the NYCDOE. As determined by the Chancellor, any unreasonable failure and/or refusal by the Contractor and/or its agent(s) to accept and process a claim(s) from the NYCDOE, the City and/or their agent(s) and/or any unreasonable disclaimer(s) of coverage by the Contractor and/or its agent(s) shall entitle the NYCDOE to deduct from any Compensation due and owing to the Contractor the amounts, as determined by the NYCDOE and/or the City, of any and all resulting losses, damages, expenses (including, but not limited to, reasonable attorney fees), claims, demands, judgments, suits, allegations, liabilities, settlements and/or other costs that the NYCDOE and/or the City shall incur regarding any affected claim(s) and/or denial of coverage. The foregoing provisions shall apply equally to any subcontractor(s).

<sup>[1]</sup> Included here are any combinations, limited partnerships, joint ventures and/or any other combined activities in which the Contractor and/or subcontractor(s) may participate.

If a proposal is selected for potential contract negotiation, the vendor will be required to submit the following insurance policies. Failure to do so may result in rejection of the proposal. Delivery of such insurance policies to the Department of Education shall be a condition precedent to the right of the Contractor to demand any payments hereunder.

In the event contract is to be extended, Contractor must submit proof of continuing compliance at least thirty (30) days prior to the ensuing contract period.

#### **WORKERS' COMPENSATION INSURANCE, DISABILITY BENEFITS INSURANCE, AND EMPLOYER'S LIABILITY INSURANCE**

If this contract be of such character that the employees engaged thereon are required to be insured by the provisions of Chapter 6515 of the laws of 1922 known as the Workmen's Compensation Law, and with act

amendatory thereof, the same shall be void and of no effect unless the person, firm or corporation making or performing the same shall secure compensation for the benefit of, and keep insured during the life of this contract, such employees in compliance with the provisions of said law.

Insurance must comply with Workmen's Compensation Law. The Contractor shall not begin work at, about, or upon, the property of the New York City Department of Education until filing with the Executive Director, Division of Contracts and Purchasing, a certificate showing compliance with the provisions of said law. Such insurance shall be kept during the life of this contract (inclusive of guarantee periods when applicable) and until the completion of said deliveries or services-work to be performed is accepted by the New York City Department of Education contractor shall only engage subcontractors when contract permits who comply with the workman's compensation.

#### **COMMERCIAL GENERAL LIABILITY INSURANCE (INCLUDING PRODUCT(S) LIABILITY INSURANCE)**

The Contractor shall maintain Commercial General Liability Insurance, including Product(s) Liability Insurance, covering the Contractor as Named Insured and the Board and the City of New York, together with their officials and employees, as Additional Insureds. Such insurance shall protect the Board, the City and Contractor from claims for property damage and/or bodily injury, including death that may arise from any of the operations under this Agreement.

The limit of liability under this Commercial General Liability Insurance coverage (including Products Liability Insurance) for bodily injury, sickness, disease, or death shall be at least **\$1,000,000** per occurrence and an aggregate limit of at least **\$2,000,000**.

The limit of liability required for property damage shall be at least **\$100,000** for one claimant in any one occurrence but not more than **\$200,000** for two or more claimants in any one occurrence. Such damages shall include all injury to, or destruction of, property of such claimant as well as the loss of use occasioned by the occurrence.

Coverage under this insurance shall be at least as broad as that provided by the most recently issued Insurance Services Office ("ISO") Form CG 0001 and shall be "occurrence" based rather than "claims-made." There is no obligation that ISO Form CG 0001 itself be used, provided that Contractor can demonstrate that the alternative form or endorsement contained in its policy provides coverage at least as broad as that specified form.

Such Commercial General Liability Insurance, including Products Liability Insurance, shall name the Board and the City of New York, together with their officials and employees, as Additional Insureds with coverage as broad as the most recently issued ISO Form CG 2010 or CG 2026. There is no obligation that ISO Form CG 2010 or CG 2026 itself be used, provided that Contractor can demonstrate that the alternative form or endorsement contained in its policy provides coverage at least as broad as the specified form.

#### **MOTOR VEHICLE LIABILITY INSURANCE (IF APPLICABLE)**

Shall insure the vendor, the vendor's agents, the New York City Department of Education and the City of New York during the performance of work under this contract against all present and future claims for bodily injury, sickness, disease, death and property damages which may arise because of a motor vehicle accident.

The limit of liability shall be at least **\$1,000,000** for all injuries sustained in any one occurrence. The limit of liability required for property damage shall be at least **\$100,000** for one claimant and at least **\$200,000** for two or more claimants in any one accident. Such damages shall include all injury to, or destruction of, property of such claimant as well as the loss of use occasioned by the accident.

**PROFESSIONAL LIABILITY INSURANCE/E&O (IF APPLICABLE)**

Professional Liability coverage shall include coverage for the activities of Contractor's professional staff, if applicable to the services provided herein. The limit of liability shall be at least **\$1,000,000** per occurrence or claim and **\$2,000,000** in the aggregate. The policy shall provide the NYC Department of Education with thirty (30) days written notice prior to cancellation, expiration of the policy, or reduction in coverage. If the policy providing professional liability coverage is on a claims-made form, the Contractor is required to maintain such coverage for a minimum of three years for (TEN for Construction Defect Claims) following completion of the performance or attempted performance of this Agreement.

**PROPERTY LOSS INSURANCE**

The limit of liability shall be at least **\$500,000** per occurrence protecting the supplies, equipment and property, etc. of the New York City Department of Education against "All Risks" of loss, which include, but are not limited to, fire, lightning, windstorm, hail, riot, civil commotion, vandalism, malicious mischief, burglary, theft, floods, earthquakes, hurricanes, tornadoes and other perils including mysterious disappearance while supplies, etc. are in the possession, control or responsibility of the contractor, sub-contractor or anyone directly or indirectly employed by either of them.

In the event there is a loss incurred as a result of any of the above, reimbursement for claims submitted shall be on a dollar for dollar basis for the cost incurred by the Department for either the loss of services, repair, restoration or replacement, whichever is applicable. This coverage may be a "Department Form" policy covering any/all possible contingencies.

**UMBRELLA EXCESS LIABILITY INSURANCE (COVERING COMMERCIAL GENERAL LIABILITY, MOTOR VEHICLE LIABILITY AND FIDELITY/CRIME LIABILITY AND INDEMNITY INSURANCE)**

Shall insure the vendor and the vendor's agents, the DOE and the City of New York during the performance of work under this contract against all present and future claims as may arise because of any services/work performed or goods provided by the vendor or by anyone employed by the vendor, either directly or indirectly.

The limit of liability under this Umbrella Excess Liability Insurance coverage shall be at least **\$3,000,000** per occurrence.

**FIDELITY/CRIME LIABILITY AND INDEMNITY INSURANCE**

Shall insure the vendor and the vendor's agents, the DOE and the City of New York during the performance of work under this contract against losses arising from the performance of Services under this Agreement caused directly or indirectly by the Contractor, its employees and/or subcontractors of any acts of commission and/or omission or malfeasance including, but not limited to, employee dishonesty, computer fraud, forgery, burglary and theft. The liability limit for Fidelity/Crime Liability and Indemnity Insurance coverage shall not be less than **Two Million Dollars (\$2,000,000.00)** for each claim. The Contractor shall arrange with its insurance carriers to have the DOE and the City of New York listed as loss payees for the Fidelity/Crime Liability and Indemnity Insurance coverage required herein.

**SUB-CONTRACTORS' INSURANCE**

If the awarded Contractor retain a Subcontractor to perform any of the services mentioned herein, it is the Contractor's responsibility to insure that Subcontractor maintains the same types of insurance coverage in accordance with the requirements and amounts indicated herein. Please note, solely naming the Contractor as an

additional insured on the subcontractor's insurance policy does not satisfy the insurance requirements and obligations of the Contractor herein.

### **CLAIMS MADE INSURANCE POLICIES**

The Contractor agrees that all Commercial General Liability insurance, umbrella excess liability insurance, business auto liability insurance, and employer's liability insurance supplied under this Agreement shall be "occurrence-based" only. If any other required insurance is only available or is customarily written on a "claims made" basis, the Contractor, Subcontractor and/or Affiliate shall comply with the following additional conditions:

1. The Contractor shall maintain each such "claims made" coverage and shall provide an insurance certificate(s) evidencing each such "claims made" coverage for a period of two years after the Board's final payment hereunder. Such certificate(s) must show a retroactive date no later than the start of the Services under this Agreement; **or**,
2. The Contractor shall purchase an extended (minimum two years) reporting period endorsement for each such "claims made" policy in force as of the date of final acceptance and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself. Such certificate or copy of the endorsement shall evidence a retroactive date no later than the beginning of the Services under this Agreement.
3. If the Contractor provides any insurance that is issued on a "claims made" basis, the Contractor may **not** change from such type of coverage to insurance issued on a "per occurrence" basis either during the Term or the two-year post-Term coverage period. The reason for this rule is the probability of gaps in insurance coverage that might occur as a result of such a switch in coverage types.
4. For every "claims made" policy that the Contractor uses to comply with the requirements of this Agreement, the Contractor must arrange for a licensed insurance broker to specify in writing to the BOE whether the policy provides **only** a "duty-to-reimburse" (defense litigation costs, other defense costs and other claims management costs undertaken by the insurer erode the coverage limits) or provides for a "duty-to-defend" (defense litigation costs, other defense costs and other claims management costs undertaken by the insurer are separate from, and in addition to, the coverage limits).

### **SAVE HARMLESS CLAUSE**

To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the Board and the City, including their officials and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages on account of any injuries or death to any person or damage to any property, and costs and expenses to which the Board and the City, and their officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any of the operations of the Contractor and/or its subcontractors under this Agreement to the extent resulting from any negligent act of commission or omission, any intentional tortious act, and/or the failure to comply with Law or any of the requirements of this Agreement. Insofar as the facts or Law relating to any of the foregoing would preclude the Board and the City, including their officials or employees from being completely indemnified by the Contractor, the Board and the City and their officials and employees shall be partially indemnified by the Contractor to the fullest extent permitted by Law.

### **INFRINGEMENT INDEMNIFICATION**

To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the Board and the City, including their officials and employees, against any and all claims (even if the allegations of the claim are

without merit), judgments for damages, and costs and expenses to which the Board and the City, and their officials or employees may be subject to or which they may suffer or incur allegedly arising out of any infringement, violation or unauthorized use of any copyright, trade secret, trademark or patent or any other property or personal right of any third party by the Contractor and/or its employees, agents, contractors or subcontractors in the performance of this Agreement. To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the Board and the City, its officials and employees regardless of whether or not the alleged infringement, violation, or unauthorized use arises out of compliance with the Agreement's scope of services/scope of work. Insofar as the facts or Law relating to any of the foregoing would preclude the Board and the City, and their officials and employees from being completely indemnified by the Contractor, the Board and City and their officials and employees shall be partially indemnified by the Contractor to the fullest extent permitted by Law.

#### **INDEMNIFICATION OBLIGATIONS NOT LIMITED BY INSURANCE OBLIGATION**

The Contractor's obligation to indemnify, defend and hold harmless the Board and the City and their officials and employees shall neither be (i) limited in any way by the Contractor's obligations to obtain and maintain insurance under this Agreement, not (ii) adversely affected by any failure on the part of the Board and the City or their officials or employees to avail themselves of the benefits of such insurance.

The undersigned insurance broker or agent represents to the New York City Department of Education and the City of New York that the attached Certificate of Insurance is accurate in all material respects.

\_\_\_\_\_  
[Name of broker or agent (Print)]

\_\_\_\_\_  
[Address of broker or agent (Print)]

\_\_\_\_\_  
[Email Address of broker or agent (Print)]

\_\_\_\_\_  
[Phone number/Fax number of broker or agent (Print)]

\_\_\_\_\_  
[Signature of authorized official, broker or agent]

\_\_\_\_\_  
[Name and title of authorized official, broker or agent(Print)]

State of .....)

) ss.:

County of .....)

Sworn to before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
NOTARY PUBLIC FOR THE STATE OF \_\_\_\_\_

This is a sample – an original certificate document should be obtained from the vendor’s insurance company.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE		Clear	Save	DATE (MMDDYYYY)	
PRODUCER		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
INSURED		INSURERS AFFORDING COVERAGE		NAIC #	
		INSURER A:			
		INSURER B:			
		INSURER C:			
		INSURER D:			
		INSURER E:			
<b>COVERAGES</b>					
THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.					
MARKET/CLASS	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MMDDYY)	POLICY EXPIRATION DATE (MMDDYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-SECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (EA OCCURRENCE) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPROP AGG \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (EA accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY EAACC \$ AGG \$
	<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE \$ RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER \$ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ DISEASE - POLICY LIMIT \$
	OTHER				
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS					
<p style="color: red; text-align: center;"><b>NEW YORK CITY DEPARTMENT OF EDUCATION AND THE CITY OF NEW YORK, AND THEIR ELECTED AND APPOINTED OFFICIALS AND EMPLOYEES, AS ADDITIONAL INSURED.</b></p>					
CERTIFICATE HOLDER			CANCELLATION		
City of New York NYC Board of Education 52 Chambers Street New York, NY 10007			SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL _____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE		
ACORD 25 (2001/08)			© ACORD CORPORATION 1988		

**APPENDIX A3: PRICE CERTIFICATION CLAUSE (REVISED 11/13/78)**

The proposer certifies that the prices, warranties, conditions, benefits and terms quoted herein are at least equal or more favorable to the Department of Education of the City School District of the City of New York than the prices, warranties, conditions, benefits and terms currently quoted by the proposer to any customers for the same or a substantially similar quantity and type of item(s) or services as described herein. This certification shall not apply to prices, warranties, conditions, benefits and terms under contracts in effect between the proposer and other customers at the date of submission of the proposal within, except as provided herein.

The successful proposer (hereinafter called the "Contractor") further certifies that during the period between the proposal submission date and the completion of the term of this contract, should subcontractor offer prices, warranties, conditions, benefits, and terms more favorable than those quoted herein, or provide changed prices, warranties, conditions, benefits and terms more favorable than those quoted herein under a contract in effect at the proposal submission date with any customer, for the same or a substantially similar quantity and type of item(s) or services, then the contractor shall immediately thereafter notify the New York City Department of Education, Division of Contracts and Purchasing. Regardless of whether such notice is sent by the contractor or received by the New York City Department of Education, this contract shall be deemed amended retroactively to the effective date of more favorable treatment, to provide the more favorable prices, warranties, conditions, benefits, and terms. The Department of Education shall have the right and option to decline any such amendment.

If the contractor is of the opinion that an apparently more favorable price, warranty, benefit, condition, and term quoted, offered or provided to a customer is not more favorable treatment, the contractor shall immediately notify the Executive Director, Division of Contracts and Purchasing, of the Department of Education in writing setting forth in detail the reasons why the contractor believes the apparently more favorable treatment is not in fact more favorable treatment. The Director of Purchase, Purchasing Management, after consideration of the written explanation may, in their sole discretion, decline to accept the explanation and thereupon the terms will be at least equal to or more favorable to the Department of Education of the City of New York than the prices, warranties, conditions, benefits and terms offered by the contractor to any customer for the same or substantially similar quantity and type of item(s) and/or services as of the effective date of the revision.

The contractor hereby authorizes the inspection, review and copying of contracts and documents that pertain or relate to the performance of this clause of the contract. The contractor shall be obligated to keep the contracts and documents referred to in the above paragraph during the effective period(s) of this contract and for a period of three years after the final payment of this contract.

**APPENDIX A4.1 WEB BASED APPLICATION REQUIREMENTS**

These requirements are geared for third-party developers who develop applications for the NYCDOE. The requirements ensure that the applications will work correctly in the NYCDOE environment and are supportable by the NYCDOE.

**1. Minimum Client Platform Requirements**

- a. Applications should be developed to support versions of the following web browsers released within the last three years:
  - i. Internet Explorer
  - ii. Safari
  - iii. Chrome
  
- b. The application must function on machines with the following specifications:
  - i. Microsoft Windows 7 and higher with 4GB RAM and at least two CPU cores
  - ii. Apple Macintosh with OS X v10.9 (Mavericks) and higher
  - iii. iOS 7 and above
  - iv. Android 3.0 and above
  - v. Chromebooks running ChromeOS
  
- c. The application may not use client-side Java or Flash

**2. Performance**

- a. Performance should be acceptable using wireless or wired connections.
- b. Applications should perform over wireless cellular networks using personal hot spots and broadband cards.

**3. Solution Documentation**

The following information must be provided for the web based application:

- a. SLA's for application and service availability
- b. Data backup and recovery commitments including Recovery Point Objectives (RPO) and Recovery Time Objectives (RTO)

**APPENDIX A5: MINORITY AND WOMEN OWNED BUSINESS ENTITIES PARTICIPATION**

The New York City Department of Education (DOE) has contracts with vendors to purchase the goods and services necessary to ensure that students receive the quality education they deserve. The agency strives to give all businesses, including Minority and Women-Owned Business Enterprises (MWBEs), an equal opportunity to compete for DOE procurements. The agency casts a wide net in search of talented vendors, seeking qualified suppliers from all segments of the community. The DOE's mission is to provide equal access to procurement opportunities for all qualified vendors including MWBEs. The DOE works to enhance the ability of MWBEs to compete for contracts and DOE is committed to ensuring that MWBEs fully participate in the procurement process.

Accordingly, the DOE encourages the participation of MWBEs in this engagement. For evaluation purposes, no rating points will be assigned for MWBE status.

**APPENDIX A6: IRAN DIVESTMENT ACT****COMPLIANCE RIDER FOR NEW YORK CITY CONTRACTORS**

The Iran Divestment Act of 2012, effective as of April 12, 2012, is codified at State Finance Law (“SFL”) §165-a and General Municipal Law (“GML”) §103-g. The Iran Divestment Act, with certain exceptions, prohibits municipalities, including the City, from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Pursuant to the terms set forth in SFL §165-a and GML §103-g, a person engages in investment activities in the energy sector of Iran if:

- (a) the person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
- (b) The person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to paragraph (b) of subdivision three of Section 165-a of the State Finance Law and maintained by the Commissioner of the Office of General Services.

A bid or proposal shall not be considered for award nor shall any award be made where the bidder or proposer fails to submit a signed and verified bidder’s certification.

Each bidder or proposer must certify that it is not on the list of entities engaged in investment activities in Iran created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. In any case where the bidder or proposer cannot certify that they are not on such list, the bidder or proposer shall so state and shall furnish with the bid or proposal a signed statement which sets forth in detail the reasons why such statement cannot be made. The City of New York may award a bid to a bidder who cannot make the certification on a case by case basis if:

- (1) The investment activities in Iran were made before the effective date of this section (i.e., April 12, 2012), the investment activities in Iran have not been expanded or renewed after the effective date of this section and the person has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran: or
- (2) The City makes a determination that the goods or services are necessary for the City to perform its functions and that, absent such an exemption, the City would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

**IRAN DIVESTMENT ACT COMPLIANCE RIDER FOR NEW YORK CITY CONTRACTORS**

**BIDDER’S CERTIFICATION OF COMPLIANCE WITH IRAN DIVESTMENT ACT**

Pursuant to General Municipal Law §103-g, which generally prohibits the City from entering into contracts with persons engaged in investment activities in the energy sector of Iran, the bidder/proposer submits the following certification:

*[Please Check One of the following]*

**BIDDER’S CERTIFICATION**

- By submission of this bid or proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief, that each bidder/proposer is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law.
- I am unable to certify that my name and the name of the bidder/proposer does not appear on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. I have attached a signed statement setting forth in detail why I cannot so certify.

**Dated:** \_\_\_\_\_, New York  
\_\_\_\_\_,20

\_\_\_\_\_  
**SIGNATURE**

\_\_\_\_\_  
**PRINTED NAME**

\_\_\_\_\_  
**TITLE**

Sworn to before me this  
\_\_\_\_ Day of \_\_\_\_\_,20 \_\_\_\_

\_\_\_\_\_  
**Notary Public**

**Dated:**

## APPENDIX B: TERMS AND CONDITIONS

### 1. Definitions

- A. Words used in this Agreement shall have their ordinary meanings in the English language, except that scientific, technical, specialized or foreign words shall be given their appropriate scientific, specialized or foreign meanings, and definitions specifically provided elsewhere in the Agreement shall apply.
- B. The following words, names and titles shall have the following meanings:
- (1) "The Board" means the Board of Education of the City School District of the City of New York.
  - (2) "The City" means the City of New York.
  - (3) "Contract Budget Detail" means the document attached to and incorporated into the Agreement explaining and limiting how funds paid hereunder are to be expended by the Contractor.
  - (4) "The Comptroller" and "The Commissioner of Finance" mean the Comptroller and the Commissioner of Finance of the City, respectively.
  - (5) "The Chancellor" means the Chancellor of the Board.
  - (6) "Approved," "Required," "Directed," "Specified," "Designated" or "Deemed Necessary," unless otherwise expressed, mean approved, required, directed, specified, designated, or deemed necessary, as the case may be by the Chancellor or his designee.
  - (7) "Completion" means full and complete compliance with every requirement of the Agreement by the Contractor as certified by the Chancellor or his designee.
  - (8) "Final Payment" means (i) the payment or refund by the Board or City of any moneys that exhausts the amount of money made available under the Agreement or (ii) any payment marked "Final Payment."

### 2. Captions

The headings of this Agreement, the paragraphs, and subparagraphs of the Agreement, and of any attachments, are included solely for convenience and reference, and they shall not be used in any way to interpret this Agreement.

### 3. Conditions Precedent

This Agreement shall not become effective or binding upon the Board until: (1) it shall have been approved as to legal sufficiency by the Board's Office of Legal Services; (2) it shall have been executed by the Chancellor; (3) it shall have been approved as to legal authority by the New York City Law Department; (4) it shall have been registered by the Comptroller; (5) it shall have been approved by the New York State Education Department, if applicable; and, (6) the Comptroller shall have issued a certificate indicating there remains unexpended and unapplied a balance of the appropriation or fund applicable hereto sufficient to pay the estimated expense of performing the Agreement as certified by the Board. A Requirement Agreement for an extended period will require an endorsement upon the Agreement from time to time as services and/or items and materials are ordered, of the sufficiency of the appropriation applicable towards the payment for said services and/or materials as and when ordered. (Rev. 4/16/01)

4. Compliance with Laws

In connection with the performance of this Agreement, the Contractor shall comply with all applicable laws, rules and regulations. The parties hereto agree that every provision of law required to be inserted herein be deemed a part hereof. It is further agreed that if any such provision is not inserted or is incorrectly inserted, through mistake or otherwise, this Agreement shall be deemed amended so as to comply strictly with the Law.

5. Unlawful Provisions Void

If this Agreement contains any unlawful provisions or portions thereof, they shall be deemed deleted from the Agreement and the remainder of the Agreement shall remain in full force and effect. If the deletion of such provision frustrates the purpose of this Agreement, either party may make application to the Chancellor's designee for relief. (Rev. 10/4/02)

6. Religious Activity Prohibited

There shall be no religious worship, instruction, proselytizing, or other religious activity in connection with the performance of this Agreement.

7. Political Activity Prohibited

No Board property provided to the Contractor hereunder for the purposes of this Agreement shall be used for any political activity or to further the election or defeat of any candidate for public office. As used herein the term "Board property" shall include, but not be limited to, supplies, work sites, funds advanced and services.

8. Publication and Publicity

The Contractor or anyone employed by the Contractor may not publish the results of its participation or findings in the performance of this Agreement without the prior written approval of the Chancellor or his designee. All approved publications shall acknowledge that the program is supported by funds from the Board. Five true copies of each approved publication shall be furnished to the Board without charge. (8/29/88)

9. Copyright

If the Contractor or anyone employed by the Contractor shall write, record or otherwise produce copyrightable material within the scope or in furtherance of this Agreement, the Board shall be considered the author for purposes of copyright, renewal of copyright, and termination of copyright and, unless expressly waived in a written instrument signed by the Chancellor or his designee, the owner of all of the rights comprised in the copyright. (6/88)

10. Patents

Any invention or discovery arising out of or developed in furtherance of this Agreement shall be promptly and fully reported to the Board. The Board shall have the exclusive right to apply for patent protection on such invention or discovery and to determine how the rights in said invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered.

11. Accounting or Property

If any property is acquired by the Contractor with funds provided by the Board under this Agreement, the property shall be deemed purchased by the Board for the use of the Contractor during the term of the Agreement shall be permanently embossed "Property of New York City

Board of Education" and shall be returned to the Board, at the Contractor's expense, within thirty (30) days after the end of said term, unless the Contractor is otherwise notified in writing by the Chancellor or his designee. (6/21/88)

12. Non-Reimbursable Expenses

The following items may not be claimed as a direct or indirect cost of the Services provided under this Agreement:

- a. rental expense of apartments;
- b. interest on loans;
- c. penalties for delinquent filing of tax returns;
- d. political or charitable contributions;
- e. advertising and promotions;
- f. legal expenses;
- g. key-man life insurance premiums;
- h. federal, state and city income taxes, state and city franchise taxes, and any costs for the preparation of such tax returns;
- i. expenses incurred in preparing for operations;
- j. cost of employee meals and lodging except when traveling outside the City and pursuant to the Contract Budget Detail of this Agreement;
- k. entertainment, gratuities, and any other items of a personal nature;
- l. long distance telephone calls unless directly related to the services provided under the terms of this Agreement;
- m. any expense not ordinary, necessary or reasonable in the performance of the Agreement.

13. Limitation on Overhead

Notwithstanding any provision of this Agreement to the contrary, the Contractor shall be reimbursed for overhead costs equal to the lesser of either (1) the amount specified in the Contract Budget Detail of this Agreement or (2) the amount calculated by multiplying the total direct labor cost plus fringe benefits stated in the Contract Budget Detail of this Agreement by a fraction, the numerator of which shall be the total of all the Contractor's overhead costs during the term of this Agreement for all operations, and the denominator of which shall be the total of all of the Contractor's direct labor costs plus fringe benefits during the Term of this Agreement for all operations.

14. No Extra Compensation

The Contractor shall not seek, ask for, demand, sue for or recover, as extra compensation or otherwise, any sum for labor, materials or Services other than the compensation agreed upon and fixed.

15. Invoices and Payments

The Contractor shall furnish proof of performance with each invoice, and shall comply with all Board requirements concerning the manner in which invoices are to be submitted. The Contractor shall not be entitled to demand or receive full or partial payment, until each and every one of the provisions of this Agreement is complied with, and the Chancellor or his designee shall have given written certification to that effect. Nothing contained herein shall be construed to affect the right hereby reserved by the Board to reject the whole or any portion of the performance, should said certification be inconsistent with the terms of this Agreement, or otherwise erroneously given.

16. Cancellation of Grant Funding

If the goods or Services to be provided hereunder are to be paid for, in whole or in part, by means of grant funding received by the Board from federal, state, city or private sources, the obligation to pay the Contractor shall be subject to the continuing availability of said funding. The Board shall notify the Contractor within five (5) business days from the date the Board receives written notice of the cancellation of grant funding, in whole or in part, whereupon the Contractor may cease further performance of this Agreement to the extent said performance would not be supported by grant funding. However, the Board may, at its option, require completion of performance of this Agreement by the Contractor upon giving written assurance, signed by the Chancellor or his designee, within fifteen (15) business days of the date the Board receives written notice of such cancellation, that the completed performance of this Agreement shall be supported by other available funds.

17. No Estoppel

The Board, City, and their respective departments, divisions and offices, shall not be precluded or estopped by a statement or document issued by or on behalf of the Board or the City, from indicating the true value of Services performed and supplies furnished by the Contractor or by any other person pursuant to or as a result of this Agreement, or from indicating that any such return or certificate is untrue or incorrect in any particular, or that the Services performed and supplies furnished or any part thereof do not in fact conform to the provisions of the Agreement. Notwithstanding any such statement or document, or payment in accordance therewith, the Board and the City shall not be precluded or estopped from demanding and recovering from the Contractor such damages as may be sustained by reason of the Contractor's failure to comply with the provisions of this Agreement.

18. Acceptance of Final Payment

Receipt and negotiation by the Contractor, or by any person claiming under this Agreement, of the Final Payment hereunder, notwithstanding whether such payment be made pursuant to any judgment or order of any court, shall constitute a general release of the Board from any and all claims and liability for anything done, furnished, or relating to the labor, materials, or services provided, or for any act of omission or commission of the Board or its agents and employees. Said release shall be effective against the Contractor and the Contractor's representatives, heirs, executors, administrators, successors, and assigns.

19. Claims – Limitation of Action

No action at law or equity shall be maintained by the Contractor, its successors or assigns, against the Board on any claim based upon or arising out of this Agreement, or out of anything done in connection with this Agreement, unless such action shall be commenced within six (6) months after the date of filing of the voucher for final payment hereunder or within six (6) months

of the required completion date for the services performed hereunder, whichever is sooner. None of the provisions of Article 2 of the Civil Practice Law and Rules shall apply to any action against the Board arising out of this Agreement.

20. Notices

The Contractor's address stated on page 1 of this Agreement is hereby designated as the place where all notices, letters or other communications directed to the Contractor shall be served, mailed or delivered. Any notice, letter or other communication directed to the Contractor and delivered to such address, or sealed in a post-paid wrapper and deposited in any post office box regularly maintained by the United States Postal Service, shall be deemed sufficient service thereof upon the Contractor. Said address may be changed at any time by an instrument in writing, executed and acknowledged by the Contractor and delivered to the Chancellor's designee. Nothing herein contained shall be deemed to preclude or render inoperative personal delivery of any notice, letter or other communication, written or oral, to the Contractor. Whenever it shall be necessary or required to prove the delivery of any notice, an affidavit describing such delivery shall be conclusive evidence of such delivery.

21. Amendments and Waivers

- A. This Agreement may be amended by a written instrument signed by an authorized officer for the Contractor, and by the Chancellor or his designee. No amendment materially affecting the substance hereof shall be effective unless authorized by the Chancellor, and a copy of said authorization is attached to the amendment and incorporated therein. (Rev. 11/27/02)
- B. No waiver by the Board of any term or condition hereof shall be effective unless in writing and signed by the Chancellor or his designee. Any waiver shall be specifically limited to its terms, and shall not be deemed applicable to subsequent like circumstances.
- C. Any purported oral amendment or waiver shall be void.

22. Suspension of Deliveries

The Chancellor or his designee, may postpone, delay, or suspend the delivery of the goods or Services, or any part thereof, without additional compensation to the Contractor. In such event, (A) the time established for performance by the Contractor of any duty during the Term of this Agreement may, at the Contractor's option, be extended for the number of days the Contractor was delayed by said suspension, postponement, or delay provided the Term is not thereby extended; however, (B) the Term may, at the Board's option, be extended for the number of days the Contractor was delayed by said suspension, postponement, or delay.

23. Cancellation

- A. If the Contractor violates any provision of this Agreement, the Chancellor or his designee may pursue any legal or equitable remedies available to the Board. In addition, the Chancellor or his designee may seek to have the Contractor declared in default by a panel to be designated by the Chancellor. In the event that the Chancellor's designee shall determine the Contractor to be in default, the Board may cancel this Agreement and shall thereafter be relieved of all liability hereunder. Upon a finding of default in violation of this contract, the Contractor shall be deemed not responsible and disqualified from bidding for a period of four years, unless in such finding of default, a lesser penalty is imposed by reason of mitigating circumstances. (Rev. 10/4/02)

- B. In the event of breach of this Agreement by the Contractor, the Board shall have the right to cancel and terminate said Agreement, and the Contractor shall be liable to the Board for any additional cost of completion of the within services, the Board's other costs in connection with the termination, reletting and completion of the services. All such costs, along with any liquidated damages for delay provided herein, may be assessed by the Board against the Contractor and deducted by the Board from payment to be made to the Contractor under this or any other Agreement at any time between the Contractor and the Board or City. In the event that said costs exceed all sums owed at the termination date of this Agreement, the Contractor shall pay the amount of such excess to the Board upon notice from the Board of said amount, and in the event that said costs and liquidated damages are less than the sum payable under this Agreement as if same had been completed by the Contractor, the Contractor shall forfeit all claims to the difference to the Board. If the Board undertakes to secure the services or any part thereof under this section of the Agreement, the certificate of the Chancellor or his designee indicating the amount of services secured, the cost and excess cost, if any, of completing this Agreement, and the amount of liquidated damages hereunder, shall be conclusive and binding upon the Contractor, its assigns and all other claimants.

24. Board Determination

The Chancellor or his designee shall in all cases determine the acceptability of the labor, materials, or Services which are delivered pursuant to this Agreement, including but not limited to their quality, delivery, and condition, and shall in all cases decide every question which may arise relative to the performance of this Agreement. The Contractor may not rely upon, and the Board shall not be bound by, any explanations, determinations or other statements by or from the Board which are not in writing and signed by the Chancellor or his designee.

25. Investigations

- 25.1 The Contractor agrees to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York (State) or City of New York (City) governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit or inquiry.

25.2(a) If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York; or,

25.2(b) If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then:

- 25.3(a) The commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license may convene a hearing, upon not less than (5) days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.
- 25.3(b) If any non-governmental party to the hearing requests an adjournment, the commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to paragraph 25.5 below without the City and Board incurring any penalty or damages for delay or otherwise.
- 25.4 The penalties which may attach after a final determination by the commissioner or agency head may include but shall not exceed:
- (a) The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City and Board; and/or
  - (b) The cancellation or termination of any and all such existing City and Board contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender
- for fair value prior to the issuance of the notice scheduling the hearing, without the City and Board incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the Board.
- 25.5 The Commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in paragraphs (a) and (b) below. He or she may also consider, if relevant and appropriate, the criteria established in paragraphs (c) and (d) below in addition to any other information which may be relevant and appropriate:
- (a) The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.
  - (b) The relationship of the person who refused to testify to any entity that is a party to the hearing, including but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.
  - (c) The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City and the Board.
  - (d) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under 25.4 above, provided that the party or entity has given actual notice to the commissioner or agency head upon the acquisition of the interest, or at the hearing called for in 25.3(a) above gives notice and proves that such interest was previously acquired. Under either circumstance, the party

or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

- 25.6 (a) The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.
- (b) The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.
- (c) The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, or person that receives monies, licenses, leases, or permits from or through the City or Board or otherwise transacts business with the City or Board.
- (d) The term "member" as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.
- 25.7 In addition to and notwithstanding any other provisions of this agreement, the commissioner or agency head may in his or her sole discretion terminate this agreement upon not less than three (3) days written notice in the event the Contractor fails to promptly report in writing to the Commissioner of Investigation of the City of New York any solicitation of money, goods, requests for future employment or other benefit or thing of value, by or on behalf of any employee of the City or Board, or other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this agreement by the Contractor or affecting the performance of this agreement.

26. Reports, Inspection and Records

- A. The Contractor shall promptly provide all reports required by the Board, including without limitation, financial, program, statistical, analytical, narrative and progress reports. Unless otherwise provided herein, the final payment hereunder shall not be made until all reports have been submitted and approved by the Board.
- B. The Contractor shall, until six (6) years after completion of its services hereunder or six years after date of termination of this Agreement, whichever is later, maintain and retain complete and correct books and records relating to all aspects of the Contractor's obligations hereunder. Records must be maintained separately, so as to identify clearly the hours charged to this Agreement and be distinguishable from all other hours charged which are not related to this Agreement.
- C. The Contractor shall make its staff, and premises, books, records, operations, and Services provided under this Agreement, and those of its subcontractors, available to the Board and to any person, agency or entity designated by the Board, at any time, for program, audit, fiscal audit, inspection, observation, sampling, visitation and evaluation, and shall render all assistance and cooperation for said purposes. The Contractor agrees to attend, upon demand, any investigation conducted by the Board to produce any records and other documents required by the Board at that investigation, to cooperate with the Board, and to give sworn testimony pertaining to those documents or the subject of the investigation; provided only that the investigation, testimony, records and documents relate to the subject of the Contractor's relationship with the Board of Education. If a corporation, partnership or government agency, the Contractor agrees to require its officers, employees and partners to comply with the foregoing.

- D. In its record keeping the Contractor shall also comply with all federal, state and local laws and regulations pertaining to such records, including, without limitation, the regulations of the Comptroller, and shall require its subcontractors to do likewise.
- E. In the event that any federal, state or local government agency, or other public or private agency conducts an audit of any of the Contractor's operations which pertains directly or indirectly to the goods and services provided pursuant to this Agreement, within five (5) working days after receipt by the Contractor of notice of the commencement of such audit the Contractor shall give notice of such commencement to the Board; and within five (5) working days after receipt by the Contractor of a copy of any resulting interim or final audit report, the Contractor shall supply one copy thereof to the Board. (6/24/88)

27. Non-Assignment of Contract

The Contractor shall give its personal attention to the faithful performance of this Agreement. The Contractor covenants that it will not assign, transfer, convey, sublet or otherwise dispose of this Agreement or its right, title or interest therein or its power to execute such Agreement, to any other person or corporation without the previous written consent of the Chancellor or his designee. Request for permission to assign a contract shall be submitted in writing to the Chancellor's designee, Executive Director of the Division of Contracts and Purchasing, 65 Court Street, Brooklyn, New York 11201. A non-refundable processing fee of \$250.00 for contract amounts less than \$100,000.00 and \$500.00 for contract amounts \$100,000.00 or greater shall be submitted with the request. Said fee shall be by check or money order and made payable to the New York City Board of Education, Division of Contracts and Purchasing. The Chancellor's designee shall grant or deny such requests after consultation with the appropriate Division or Office, the decision is final and binding. If the Contractor in any way violates the terms of this provision, the Board shall have the right to cancel and terminate this Agreement, and the Board shall thereupon be relieved from all liability hereunder. Nothing contained herein shall be construed to affect an assignment by the Contractor for the benefit of its creditors made pursuant to the statutes of the State of New York. No right under this Agreement, or to any monies due or to become due hereunder, shall be asserted against the Board or the City in law or in equity by reason of a purported assignment of this Agreement, or any part thereof, or of any monies due or to become due hereunder, unless authorized as aforesaid. (Rev.11/27/02)

28. Contractor's Staff

The Contractor shall employ or contract for the services of only competent workmen, consultants, independent contractors and other employees as are, or reasonably may be, necessary for the performance of the Services hereunder.

The Contractor warrants that it shall be solely responsible for its employees' work, direction, safety and compensation. (6/84)

The Contractor agrees to replace immediately any employee, and not engage such employee in the performance of this Agreement, if the Contractor is notified in writing that, in the opinion of either the Chancellor, a Community Superintendent, or their designees, such employee is incompetent or otherwise impedes the performance of the services hereunder.

29. Confidentiality of Records

All personally identifiable student and staff information obtained by or furnished to the Contractor by the Board, and all reports and studies containing such information prepared or assembled by the Contractor, are to be kept strictly confidential by the Contractor and shall not be provided or disclosed to any third party without the express written permission of the Chancellor or his

designee. The Contractor shall limit access to such material in its control to those of its employees performing services pursuant to this Agreement strictly on a need to know basis. The Contractor shall restrict its use of the information to its performance under this Agreement and shall return all such material to the Board upon the completion of the services herein.

30. Testimony

If the project which is the subject matter of this Agreement at any time becomes involved in a proceeding, to which the Board or the City is a party, before any court, board, tribunal, panel, arbitrator, referee or agency, the Contractor shall provide such knowledgeable witnesses as the Board shall require, free of additional compensation of any kind. Nothing herein shall require the Contractor to provide testimony in any proceeding in which it is a party with interests opposed to those of the Board.

31. No Personal Liability

Neither the Chancellor, nor any board members, nor any officer, employee, agent or representative of the Board or of the City shall be personally liable, based upon any theory of law or equity, to the Contractor or to any party claiming on behalf of or through the Contractor, under this Agreement, or by reason of any individual's actions or failure to act in any way connected with this Agreement, whether or not the action shall have been within or without an individual's scope of authority. The scope of this provision includes personal injury to any personal interest (commercial or otherwise), physical injury (including death), property damages, and any pecuniary damages where such injuries or damages result from or arise out of negligence. The Contractor further waives any and all rights to make a claim or commence an action or special proceeding, in law or equity, against any of the aforementioned individuals, and the Contractor hereby assigns its complete right, title, and interest in any such claim, action, or special proceeding to the Board. (Rev. 12/12/02)

32. Indemnification

The Contractor shall protect, indemnify and hold harmless the Board and the City from any and all claims, suits, actions, costs and damages to which the Board and the City may be subjected by reason of injury to person or property, or wrongful death, as may result of any act, omission, carelessness, malpractice or incompetence of the Contractor, or anyone employed or engaged by the Contractor, in connection with the performance of this Agreement. (12/19/02)

33. Conflicts of Interest

A. Except as stated in paragraph B, no non-governmental Contractor may have on its Board of Directors (or comparable body), employ or have under contract for services (1) any present full-time officer or employee of the City of New York or the Board of Education or any part-time officer or employee of the Board, or (2) any present full-time officer or employee of the City on leave from the City or the Board or any part-time officer or employee of the Board currently on leave from the Board. Generally, the Conflicts of Interest Board may grant waivers of this provision, if an employee or officer is not involved in the Contractor's business with the City or the Board. Said waivers are discretionary and must be approved prior to the commencement of services by that individual. The Board of Education's Ethics Officer must be contacted if an officer or employee wishes to request a waiver. (Rev. 12/12/02)

B. No Board of Education officer or employee may serve as an unpaid member of a Board of Directors (or comparable body) of a non-governmental not-for-profit Contractor without the permission of the Chancellor. To obtain this permission, the officer or employee must contact the Board of Education's Ethics Officer. All other City officers or employees may serve as unpaid members of Boards of Directors (or comparable body) of a non-

governmental not-for-profit Contractor, if the officer or employee has no involvement with the Contractor's business with the City or the Board. (Rev. 11/27/02)

- C. No officer or employee of the Board of Education, or the officer or employee's spouse/domestic partner or unemancipated child(ren) can have an ownership interest in the contractor, defined as an interest which exceeds five percent of the firm or an investment of \$32,000 in cash or other form of commitment, whichever is less, and any lesser interest when the officer or employee or spouse, unemancipated child(ren), or domestic partner exercises managerial control or responsibility regarding any such firm. For Contractors with stock that is publicly traded, compliance with this subparagraph C is the obligation of Board of Education employees and officers. (1/16/03)
- D. No former officer or employee of the Board may appear before the Board on behalf of a non-governmental Contractor within one year of the former officer or employee's termination of service with the Board. An appearance before the Board includes all communications with the Board. However, a former employee of the Board is not prohibited from serving on a non-governmental Contractor's Board of Directors (or comparable body), or from employment or contracting for services with the Contractor, provided that the former employee does not appear before the Board within one year of the termination of service with the Board.
- E. No former officer or employee of the City (including the Board) may have any involvement on behalf of a non-governmental Contractor with any aspect of a contract, including services under that contract, if that former officer or employee was involved substantially and personally with any aspect of that contract while employed by the City. Any former City employee whose duties for the City or the Board involved a contract shall contact the New York City Conflicts of Interest Board for clarification before having any involvement with the contract on behalf of a non-governmental Contractor or any other private interest.
- F. The Contractor warrants that, other than a bona fide employee or contractor regularly working as a sales representative for the Contractor, no person, selling agency, or other entity has solicited or secured this Agreement, or has been employed or retained to do so, for a commission, percentage, brokerage fee or contingent fee.
- G. The Contractor shall not give, and warrants that it has not given or promised to give, any gift to a community school board member, school leadership team member or to any officer, employee or other person whose salary is payable in whole or part from Board or City funds, or other funds under this Agreement. The word "gift" shall include, without limitation, money, tangible goods, services, loans, promises or negotiable instruments. (2/13/01)
- H. If the Contractor violates any provision of this paragraph, the Board may, at its option: (1) cancel and terminate this Agreement and be relieved of all liability hereunder; (2) deduct all amounts paid by the Contractor or other value given by the Contractor in violation of this paragraph from payments made or to be made to the Contractor under this or any other Agreement at any time; (3) require the refund of any funds paid hereunder; (4) any combination of the foregoing; or (5) any other action the Board deems necessary and appropriate as permitted by law. Any breach of the warranties or violation of the provisions of this paragraph shall be grounds to find the Contractor or its principals as not a responsible bidder on other Board or City contracts.
- I. Provider shall adhere to the Central Board of Education policy on Conflicts of Interest, the Chancellor's Regulations on Conflicts of Interest C-110, and the New York City Charter provisions on Conflicts of Interest which are hereby incorporated by reference as if fully attached hereto.

34. Antitrust

The Contractor assigns to the Board its right, title and interest in and to any claim or cause of action arising under the antitrust laws of New

York State or the United States relating to the goods or Services purchased or procured by the Board pursuant to this Agreement.

35. Merger and Choice of Law

This written Agreement constitutes the entire agreement of the parties, and no other prior or contemporaneous agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties hereto, or to vary any of the terms contained herein. This Agreement shall be governed and construed in accordance with the laws of the State of New York without regard to its conflict of law rules.

36. Participation in an International Boycott

A. The Contractor agrees that neither it nor any substantially-owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the Export Administration Act of 1979, as amended, or the regulations of the United States Department of Commerce promulgated thereunder.

B. Upon the final determination by the Commerce Department or any other agency of the United States that the Contractor or a substantially-owned affiliated company thereof, participated, or is participating, in an international boycott in violation of the provisions of the Export Administration Act of 1979, as amended, or the regulations promulgated thereunder, the Chancellor or his designee may, at his option, render forfeit and void this contract. (1/12/89)

37. No Discrimination

A. The Contractor will strictly comply with all applicable Federal, State and Local laws pertaining to the subject of discrimination on any ground, as they may now read or as they may hereafter be amended.

B. The Contractor is, and will remain, an Equal Opportunity Employer. In addition to the other requirements of this paragraph 37, the Contractor shall provide equal opportunity for all qualified persons, and shall not discriminate in employment because of race, creed, gender, color, age, sexual orientation, national origin, handicapping condition, marital status, or religion and shall promote the full realization of equal opportunity. (Rev. 9/20/88)

C. Pursuant to the provisions of the New York State Labor Law, the Contractor agrees, in its operations performed within the State of New York:

(1) That in the hiring of employees for the performance of work under this contract or any subcontract hereunder, neither the contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall by reason of race, creed, color, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;

(2) That no contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the

performance of work under this contract on account of race, creed, color, sex or national origin;

- (3) That there may be deducted from the amount payable to the contractor by the state or municipality under this contract a penalty of five dollars for each person for each calendar day during which such person was discriminated against or intimidated by the contractor or subcontractor, or anyone acting on behalf of the contractor in violation of the provisions of the contract;
- (4) That this contract may be cancelled or terminated by the state or municipality, and all moneys due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the contract;
- (4) The aforesaid provisions of this section covering every contract for or on behalf of the state or a municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the State of New York; and
- (6) That the Board is, for purposes of this subparagraph C., a "state or municipality." (Rev. 11/25/96)

38. Equal Employment Opportunity Requirements for Professional Contractors

A. Definition of Terms for the Implementation of a Program of Affirmative Action.

The following terms, when used in this paragraph, shall have the meanings given for them.

- (1) "Employee": Any person employed full or part-time in any capacity by the Contractor or sub-contractor.
- (2) "Minority Groups and Affected Classes": Blacks, Hispanics (Non-European), Asian Americans, American Indians, females and individuals with handicapping conditions.
- (3) "Program of Affirmative Action": A detailed, result-oriented set of written procedures submitted by a Contractor or sub-contractor which when implemented with conscious effort results in compliance with the Equal Opportunity Policy herein, through full utilization and equal treatment of minorities, women and individuals with handicapping conditions at all levels and in all segments of the Contractor's or sub-contractor's work force. An effective Program of Affirmative Action shall include but not necessarily be limited to, the following elements: (Rev. 9/20/88)
  - (a) Development or reaffirmation of the Contractor's or sub-contractor's Equal Opportunity Policy;
  - (b) Dissemination of the Policy;
  - (c) Responsibility for implementation;
  - (d) A survey and analysis of employment at all levels and in all categories and aspects of the Contractor's or sub-contractor's work force, which determines if and at which levels, categories, and aspects there is an underutilization of minority and female employees;

- (e) An analysis of employment policies and practices, including but not limited to seniority systems, recruitment, training, promotion, insurance and job benefits and their effects upon minorities, women and individuals with handicapping conditions;
  - (f) Corrective actions taken, or to be taken, toward the elimination of any employment policy or practice having a discriminatory effect on minority group members and women; and
  - (g) Description of the Contractor's efforts to engage, as sub-contractors, bona fide minority business enterprises and female enterprises.
- (4) "Goals and Timetables": Projected levels of achievement resulting from an analysis by the Contractor or sub-contractor of its deficiencies, and of what it can reasonably do to remedy them within a specified time period.
  - (5) "Underutilization": Having fewer minorities, women and individuals with handicapping conditions in a particular job classification than would reasonably be expected by their availability in the appropriate labor force.
  - (6) "The Office": The Office of Equal Opportunity of the Board.

B. Required Program of Affirmative Action

- (1) The Contractor is required to identify and eliminate overt and covert discriminatory practices and implement the Program of Affirmative Action. Upon demand of the Office the Contractor shall submit to the Office a detailed written Program of Affirmative Action (hereinafter referred to as a "P.A.A."). In the event the Contractor submits a P.A.A. not acceptable to the Office, the Office will require the correction or revision of the P.A.A. to its satisfaction.
- (2) In the event the Contractor fails to submit such an acceptable P.A.A. within the time specified in the demand, the Contractor may be declared in default. The Director shall be the sole judge of the P.A.A.'s acceptability. The P.A.A. shall:
  - (a) Apply to all Board of Education professional services contracts with the Contractor;
  - (b) Encompass all phases of the employment process, including evaluation of job classification to ensure job relatedness, recruitment, selection, validity of examinations, retention, layoffs, seniority, assignments, training, promotion, salary and benefits;
  - (c) Fulfill the following requirements:
    - (i) Include measurable goals, reasonable timetables and specific programs to be implemented by the contractor to identify and eliminate deficiencies in employment practices with respect to the underutilization of members of minority groups and members of affected classes;
    - (ii) Include a statement of the present utilization of minority group members and women in the Contractor's work force and a projection of the minority utilization in the Contractor's work force for the life of the Contract and for at least a one-year period succeeding its completion. This statement and projection shall include present and projected (1) rates of hiring and promotion of

minority group members and women in specific job categories at each wage rate within each level of employment and according to major organizational unit, and (2) percentages of minority group and women utilization in specific job categories at each wage rate within each level of employment, and according to major organizational work force;

- (iii) Include all of the Contractor's facilities within New York City as well as those facilities located elsewhere within the continental limits of the United States;
- (iv) Specify the union(s) or other employee organizations to which the Contractor's employees belong, and shall include commitments to good faith efforts to effect Equal Opportunity changes directly or indirectly, in programs by such unions or organizations to recruit, train, qualify or otherwise select members, if such changes are deemed necessary. The P.A.A. shall also include a copy of any agreement with an employee association which affects employment policies and practices;
- (v) Be submitted in such format as shall be specified by the Director of the Office;
- (vi) Include a commitment to submit to the Director a separate P.A.A., of the form (i) to (v) hereof, for each subcontractor prior to approval of the subcontractor by the Board of Education;
- (vii) Include a written evidence or proof which shows that minority entrepreneurs have been solicited and given an equal opportunity to submit proposals and that such proposals have been given equal consideration for award;
- (viii) Contain commitments as to goals for minority and affected classes employment and adoption of equal employment practices not less strict than the commitments contained in the Contractor's most recent P.A.A. which was approved by the Office.

C. Compliance Inspection Report

Upon demand of the Office the Contractor shall, within the specified time, submit to the Office a Compliance Inspection Report. The completed Compliance Inspection Report must be returned to the Office within such time as is specified in the requisition for information accompanying the report form.

D. Conferences

The Contractor shall attend such conferences as shall be required by the Office for the purpose of acquainting it with the statutory and contractual requirements and what specific measures shall constitute an acceptable P.A.A.

E. Implementation of P.A.A.

During the Term of the Contract, the Contractor shall successfully implement the P.A.A. approved by the Office.

F. Default

If, in the opinion of the Office, the Contractor has breached any of the requirements of paragraphs 36 or 37 hereof it may seek to have the Contractor declared in default by the Chancellor's designee as provided elsewhere herein. (Rev. 10/10/02)

For further information concerning these rules, regulations or procedures, contractors may consult with the Office of Equal Opportunity of the Board.

39. MacBride Principles Provisions for Board of Education Contractors

## ARTICLE I. MACBRIDE PRINCIPLES

## PART A

In accordance with section 6-115.1 of the Administrative Code of the City of New York, the Contractor stipulates that such Contractor and any individual or legal entity in which the Contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the Contract either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles.

## PART B

For purposes of this section, the following terms shall have the following meanings:

"MacBride Principles" shall mean those principles relating to nondiscrimination in employment and freedom of workplace opportunity which require employers doing business in Northern Ireland to:

- (1) increase the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs;
- (2) take steps to promote adequate security for the protection of employees from underrepresented religious groups both at the workplace and while traveling to and from work;
- (3) ban provocative religious or political emblems from the workplace;
- (4) publicly advertise all job openings and make special recruitment efforts to attract applicants from underrepresented religious groups;
- (5) establish layoff, recall and termination procedures which do not in practice favor a particular religious group;
- (6) abolish all job reservations, apprenticeship restrictions and different employment criteria which discriminate on the basis of religion;
- (7) develop training programs that will prepare substantial numbers of current employees from underrepresented religious groups for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of workers from underrepresented religious groups;
- (8) establish procedures to assess, identify and actively recruit employees from underrepresented religious groups with potential for further advancement; and

- (9) appoint a senior management staff member to oversee affirmative action efforts and develop a timetable to ensure their full implementation.

ARTICLE II. ENFORCEMENT OF ARTICLE I.

The Contractor agrees that the covenants and representations in Article I above are material conditions to this contract. In the event the contracting entity receives information that the Contractor who made the stipulation required by this section is in violation thereof, the contracting entity shall review such information and give the Contractor an opportunity to respond. If the contracting entity finds that a violation has occurred, the entity shall have the right to declare the Contractor in default and/or terminate this contract for cause and procure the supplies, services or work from another source in any manner the entity deems proper. In the event of such termination, the Contractor shall pay to the entity, or the entity in its sole discretion may withhold from any amounts otherwise payable to the Contractor, the difference between the contract price for the uncompleted portion of this contract and the cost to the contracting entity of completing performance of this contract either itself or by engaging another contractor or contractors. In the case of a requirements contract, the Contractor shall be liable for such difference in price for the entire amount of supplies required by the contracting entity for the uncompleted term of its contract. In the case of a construction contract, the contracting entity shall also have the right to hold the Contractor in partial or total default in accordance with the default provisions of this contract, and/or may seek debarment or suspension of the Contractor. The rights and remedies of the entity hereunder shall be in addition to, and not in lieu of, any rights and remedies the entity has pursuant to this contract or by operation of law. (8/92)

40. Set-Off Rights

The Board shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the Board's option to withhold for the purposes of set-off any moneys due and owing to the Board with regard to this Agreement, any other agreement with the Board, including any agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to

the Board for any other reason. The Board shall exercise its set-off rights in accordance with normal Board practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the Board, its representatives, or the State or City Comptroller. (1/95)

41. Non-Collusive Bidding

If this Agreement was awarded by the Board based upon the submission of bids or proposals, Contractor warrants under penalty of perjury, that its bid or price quotation was arrived at independently and without collusion aimed at restricting competition. (10/92)

42. Intentionally Left Blank (Burma Provision Deleted 9/6/01)

43. Intentionally Left Blank (Year 2000 Compliance Required Deleted 11/27/02)

44. Fair and Ethical Business Practices

A. Fair and Ethical Business Practices shall be strictly adhered to during the term of this Agreement. During the term of this Agreement, Contractor shall not:

- (1) File with a government office or employee, a written instrument which intentionally contains a false statement or false information;
- (2) Intentionally falsify business records;
- (3) Give, or offer to give, money, gifts or anything of value or any other benefit to a labor official or public servant with intent to influence that labor official or public

- servant with respect to any of his or her official acts, duties or decisions as a labor official or public servant;
- (4) Give or offer to give, money, gifts or anything of value or any other benefit to a labor official or public servant for any reason;
  - (5) Give, or offer to give, money, gifts or other benefit(s) to an official or employee of a private business with intent to induce that official or employee to engage in unethical or illegal business practices;
  - (6) Knowingly participate in the criminal activities of any organized crime group, syndicate or "family," nor shall any person employed by or associated with any such organized crime "family," syndicate or group participate through criminal means in any of the business affairs of Contractor.
- B. Contractor certifies throughout the term of this Agreement, that there have been no changes in circumstances, conditions or status of Contractor's qualification(s) as reflected in Contractor Questionnaire or other such documents submitted to the Board. Any change in the information provided by Contractor in its questionnaire currently on file with the Board must be immediately reported to the Board. In addition, Contractor shall immediately notify the Board of any of the following events if it becomes known that any director, partner, officer, member or employee of Contractor, or any shareholder owning 5% or more of Contractor's membership interests:
- (1) is the subject of investigation involving any violation of criminal law or other federal, state or local law or regulation by any governmental agency; or
  - (2) is arrested, indicted or named as an unindicted co-conspirator in any indictment or other accusatory instrument; or
  - (3) is convicted of any felony under state or federal law and/or any misdemeanor involving a business-related crime. (10/8/98)

45. Indemnification Language

The Contractor shall defend, indemnify and hold the Department and the City harmless from and against any and all claims, suits, damages, judgments, liabilities, costs, and expenses, including reasonable attorneys' fees, to which they may be subject because of or related to any claim that the Copyrightable Materials or their use constitutes an infringement by the Contractor or a violation by the Contractor of the copyright, patent, trademark, or any other property or personal right of any third party. For the purposes of this provision, "Copyrightable Materials" shall include any reports, documents, data, photographs, software, and/or other materials provided pursuant to this agreement, regardless of whether the copyright in such materials is or shall be owned by the Department, the Contractor, or third parties. This indemnification shall survive the termination or expiration of this Agreement. This indemnification provision shall not be limited in any way by the Contractor's obligations to obtain insurance as provided under this Agreement. Furthermore, Contractor shall defend and settle at its sole expense all suits or proceedings brought against Contractor arising out of the foregoing. However, in cases involving software, no such settlement shall be made that prevents the Department from continuing to use the software without the Department's prior written consent, which consent shall not be withheld unreasonably. 1/15/03

46. Dispute Resolution Procedure

- A. In the event the Contractor and the Board are unable to resolve their differences concerning a determination by the Board, the Contractor may initiate a dispute in accordance with the procedure set forth in this Section 46. Exhaustion of these dispute resolution procedures by Contractor shall be a precondition to any lawsuit permitted hereunder.
- B. The Dispute Resolution Officer ("DRO") selected by the Executive Director of the Division of Contracts and Purchasing shall be authorized to decide all questions of any nature whatsoever arising out of, under or in connection with, or in any way related to or on account of, this Agreement (including claims in the nature of breach of contract or fraud or misrepresentation before or subsequent to contract award) and the DRO's decision shall be conclusive, final and binding on the parties. The DRO's decision may be based

on such assistance as s/he may find desirable, including advice of experts. The effect of the DRO's decision shall not be impaired or waived by any negotiations or settlement offers in connection therewith, or by any prior decision of others, which prior decisions shall be deemed subject to review, or by any termination or cancellation of this Agreement.

- C. All such disputes shall be submitted in writing by the Contractor to the DRO, together with all evidence and other pertinent information with regard to such questions, in order that a fair and impartial decision may be made. The Board Contract Manager may submit to the DRO all materials that s/he deems pertinent to the dispute. The DRO shall render a decision in writing and deliver a copy of same to the parties within forty-five (45) days of the conclusion of submission of all materials and information, or such longer time as may be agreed to by the parties. In an unusually complex case, the DRO may render his or her decision in a longer period of time, not to exceed ninety (90) days or such longer time as may be agreed to by the parties, and shall so advise the parties at the commencement of this period. The DRO'S decision shall be deemed a final agency action.
- D. During such time as any dispute is being presented, heard, and considered pursuant to this Section 46, the terms of this Agreement shall remain in full force and effect and the Contractor shall continue to provide any services in accordance with this Agreement. Failure of the Contractor to continue to provide services shall constitute a material breach of contract.
- E. If the Contractor protests the determination of the DRO, the Contractor may commence a lawsuit in Supreme Court, County of New York under Article 78 of the New York Civil Practice Law and Rules. Such review of the Court shall be limited to the question of whether or not the DRO's decision was made in violation of lawful procedure, was affected by an error of law, or was arbitrary and capricious or an abuse of discretion. No evidence or information shall be introduced or relied upon in such an action or proceeding that has not been presented to the DRO prior to the making of his or her decision.

#### 47. Paid Sick Leave Law Contract Rider

##### Introduction and General Provisions

The Earned Sick Time Act, also known as the Paid Sick Leave Law ("PSLL"), requires covered employees who annually perform more than 80 hours of work in New York City to be provided with paid sick time.<sup>[2]</sup> Contractors of the City of New York or of other governmental entities may be required to provide sick time pursuant to the PSLL.

The PSLL became effective on April 1, 2014, and is codified at Title 20, Chapter 8, of the New York City Administrative Code. It is administered by the City's Department of Consumer Affairs ("DCA"); DCA's rules promulgated under the PSLL are codified at Chapter 7 of Title 6 of the Rules of the City of New York ("Rules").

Contractor agrees to comply in all respects with the PSLL and the Rules, and as amended, if applicable, in the performance of this agreement. Contractor further acknowledges that such compliance is a material term of this agreement and that failure to comply with the PSLL in performance of this agreement may result in its termination.

<sup>[2]</sup> Pursuant to the PSLL, if fewer than five employees work for the same employer, as determined pursuant to New York City Administrative Code §20-912(g), such employer has the option of providing such employees uncompensated sick time.

Contractor must notify the Agency Chief Contracting Officer of the City agency or other entity with whom it is contracting in writing within ten (10) days of receipt of a complaint (whether oral or written) regarding the PSLI involving the performance of this agreement. Additionally, Contractor must cooperate with DCA's education efforts and must comply with DCA's subpoenas and other document demands as set forth in the PSLI and Rules.

The PSLI is summarized below for the convenience of Contractor. Contractor is advised to review the PSLI and Rules in their entirety. On the website [www.nyc.gov/PaidSickLeave](http://www.nyc.gov/PaidSickLeave) there are links to the PSLI and the associated Rules as well as additional resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which Contractor can get more information about how to comply with the PSLI. Contractor acknowledges that it is responsible for compliance with the PSLI notwithstanding any inconsistent language contained herein.

Pursuant to the PSLI and the Rules:

#### Applicability, Accrual, and Use

An employee who works within the City of New York for more than eighty hours in any consecutive 12-month period designated by the employer as its "calendar year" pursuant to the PSLI ("Year") must be provided sick time. Employers must provide a minimum of one hour of sick time for every 30 hours worked by an employee and compensation for such sick time must be provided at the greater of the employee's regular hourly rate or the minimum wage. Employers are not required to provide more than forty hours of sick time to an employee in any Year.

An employee has the right to determine how much sick time he or she will use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four hours per day. In addition, an employee may carry over up to forty hours of unused sick time to the following Year, provided that no employer is required to allow the use of more than forty hours of sick time in a Year or carry over unused paid sick time if the employee is paid for such unused sick time and the employer provides the employee with at least the legally required amount of paid sick time for such employee for the immediately subsequent Year on the first day of such Year.

An employee entitled to sick time pursuant to the PSLI may use sick time for any of the following:

- such employee's mental illness, physical illness, injury, or health condition or the care of such illness, injury, or condition or such employee's need for medical diagnosis or preventive medical care;
- such employee's care of a family member (an employee's child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of an employee's spouse or domestic partner) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;
- closure of such employee's place of business by order of a public official due to a public health emergency; or
- such employee's need to care for a child whose school or childcare provider has been closed due to a public health emergency.

An employer must not require an employee, as a condition of taking sick time, to search for a replacement. However, an employer may require an employee to provide: reasonable notice of the need to use sick time; reasonable documentation that the use of sick time was needed for a

reason above if for an absence of more than three consecutive work days; and/or written confirmation that an employee used sick time pursuant to the PSL. However, an employer may not require documentation specifying the nature of a medical condition or otherwise require disclosure of the details of a medical condition as a condition of providing sick time and health information obtained solely due to an employee's use of sick time pursuant to the PSL must be treated by the employer as confidential.

If an employer chooses to impose any permissible discretionary requirement as a condition of using sick time, it must provide to all employees a written policy containing those requirements, using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny sick time to an employee because of non-compliance with such a policy.

Sick time to which an employee is entitled must be paid no later than the payday for the next regular payroll period beginning after the sick time was used.

#### Exemptions and Exceptions

Notwithstanding the above, the PSL does not apply to any of the following:

- an independent contractor who does not meet the definition of employee under section 190(2) of the New York State Labor Law;
- an employee covered by a valid collective bargaining agreement in effect on April 1, 2014 until the termination of such agreement;
- an employee in the construction or grocery industry covered by a valid collective bargaining agreement if the provisions of the PSL are expressly waived in such collective bargaining agreement;
- an employee covered by another valid collective bargaining agreement if such provisions are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the PSL for such employee;
- an audiologist, occupational therapist, physical therapist, or speech language pathologist who is licensed by the New York State Department of Education and who calls in for work assignments at will, determines his or her own schedule, has the ability to reject or accept any assignment referred to him or her, and is paid an average hourly wage that is at least four times the federal minimum wage;
- an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;
- an employee whose work is compensated by a qualified scholarship program as that term is defined in the Internal Revenue Code, Section 117 of Chapter 20 of the United States Code; or
- a participant in a Work Experience Program (WEP) under section 336-c of the New York State Social Services Law.

### Retaliation Prohibited

An employer may not threaten or engage in retaliation against an employee for exercising or attempting in good faith to exercise any right provided by the PSSL. In addition, an employer may not interfere with any investigation, proceeding, or hearing pursuant to the PSSL.

### Notice of Rights

An employer must provide its employees with written notice of their rights pursuant to the PSSL. Such notice must be in English and the primary language spoken by an employee, provided that DCA has made available a translation into such language. Downloadable notices are available on DCA's website at <http://www1.nyc.gov/site/dca/about/paid-sick-leave-law.page>

Any person or entity that willfully violates these notice requirements is subject to a civil penalty in an amount not to exceed fifty dollars for each employee who was not given appropriate notice.

### Records

An employer must retain records documenting its compliance with the PSSL for a period of at least three years, and must allow DCA to access such records in furtherance of an investigation related to an alleged violation of the PSSL.

### Enforcement and Penalties

Upon receiving a complaint alleging a violation of the PSSL, DCA has the right to investigate such complaint and attempt to resolve it through mediation. Within 30 days of written notification of a complaint by DCA, or sooner in certain circumstances, the employer must provide DCA with a written response and such other information as DCA may request. If DCA believes that a violation of the PSSL has occurred, it has the right to issue a notice of violation to the employer.

DCA has the power to grant an employee or former employee all appropriate relief as set forth in New York City Administrative Code 20-924(d). Such relief may include, among other remedies, treble damages for the wages that should have been paid, damages for unlawful retaliation, and damages and reinstatement for unlawful discharge. In addition, DCA may impose on an employer found to have violated the PSSL civil penalties not to exceed \$500 for a first violation, \$750 for a second violation within two years of the first violation, and \$1,000 for each succeeding violation within two years of the previous violation.

### More Generous Policies and Other Legal Requirements

Nothing in the PSSL is intended to discourage, prohibit, diminish, or impair the adoption or retention of a more generous sick time policy, or the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick time. The PSSL provides minimum requirements pertaining to sick time and does not preempt, limit or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of sick leave or time, whether paid or unpaid, or that extends other protections to employees. The PSSL may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation.

**SUPPLEMENTAL TERMS AND CONDITIONS****1. SUBCONTRACTING RESTRICTIONS**

- A.** The Contractor shall not enter into any subcontract for the performance of its obligations, in whole or in part, under this Agreement without the prior approval by the Board of the subcontractor. The Department hereby grants approval for all subcontracts for an amount that does not exceed Five Thousand Dollars (\$5,000). All subcontracts must be in writing.
- B.** Prior to entering into any such subcontract for an amount greater than Five Thousand Dollars (\$5,000), the Contractor shall submit a written request for the approval of the proposed subcontractor to the Board giving the name and address of the proposed subcontractor and the portion of the services that it is to perform and furnish. At the request of the Board, a copy of the proposed subcontract shall be submitted to the Board. The proposed subcontractor's VENDEX Questionnaire must be submitted, if required, within thirty (30) Days after the Board has granted preliminary approval of the proposed subcontractor. Upon the request of the Board, the Contractor shall provide any other information demonstrating that the proposed subcontractor has the necessary facilities, skill, integrity, past experience and financial resources to perform the specified services in accordance with the terms and conditions of this Agreement. The Board shall make a final determination in writing approving or disapproving the subcontractor after receiving all requested information. For proposed subcontracts that do not exceed Twenty-five Thousand Dollars (\$25,000), the Board's approval shall be deemed granted if the Board does not issue a written approval or disapproval within forty-five (45) Days of the Board's receipt of the written request for approval or, if applicable, within forty-five (45) Days of the Board's acknowledged receipt of fully completed VENDEX Questionnaires for the subcontractor.
- C.** All subcontracts shall contain provisions specifying that:
1. The work performed by the subcontractor must be in accordance with the terms of the agreement between the Board and the Contractor;
  2. Nothing contained in the agreement between the Contractor and the subcontractor shall impair the rights of the Board;
  3. Nothing contained in the agreement between the Contractor and the subcontractor, or under the agreement between the Board and the Contractor, shall create any contractual relation between the subcontractor and the Board;
  4. The subcontractor specifically agrees to be bound by provisions in this Agreement regarding Non-Discrimination, Equal Employment Opportunity Requirements, Confidentiality, and Cooperation with Audits and Investigations and specifically agrees that the Board may enforce such provisions directly against the subcontractor as if the Board were a party to the subcontract;
  5. The specific consideration for the Subcontractor's services, including any monetary exchange between the parties and the basis upon which payment will be made; and
  6. That the Subcontractor may not enter into second-tier subcontracting contracts for performance of services for the Board without the prior written approval of the Board, and any such subcontracts must contain all of the provisions set forth herein. The Contractor remains responsible for submission and approval of any second-tier subcontracts.
- D.** The Contractor agrees that it is as fully responsible to the Board for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by such subcontractors as it is for the acts and omissions of any person directly employed by it.

- E. For determining the value of a subcontract, all subcontracts with the same subcontractor shall be aggregated.
- F. The Board may revoke the approval of a subcontractor granted or deemed granted pursuant to Paragraphs (A) and (B) of this section if revocation is deemed to be in the interest of the Board in writing on no less than ten (10) Days' notice unless a shorter period is warranted by considerations of health, safety, integrity issues or other similar factors. Upon the effective date of such revocation, the Contractor shall cause the subcontractor to cease all work under the Agreement. The Board shall not incur any further obligation for services performed by such subcontractor pursuant to this Agreement beyond the effective date of the revocation. The Board shall pay for services provided by the subcontractor in accordance with this Agreement prior to the effective date of revocation.
- G. The Board's approval of a subcontractor shall not relieve the Contractor of any of its responsibilities, duties and liabilities under this Agreement. At the request of the Board, the Contractor shall provide the Board a copy of any subcontract.
- H. Individual employer-employee contracts are not subcontracts subject to the requirements of this Section.
- I. Payments made under the terms of any subcontract for services under this Agreement must be supported with documentation that includes dated invoices and work performed.

## **2. TERMINATION FOR CAUSE**

- A. If the Contractor violates any provision of this Agreement, the Chancellor or his/her designee may pursue any legal or equitable remedies available to the Board. In addition, the Chancellor or his/her designee may seek to have the Contractor declared in default by the Executive Director of the Division of Contracts and Purchasing or his/her designee (hereafter, the "Director") . Before the Director shall exercise the right to declare the Contractor in default, the Contractor shall be given an opportunity to be heard upon not less than two (2) days' notice; however, it shall be within the discretion of the Director to suspend the Contractor and direct that it cease performing services pursuant to the Agreement pending such opportunity to be heard. It shall also be within the discretion of the Director to provide for such opportunity to be heard to be in writing or in person. In the event that the Director shall determine the Contractor to be in default, the Board may cancel this Agreement and shall thereafter be relieved of all liability hereunder. Notwithstanding the foregoing, the Board may terminate this Agreement immediately without notice in cases in which the Board has reason to believe that the Contractor is performing in a manner which would endanger the health, safety and/or welfare of pupils and/or their families. In such case, the Board shall administer the opportunity to be heard in a post-termination manner. **Upon a finding of default, the default determination shall be submitted to the New York City Mayor's Office of Contract Services for inclusion in the VENDEX database.**

**APPENDIX C: WORK ORDER**

**System Wide Professional Services Requirements Contract**

This work order is required prior to issuing a purchase order to ensure that the district/school/office and the vendor are in agreement as to the terms of the purchase. No purchase order will be issued without a complete and signed work order. This work order does not replace the contract terms. Rather, it explains the terms for this specific engagement.

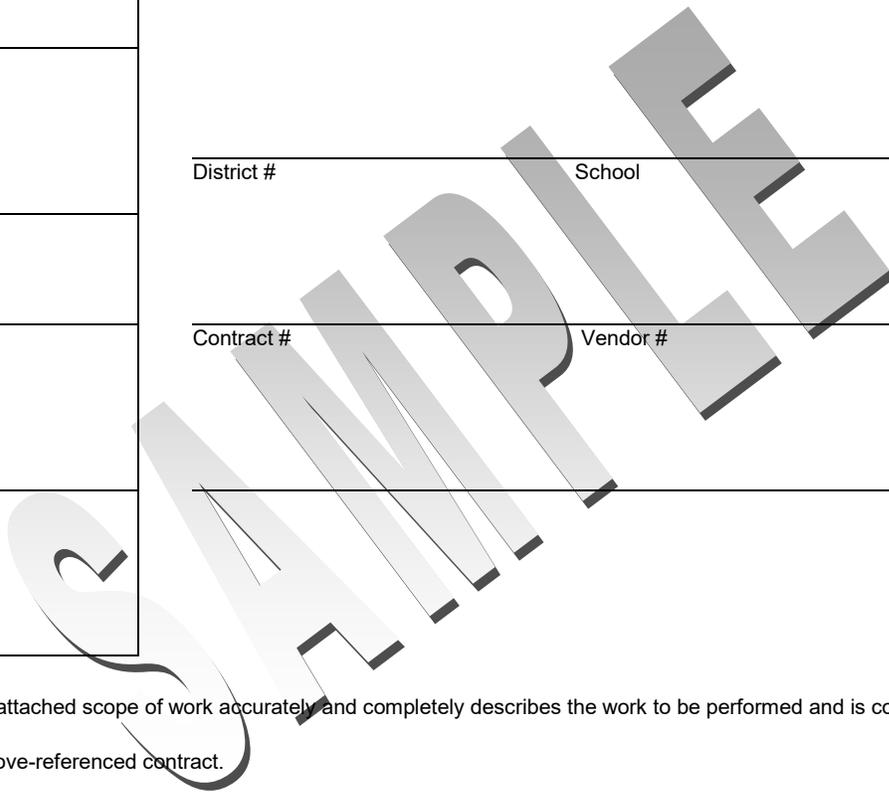
Pricing and services must be wholly consistent with the terms and conditions of the contract.

<b>VENDOR NAME:</b>
<b>ADDRESS:</b>
<b>CONTACT:</b>
<b>TEL./FAX:</b>
<b>E-MAIL:</b>

Date Issued \_\_\_\_\_

District # \_\_\_\_\_ School \_\_\_\_\_

Contract # \_\_\_\_\_ Vendor # \_\_\_\_\_



I hereby certify that the attached scope of work accurately and completely describes the work to be performed and is consistent with the terms of the above-referenced contract.

\_\_\_\_\_  
Authorized Vendor Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Principal/Superintendent or designee

\_\_\_\_\_  
Date

.....FOR DISTRICT USE ONLY.....

Purchase Order Number \_\_\_\_\_

Location Code \_\_\_\_\_

**Date Issued** \_\_\_\_\_

**Contract #** \_\_\_\_\_

**Scope of Work**

(Make copies as necessary)

Services to be delivered. For each service, include service description, number of recipients, location of service, date(s)

Unit Unit Cost# Units Total Cost

of service, deliverables, if any, as well as unit, cost, number of units to be purchased and the total cost of the units. Please refer to the sample.

**1. CREATING A MUSEUM IN THE SCHOOL – Students will actively**

Participate in the creation of a museum/gallery in PS. 88. 5 sessions,

11/10/02-11/14/02, 25 students, \$50 per student. Student \$50 25 \$1,250

**2. PROFESSIONAL DEVELOPMENT WORKSHOPS – Teachers will be**

Receiving 4 workshops in music, theater and the visual arts. 12/1, 12/5-12/6,

And 12/8/02. Workshops run 2 hours. 15 teachers, \$100 per workshop. Workshop \$100 4 \$400

TOTAL COST

**APPENDIX D: INVOICE FORM**

On the following page is a suggested standard invoice form to be used when billing the Department of Education for services. This form contains the minimum information we require to process your invoice. The fields on the invoice form should match the fields on the corresponding Work Order form, Purchase Order, and Contract.

**INVOICE FORM**

**VENDOR'S LETTERHEAD**

Vendor's Invoice No.: \_\_\_\_\_

Date of Invoice: \_\_\_\_\_

TO: New York City Department of Education

(For address, see Box 3 of the Purchase Order)

NYCDOE Contract #	
NYCDOE Purchase Order #	
Service Dates	
Location of Service (School, District #, etc)	
Vendor Contact Name and Telephone Number	

ITEM DESCRIPTION	CONTRACT UNIT	CONTRACT UNIT PRICE	QUANTITY OF UNITS DELIVERED	AMOUNT
			<b>INVOICE TOTAL:</b>	

VENDOR'S AUTHORIZED REPRESENTATIVE, \_\_\_\_\_ (NAME AND TITLE), CERTIFIES THE ACCURACY OF THIS INVOICE TO THE NEW YORK CITY DEPARTMENT OF EDUCATION.

\_\_\_\_\_  
SIGNATURE AND DATE

**END OF DOCUMENT**