

New York City Economic Development Corporation

# Request for Proposals

## **Broadband Feasibility Study**

Release Date: Wednesday, June 14, 2006

Submission Date: Friday, July 21, 2006

**REQUEST FOR PROPOSALS  
FOR THE SELECTION OF CONSULTANT FOR  
BROADBAND FEASIBILITY STUDY**

**By the New York City Economic Development Corporation**

**I. Purpose**

The New York City Economic Development Corporation (“NYCEDC”), along with several New York City government (“City”) agencies, has been monitoring the deployment of broadband<sup>1</sup> throughout New York City’s five boroughs. Compared to most other cities, New York City has a high level of cable modem and digital subscriber line availability.<sup>2</sup> Nevertheless, NYCEDC has followed with interest efforts by municipalities to deploy broadband networks involving differing levels of municipal participation and is seeking guidance on whether such a model has relevance in New York.

NYCEDC is seeking a consultant to deliver a thorough, objective, fact-based feasibility study of the current state of broadband in New York City and to explore whether there is a need for a citywide broadband network as a municipal initiative and whether such would be legally, technically, practicably and economically feasible for New York City. The study is referred to herein as the “Broadband Feasibility Study” or the “Study.” The Study will specifically help address the questions of: (i) whether municipal initiatives have relevance in New York City, where broadband availability is already high; (ii) whether a municipal broadband initiative is necessary to ensure that broadband is widely available to all residences and businesses in New York City at competitive prices, and (iii) whether such a municipal broadband initiative will help to strengthen and expand the City’s economy and promote economic development. In particular, NYCEDC is interested in exploring whether the City can or should serve as a catalyst for, but not provider of, a citywide broadband deployment using wireless, fiber or hybrid technologies.

The Broadband Feasibility Study will consist of two parts. Part One will address the existing state of broadband services and whether there is any need for a citywide network or network serving only a specific neighborhood or neighborhoods. If such a need is found, NYCEDC may retain the consultant for Part Two of the Study to address issues of implementation of a municipal broadband network, such as the best business model and most effective technology or set of technologies for the network.

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<sup>1</sup> For the purposes of this RFP, “broadband” is defined as Internet access with speeds consistently greater than dial-up.

<sup>2</sup> Cable franchisees reported more than a year ago that all homes in the five boroughs were eligible for cable modem service, as required by the terms of their franchises. Additionally, Verizon reported that 85-90% of all telephone lines in the five boroughs are eligible for DSL. *See Telecommunications and Economic Development in New York City: A Plan for Action* (March 2005) at 19-20, accessible at [http://www.nycedc.com/About\\_Us/TelecomPlanMarch2005.pdf](http://www.nycedc.com/About_Us/TelecomPlanMarch2005.pdf)

Through this Request for Proposals (“RFP”), NYCEDC intends to select a consultant or team of consultants (collectively, the “Consultant”) to conduct all appropriate research and perform all appropriate analysis in order to generate a clearly presented, organized, well-documented written report (together with all back-up data) that satisfactorily achieves the objectives described in this RFP. NYCEDC expects that the findings and report for Part One of the Broadband Feasibility Study will be presented within four months after Consultant’s selection, and, if NYCEDC determines that Part Two is necessary, that the findings and report for Part Two of the Broadband Feasibility Study will be presented within four months thereafter.

## **II. Consultant Services Guidelines**

NYCEDC has established some initial and general guidelines believed to be necessary to achieve the objectives of the Broadband Feasibility Study. These guidelines notwithstanding, *respondents are encouraged to be creative* and to suggest a detailed approach towards collecting data and presenting information that will yield the most thorough, useful Study possible. The initial guidelines of the Consultant’s services are as follows:

- The Consultant will be expected to provide NYCEDC with a project timeline for the Study with milestones and bi-weekly updates on progress, including drafts of the Parts of the Broadband Feasibility Study when appropriate, and the Consultant should be prepared to respond to feedback.
- The Consultant will be expected to utilize multiple methodologies to collect relevant data, including interviews with relevant stakeholders such as existing broadband providers, businesses, and other appropriate parties.
- The Consultant will be expected to provide back-up data for all of its findings.
- The Consultant will be expected to complete its analyses, synthesize its results and present to NYCEDC its findings of Part One, in a comprehensive written report, within approximately four months of commencing services.
- The Consultant will be expected to complete its analyses, synthesize its results and present to NYCEDC its finding of Part Two, if necessary, in a comprehensive written report within approximately four months of completing Part One.
- All data and work product related to the RFP, including, without limitation, the Study, will be the property of NYCEDC and IDA.
- The Consultant will be expected to provide its findings clearly and comprehensively with all written materials presented in a print-ready, professional format and in an appropriate electronic format.

### III. Study Objectives and Scope of Services

A. **Part One Objective: Provide a final report** identifying whether there is a need for a citywide or neighborhood broadband network in New York City, whether such a network is a practicable choice for the City, and whether it is legally and technologically feasible for City to pursue such a network.

The report will include, but not be limited to:

1. Introduction and Executive Summary
2. Current State of Broadband Deployment
  - a. Analysis of current state of broadband in New York City, to the extent feasible, both on a citywide and a neighborhood basis.
  - b. Analysis of existing local (non-municipal) efforts in New York City to promote local broadband networks.
  - c. Analysis of current usage and likelihood of year round, reliable usage of alternative broadband network.
  - d. Comparison of current New York City broadband usage to other cities similar in size, demographics and climate.
3. General Feasibility Analysis
  - a. Analysis of whether there is need for an additional, alternative broadband network.
  - b. Analysis of how such a network would fill existing broadband gaps, if any.
  - c. Analysis of impact on other telecom service providers and existing broadband services.
  - d. Analysis of impact on existing and nascent New York City hotspots.
4. Legal and Regulatory Analysis
  - a. Analysis of existing municipal legal agreements, strategies and plans governing telecommunications provisioning and infrastructure assets that would be involved or affected by a wireless (or other) broadband network, and determination as to whether any might impede a broadband network.
  - b. Review of existing and pending local, state and/or federal legislation that might prohibit, regulate, or affect municipal broadband initiatives.
5. Technical Analysis
  - a. Summary of current and potential broadband technologies that can underlie a citywide network.
  - b. Analysis of true ability for such networks to provide reliable, secure service, particularly in dense areas of New York City (in the case of wireless networks).
  - c. Evaluation of the likelihood of the obsolescence of such of broadband network in the near-term.

6. Recommendations:
  - a. Whether there is need for an additional, alternative broadband network.
  - b. Whether a municipal initiative for a citywide (or neighborhood) broadband network is practicably, legally, and technically feasible for New York City.
  - c. Whether there are any legal or regulatory impediments to the City acting as a catalyst for an additional broadband network.
  - d. Whether the City should sponsor/serve as a catalyst for an additional broadband citywide or neighborhood network in New York City.
  - e. If neighborhood approach is recommended, identify which neighborhood or outline a recommended methodology for identifying neighborhoods.

If the Part One of the Study recommends that the City pursue a citywide or neighborhood broadband network, then NYCEDC may elect to have the consultant conduct Part Two of the Study building on Part One. NYCEDC reserves the right not to proceed with Part Two (or a portion of Part Two) regardless of recommendation of the Consultant.

**B. *Part Two Objective:* Provide a final implementation guidance report** to include identification of the best business model, the most effective technology or set of technologies for the network, the cost of network and recommendations for building, operating maintaining and upgrading network.

The implementation guidance report will include, but not be limited, to the following:

1. Economic Analysis
  - a. Summary of existing and identification of new business models where City government could serve as a catalyst for a broadband network.
  - b. Selection of business model(s) that is best suited to the City's needs and objectives.
  - c. Return on investment model to estimate capital expenditures, ongoing operating costs, revenue projections and payback period.
  - d. Survey of whether any City services and public utilities could save money by use of a broadband network.
2. Expanded Technical Analysis
  - a. Analysis of new or developing technologies that might play a role in the recommended network and how the selected broadband model might incorporate these upcoming technologies.
  - b. For recommendations with wireless solutions, findings from a Radio Frequency ("RF") Signal Propagation Analysis with analysis of signal data and recommendation on installing the network citywide or in a recommended neighborhood. Analysis will include number of

access points or mesh nodes needed per square block, optimum antenna heights and cost per antenna.

c. Findings from RF Interference studies in potential neighborhoods that includes a map of all data collected, identification of considerable interference, and recommendations on how to avoid interference from impacting the network.

3. Recommendations and Implementation Plan:

a. Study of particular broadband technology or technologies to be used and whether such a network can be updated as technologies change.

b. Whether the network recommended is technologically feasible and what steps would be necessary to ensure proof of concept, including pilots of the various recommended technologies.

c. Recommended economic model best accommodating the City's objectives and resources.

d. Cost of building such a network.

e. Recommendations for building, operating, maintaining and upgrading network.

f. Overall implementation plan.

**C. *Staffing***

Personnel. The Consultant shall, at its own expense, employ all personnel and retain all subcontractors (including the subconsultants on the Consultant "Team," if any) as may be required for the Broadband Feasibility Study, and shall be solely responsible for their services, compensation, direction and conduct during the term of the Consultant Contract (the contract to be entered into between NYCEDC and the selected respondent). The Consultant and its subcontractors will be expected to cooperate fully with NYCEDC personnel. The respondent shall, to the extent feasible, submit with its Proposal resumes of its personnel and those of its subcontractors who will perform the services. The respondent, if selected, will be expected to use substantially the same personnel and subcontractors described in the Proposal to perform the services. All personnel furnished by the Consultant as required under the Consultant Contract shall be employees or approved subcontractors of the Consultant and not of NYCEDC, IDA or the City.

Person in Charge. In its Proposal, respondent shall identify the member of the respondent's staff who will have primary responsibility to perform and/or supervise and coordinate the performance of the services.

**D. *Timeframe***

The Consultant will be expected to present its findings for Part One of the Study, in a written report, within approximately four months of commencing services. If NYCEDC determines Part Two is necessary, Consultant will be expected to present its findings in a written report for Part Two approximately four months thereafter.

#### **IV. Background Information on NYCEDC**

NYCEDC is a 501(c)(3) not-for-profit, local development corporation, under contracts (“City Contract”) with the City of New York and also, it is anticipated, (“IDA Contract”) with the New York City Industrial Development Agency (“IDA”), a public benefit corporation. NYCEDC’s mission is to encourage economic growth in each of the five boroughs of New York City by strengthening the City's competitive position and facilitating investments that build capacity, generate prosperity and catalyze the economic vibrancy of city life as a whole.

Among the ways that NYCEDC encourages private investment are by promoting the City, maintaining and upgrading infrastructure including telecommunications infrastructure, and negotiating sales of City-owned land. In addition, the NYCEDC encourages private investment through the administration of certain discretionary economic development incentive programs.

#### **V. Selection Criteria**

NYCEDC encourages respondents to present innovative ideas for evaluating broadband in New York City and on surveying the need and feasibility for a municipal broadband network and, if necessary, the appropriate technical and economic models. The selection will be based on the following criteria. The particular order of the criteria is not intended to convey the order of priority of the criteria.

1. Ability to competently utilize multiple methodologies (including, but not limited to, statistical analyses, interviews, surveys, and academic/industry literature reviews) to collect, review and analyze relevant data and to provide back-up data for all of its findings;
2. Ability to use its expertise in the areas of broadband feasibility, telecommunications policy, economics and technology;
3. Familiarity with New York City and State governments;
4. Experience working with municipalities on similar projects or studies;
5. Experience working with broadband providers;
6. Experience in preparing quality written reports, studies and analysis, in particular, though not limited to, feasibility studies and other similar projects, reports and analysis for municipalities;
7. Experience in presenting complex technical material to stakeholders;

8. Overall quality of Proposal and the degree to which it demonstrates the respondent's full understanding of and the ability to perform the services to be rendered;
9. Availability for follow-up work, such as presentations;
10. Quality, experience and areas of expertise of personnel of respondent;
11. Respondent's proposed fees;
12. Respondent's proposed plans for encouraging participation by minority and women-owned business enterprises in connection with the services;
13. Favorable history, if any, in contracting with NYCEDC, Apple Industrial Development Corporation, IDA, and the City of New York; and
14. The absence of any default in respondent's financial obligations to the City of New York.

## **VI. Procedures for Responding to this Request for Proposals and Selection Process**

### **A. *General Directions***

Each proposal in response to this RFP ("Proposal") should, as applicable, address the areas of study identified in this RFP and respond in reasonable detail to all the issues and requirements of this RFP. Each submitted Proposal should be provided in the manner described in Section VII entitled Requirements and Format for the Proposal. Respondents may choose to supplement their responses to particular questions by making reference to appendices containing supporting schedules or exhibits. These appendices should be viewed as support for the Proposals and not as part of the Proposals themselves.

### **B. *Questions, Clarifications, and Communications***

Respondents may submit questions and/or request clarifications, with regards to the subject matter of the project, from NYCEDC no later than **4:00 p.m. on Friday, May 26, 2006**. Questions should be directed by e-mail to [broadbandconsultantRFP@nycedc.com](mailto:broadbandconsultantRFP@nycedc.com). Any questions or requests for clarifications received after this date will not be answered. The answers to these questions and clarifications will be posted by **Friday, June 9, 2006** to [www.nycedc.com/RFP](http://www.nycedc.com/RFP) (the "Website"). Navigate by clicking on the applicable RFP.

For all other questions that do not pertain to the subject matter of the project, such as directions to NYCEDC, etc., please contact the hotline at (212) 312-3969. No other types of questions will be answered through this hotline.

Additionally, any modifications to this RFP shall be posted by NYCEDC to the Website. Nothing stated at any time by any representative of NYCEDC or of any other entity shall effect a change in, or constitute a modification to this RFP unless posted on the Website or confirmed in writing by NYCEDC. Respondents are reminded to check the Website periodically to view updated information, clarifications, modifications, and the answers to questions.

**C. *Submission of Proposals***

All Proposals must be submitted in accordance with the following procedures:

1. Eight (8) copies of the Proposal must be received, either by hand delivery or certified mail, by NYCEDC. To facilitate photocopying, at least one copy of each Proposal should either be unbound or be in a binder from which pages are removable. Note: Respondents are informed that NYCEDC does not accept e-mail or other electronic transmission for delivery of proposals. Failure to follow the submission requirements stated above will result in a proposal being found non-responsive to the RFP.
2. The date that the Proposal is due is Friday, June 16, 2006.
3. The time the Proposal is due is 4:00 P.M.
4. The Proposal must be submitted to:  
  
NYCEDC  
110 William Street, 6th Floor  
New York, New York 10038  
Attn: Dominic Domingo, Agency Chief Contracting Officer
5. The Proposal should be delivered in a sealed envelope marked: **“Broadband Feasibility Study RFP.”**
6. The Proposal must be signed by an officer authorized to bind the respondent and shall contain a statement to the effect that the Proposal is a firm offer for a minimum period of ninety (90) days. The Proposal should also include the name, title, address, telephone number and facsimile number of an individual with authority to negotiate and contractually bind the respondent during the period of the Proposal evaluation. The Proposal should follow the format set forth in Section VII entitled Requirements for the Format of the Proposal.
7. Proposals which are not enclosed in a sealed envelope and/or are not properly labeled and/or are received after the above indicated date and hour and/or are received at a different location and/or are directed to a person other than the above named person, may, in NYCEDC’s sole discretion, not be considered. Proposals

received via facsimile transmission or by non-certified mail or by any delivery method other than those indicated above, shall not be accepted.

**D. *Interviews and Selection Process.***

Interviews may be held with none, any, or all of the respondents after the receipt of Proposals. Interviews, if any, with NYCEDC will be scheduled after NYCEDC's initial review of the Proposals.

Proposals will be reviewed for completeness in addressing the issues and requirements of this RFP and for responsiveness to the selection criteria set forth in Section V entitled Selection Criteria above. Respondents may receive a request for clarification or supplemental information after the submission of Proposals' due date. Respondents may also receive a request for a final and best offer before a final selection is made.

**VII. Requirements and Format for the Proposal**

**A. *Section 1 of the Proposal: Cover Letter***

1. Provide a cover letter to NYCEDC indicating the name of respondent; the senior contact person for respondent on this engagement; the office location from which the services will be conducted; appropriate telephone and facsimile numbers and email addresses; the signatory's (i.e., the person that is signing the Proposal for the respondent) ability to commit respondent to any terms contained in respondent's Proposal in response to this RFP; statement to the effect that the Proposal is a firm offer for a minimum period of ninety (90) days; signed by an officer authorized to bind the respondent and any other pertinent information respondent may feel to be relevant.
2. In the event that respondent is submitting a response to this RFP as a part of a team of respondents, please ensure that the foregoing information is submitted for each member firm.

**B. *Section 2 of the Proposal: General Information***

1. Indicate the senior personnel who will be assigned to this Study, and provide resume synopses for each of these individuals, including their relevant skills and experience. In addition, provide an estimate of the availability of each of these individuals to work personally on the development of the Study.
2. List any studies, analyses and reports similar to that requested here that respondent has conducted during the past five years, and, where possible, provide reports of findings.

3. State the breakdown of respondent’s proposed fees and expenses to provide (a) the report for Part One Scope of Services as described above and (b) the report for Part Two Scope of Services as described above, if it is necessitated by Part One’s outcome. Fees should be broken down according to the following schedule.

Part One (IIIA 1-6)	Fees and Expenses = \$ _____
Part Two (IIIB 1a-d, 2a, 3a-f)	Fees and Expenses = \$ _____
Part Two (IIIB 2b-c)	Fees and Expenses = \$ _____

Additionally, the amounts listed should include Consultant’s availability for follow-up services (revisions and presentations) in the fee proposals listed above.

4. Discuss any actual or potential conflicts of interest respondent would have as a result of its association with, or representation of, the NYCEDC on the Study.
5. Describe respondent’s equal employment opportunities policies and program.
6. Disclose any civil or criminal actions, suits, proceedings, arbitrations or investigations (collectively, “Actions” or individually, an “Action”) of, against or involving respondent and/or its employees (in their capacities as employees) occurring over the past five years or, to the respondent’s knowledge, threatened, by or before any governmental or non-governmental authority or agency (including, without limitation, any court of competent jurisdiction, any regulatory agency, or any relevant arbitral body), to the extent that the Action in question has resulted, or is likely to result, in a material and adverse finding (including, without limitation, a criminal conviction) against respondent or any of its employees, acting in their capacities as employees.

**C. *Section 3 of the Proposal: Broadband Feasibility Study Proposal***

1. Describe the methodologies and sources respondent intends to use to collect and analyze data necessary to achieve the objectives and answer the questions and respond to the issues described in Section III above. Include in respondent’s Proposal how the respondent expects to synthesize data collected from various sources to develop clear, solid conclusions. List any existing services respondent believes will be useful towards this end that respondent plans to use.
2. In connection with respondent achieving the objectives described in Section III above, describe what categories of organizations respondent intends to analyze. Please provide an explanation as to how these categories were selected and why other categories were excluded.
3. Describe the format and content of the Study that respondent intends to produce. Include in this portion of respondent’s Proposal a description of the major sections, and the nature of the information to be included in each. Provide a list of

likely tables and charts to be included, as well as supporting data and other materials that will be appended.

4. Given the timeframe described in Section III (D) entitled Timeframe above, provide a tentative schedule of dates relating to the discussion of initial findings, delivery of written reports and presentation of final materials.

**D. *Section 4 of the Proposal: Address Other Relevant Issues Not Presented in the Prior Three Sections***

**VIII. Minority and Women-Owned Business Enterprise Participation**

NYCEDC is dedicated to furthering the participation of minority- and women-owned businesses in all of its projects and enterprises. Minority- or woman-owned business enterprise (M/WBE) firms are encouraged to apply. To certify with the City of New York as a minority- or woman-owned business, please call 311 or go to [www.nyc.gov/smallbiz](http://www.nyc.gov/smallbiz) or [www.nyc.gov/getcertified](http://www.nyc.gov/getcertified). Businesses that have been certified as being women- or minority-owned by the Port Authority of New York and New Jersey may be eligible to receive expedited certification from the New York City Department of Small Business Services (DSBS) after completing DSBS' "Expedited Certification Affidavit," which may be obtained by calling DSBS at (212) 513-6311. All respondents are encouraged to include in their Proposals proposed efforts to maximize such participation.

**IX. General Conditions**

1. The City of New York is not nor shall it be deemed to be a party to this RFP, nor shall it be deemed to have made any representation hereunder or to have covenanted to perform any obligation, and shall have no liability whatsoever in connection with this RFP.
2. Neither NYCEDC, nor the City of New York, shall be liable for any cost incurred by respondent in the preparation of its Proposal relating to this RFP, or for any other work or services that the respondent may have performed or caused to be performed in connection therewith.
3. None of the selected respondents, their principals, or their "team" personnel (i.e., personnel dedicated to the Study), shall have been a "Prohibited Person" at the time of submitting their Proposal, and none of them shall become a Prohibited Person for the duration of the selected respondent's participation in this Study. The selected respondent, any subcontractors, and all officers, principals, principal shareholders, partners and members thereof (collectively, "Reviewable Parties"), if applicable, of the selected respondent's team can be required to complete a background questionnaire and are subject to investigation by NYCEDC and the City's Department of Investigation. As used herein, the term "Prohibited Person" shall mean (i) any Person (A) that is in default or in breach, beyond any

applicable grace period, of its obligations under any written agreement with NYCEDC or the City of New York, or (B) that directly or indirectly controls, is controlled by, or is under common control with, a Person that is in default or in breach, beyond any applicable grace period, of its obligations under any written agreement with NYCEDC or the City of New York, unless such default or breach has been waived in writing by NYCEDC or the City of New York, as the case may be, and (ii) any Person (A) that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure, or (B) that directly or indirectly controls, is controlled by, or is under common control with, a Person that has been convicted in a criminal proceeding for a felony or any crime involving moral turpitude or that is an organized crime figure or is reputed to have substantial business or other affiliations with an organized crime figure. As used herein, "Person" shall mean any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, general partnership, limited liability company or government or any agency or political subdivision thereof or other entity.

4. Upon request by NYCEDC, a respondent and all other Reviewable Parties must supply information requested on background check (i.e., "VENDEX") clearance forms. Failure to supply such information or failure to supply it in a timely manner can eliminate a respondent from any further consideration by the NYCEDC. Derogatory or problematic results arising from the VENDEX check can also eliminate a respondent from any further consideration.
5. NYCEDC is subject to the requirements of Article 6 of the New York State Public Officers Law (the "Freedom of Information Law" or "FOIL"). Consequently, Proposals submitted to NYCEDC will be subject to disclosure pursuant to FOIL demands that may be made upon NYCEDC. A respondent may, in writing, at the time it submits its Proposal provide a detailed description of specific information contained in such Proposal constituting trade secrets or proprietary information that, if disclosed, would substantially harm the respondent's competitive position. This characterization will not be determinative, but will be considered by NYCEDC when evaluating the applicability of any exemptions in responses to a FOIL request.
6. NYCEDC shall be the sole judge of each respondent's conformity with the requirements of this RFP and of the merits of the Proposal. NYCEDC reserves the right, in its sole discretion, at any time, to: (i) amend, modify, or withdraw this RFP and/or waive any requirements of the RFP; (ii) choose not to select any respondents pursuant to this RFP; (iii) select more than one respondent pursuant to this RFP; (iv) select one or more firms that are not respondents to this RFP; (v) accept or reject any or all proposals received in response to this RFP or cancel this RFP, in whole or in part, for any reason or for no reason; (vi) extend or otherwise modify the deadline for submission of the RFP or any other deadlines set forth in

- this RFP; (vii) contact, negotiate or hold discussion with one or more of the respondents and/or require supplemental statements and information from any respondents to this RFP; (viii) impose upon respondents or potential respondents additional requirements not set forth in this RFP (including but not limited to requests for additional information) without applying such additional requirements uniformly to all respondents or potential respondents; (ix) permit the correction of deficient Proposals that do not completely conform with this RFP and/or waive any conditions or modify any provisions of this RFP with respect to one or more respondents; (x) ignore some or all of the selection criteria set forth in this RFP and in their place apply other criteria or use additional criteria and do any of the foregoing in a non-uniform manner; or (xi) modify this RFP in any other respect not already mentioned and in any manner that NYCEDC may choose. If NYCEDC chooses a Consultant to conduct Part One of this study, NYCEDC reserves the right to retain another party other than the Consultant to conduct Part Two (or parts of Part Two) or some other similar or related type of study.
7. Recipients of this RFP, whether or not they are respondents, shall make no news or press release pertaining to this RFP or anything contained or referenced herein without prior written approval from NYCEDC.
  8. NYCEDC will only select respondents that do not discriminate because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, or citizenship status in connection with all employment decisions.
  9. Neither NYCEDC, nor any of its officers, members, directors, employees or agents, shall be deemed to have made any representation or warranty as to, or to have assumed any responsibility for, the accuracy of the information set forth in this RFP. Respondents are advised to independently verify the accuracy of all information and to make their own judgments.
  10. The acceptance of any Proposal shall be subject to, and contingent upon, the execution of a contract (“Consultant Contract”) between NYCEDC and the respondent. NYCEDC shall be under no obligation to make any response, whether by way of acceptance or rejection, to any Proposal submitted pursuant to this RFP. The Consultant Contract must be executed within thirty (30) days after selection is confirmed by NYCEDC, subject to extension at NYCEDC’s sole discretion. However, selection by NYCEDC of a Proposal and initiation of negotiations should not be deemed to obligate NYCEDC to enter into any Consultant Contract or other agreement.
  11. This RFP and any contract or agreement resulting herefrom are subject to all applicable federal, state and local laws, rules, regulations and executive orders policies, procedures and ordinances of all Federal, State and City authorities, as the same may be amended from time to time, including without limitation, equal employment opportunity laws.

12. The Consultant Contract may contain, among other terms, certain provisions required by law, by policies of the City, and the City Contract including, without limitation, the following:
  - a. Executive Order 50 Supply and Service Rider. This rider contains equal opportunity requirements mandated under Executive Order No. 50 (1980).
  - b. The Consultant Contract is a subcontract of the City Contract and may be a subcontract of the IDA Contract. The Consultant shall comply with the City Contract, and, if extant, the IDA Contract, with respect to the services, and shall not violate, or through its acts or failure to act cause NYCEDC to violate, the City Contract or, if extant, the IDA Contract. The City and, if applicable, IDA, shall be third party beneficiaries of the Consultant Contract and shall have a direct cause of action against the Consultant in the event any claim be made or any cause of action be brought against NYCEDC, IDA or the city or the Consultant breaches the Consultant Contract
  - c. Provisions providing that the Consultant:
    - i. is an independent contractor and that neither it nor any of its employees is or shall be an agent, servant or employee of the City or NYCEDC or IDA;
    - ii. has no conflicts of interest with, or outstanding financial obligations owing to, the City;
    - iii. shall represent and warrant that neither it nor any of its directors, officers, members, or employees has any interest, nor shall they acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services as set forth in the Consultant Contract. The Consultant must further agree that it shall employ no person having such a conflict of interest in the performance of the services;
    - iv. shall defend, indemnify and hold the City, IDA and NYCEDC harmless and maintain insurance as specified in the Consultant Contract;
    - v. acknowledges that the Consultant Contract shall be assignable to the City as well as IDA;
    - vi. comply with the MacBride Principles Rider - The purpose of this rider is to insure compliance by the selected respondent with the City's MacBride Principles requirements, which prohibit certain business practices with respect to Northern Ireland.