Department of Homeless Services

November 24, 2021

ADDENDUM #2

Re: Shelter and Overnight Facilities for Homeless Families with Children
Open-Ended RFP
EPIN: 07122P0010

Pursuant to Section 3-03 of the Procurement Policy Board (PPB) Rules, the Department of Homeless Services is issuing Addendum #2 to the Shelter and Overnight Facilities for Homeless Families with Children Open-Ended RFP, EPIN 07122P0010.

I. Revisions to RFx

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EPIN: 07122P0010

Please be advised that the subject Request for Proposals is revised as described below. All new language is **bolded and underlined**. Language that is crossed out is being deleted from the Request for Proposals.

- The RFx has been revised to add the following documents:

  Labor Peace Agreement (LPA) Rider
  Labor Peace Agreement (LPA) Certification
  Labor Peace Agreement (LPA) Attestation
  Appendix A - General Provisions Governing Contracts for Consultants, Professional, Technical, Human, and Client Services

The attached Labor Peace Agreement (LPA) Rider, LPA Certification, and LPA Attestation are hereby made part of the solicitation.

RIDER TO CITY SERVICE CONTRACTS PURSUANT TO NYC ADMIN. CODE § 6-145 LABOR PEACE AGREEMENTS FOR HUMAN SERVICES CONTRACTS

Sec. 1 DEFINITIONS.

A. **Building service employee.** The term "building service employee" means any person, the majority of whose employment consists of performing work in connection with the care or maintenance of a building or property, including but not limited to a watchperson, guard, doorperson, building cleaner, porter, handyperson, janitor, gardener, groundskeeper, stationary fireman, elevator operator and starter, or window cleaner.

B. **City service subcontractor.** The term "city service subcontractor" means any person, including, but not limited to, a temporary services, staffing or employment agency or other similar entity, that pursuant to an agreement with the contractor, performs any of the services to be rendered pursuant to this contract, except that the term "city service subcontractor" shall not include any person who enters into a contract with the contractor the principal purpose of which is to provide supplies, or administrative services, technical support services, or any other similar services to the contractor that do not directly relate to the performance of the human services to be rendered pursuant to this contract. A person shall be deemed a city service subcontractor for the duration of the period during which such person performs such services under this contract.

C. **Covered employee.** The term "covered employee" means an employee of a covered employer who directly renders human services in performance of this contract, except that the term "covered employee" shall not include any building service employee.

D. **Covered employer.** The term "covered employer" means the contractor or a city service subcontractor, as applicable.

E. **Human services.** The term "human services" means social services contracted for by an agency on behalf of third party clients including but not limited to day care, foster care, home care, health or medical services, housing and shelter assistance, preventive services, youth services, the operation of senior centers, employment training and assistance, vocational and educational programs, legal services and recreation programs.

F. **Labor organization.** The term "labor organization" has the same meaning as set forth in subdivision (5) of section 152 of title 29 of the United States Code.

G. **Labor peace agreement.** The term "labor peace agreement" means an agreement between a covered employer and a labor organization that seeks to represent employees who perform one or more classes of work to be performed pursuant to this contract, where such agreement: (1) requires that the covered employer and the labor organization and its members agree to the uninterrupted delivery of services to be rendered pursuant to this contract and to refrain from actions intended to or having the effect of interrupting such services; and (2) includes any other terms agreed to by the parties, which may relate to, but need not be limited to: (i) alternate procedures related to recognizing the labor organization for bargaining purposes, (ii) public statements, (iii) workplace access, and (iv) the provision of employee contact information.. For the purposes of this rider, the term "labor peace agreement" may include a collective bargaining agreement that is in effect.

Sec. 2 RESPONSIBILITIES OF THE CONTRACTOR

A. The contractor shall comply with all applicable requirements under Admin. Code § 6-145 and any rules promulgated pursuant thereto. Such requirements constitute a material term of this contract. The contractor's failure to comply with the requirements of Admin. Code § 6-145 may constitute a material

breach by the contractor of the terms of this contract, and such failure shall be determined by the contracting agency.

B. The contractor shall submit the Labor Peace Agreement Certification pursuant to Admin. Code § 6-145(c), as well as the Labor Peace Agreement Attestation pursuant to NYC Admin. Code § 6-145(b), attached hereto.

C. If the contractor and/or city service subcontractor receives written notice of such a breach and fails to cure such breach within 30 days of such notice, the City shall have the right to pursue any rights or remedies available under the terms of this contract or under applicable law, including termination of the contract.

D. If the contractor fails to perform in accordance with any of the requirements of this section and there is a continued need for the service, the contracting agency may (i) obtain from another source the required service as specified in this contract, or any part thereof; (ii) may charge the non-performing contractor for any difference in price resulting from the alternative arrangements; (iii) may assess any administrative charge established by the contracting agency; and (iv) may, as appropriate, invoke such other remedies as are available under the contract and applicable law.

Sec. 3 LABOR PEACE AGREEMENT CERTIFICATION

A. Prior to the award or renewal of this contract, the bidder or proposer seeking award or the contractor seeking renewal shall have provided the awarding contracting agency a certification, in the form attached to this rider, containing the following information:

(1) The name, address and telephone number of the chief executive officer of the bidder or proposer seeking award, or the contractor seeking renewal, as applicable;

(2) A statement that, if the contract is awarded or renewed, the bidder or proposer seeking award, or the contractor seeking renewal, as applicable, agrees to comply with the requirements of Admin. Code § 6-145, and with all applicable federal, state and local laws; and

(3) A record of any instances during the preceding five years in which the bidder or proposer seeking award, or the contractor seeking renewal, as applicable, has been found by a court or government agency to have violated federal, state or local laws regulating labor relations, in which any government body initiated a judicial action, administrative proceeding or investigation of the bidder, proposer, or contractor in regard to such laws.

B. The certification shall be signed under penalty of perjury by an officer of the bidder, proposer, or contractor and shall be annexed to and form a part of the contract.

C. The contractor shall each year throughout the term of the contract submit to the contracting agency an updated version of the certification required under Admin. Code § 6-145(c), and identify any changes from the previous certification. During the term of this contract, the contractor shall make such certification during the 30-day period following each anniversary of the effective date of this contract.

Sec. 4 LABOR PEACE AGREEMENTS ATTESTATION

A. No later than 90 days after the award or renewal of this contract the contractor shall either:

(1) submit an attestation to the contracting agency, in the form attached to this rider, signed by one or more labor organizations, as applicable, stating that the contractor has entered into or is in the process of negotiating one or more labor peace agreements with such labor organizations as have provided notice pursuant to section (4)(C)(1) of this rider, and identify: (i) the classes of covered employees covered by the labor peace agreements, (ii) the classes of covered employees not currently represented by a labor organization and that no labor organization has sought to represent,

and (iii) the classes of covered employees for which labor peace agreement negotiations have not yet concluded; or

(2) submit an attestation to the contracting agency stating that the contractor's covered employees are not currently represented by a labor organization and that no labor organization has sought to represent such covered employees by providing notice pursuant to section (4)(C)(1) of this rider.

B. Where a labor organization seeks to represent the covered employees of the contractor after the expiration of the 90-day period following the award or renewal date of this contract, and the labor organization has provided notice to the contracting agency and the contractor pursuant to section (4)(C) of this rider regarding such interest, the contractor shall then submit an attestation signed by the labor organization to the contracting agency no later than 90 days after the date of notice stating that it has entered into a labor peace agreement with such labor organization or that labor peace agreement negotiations have not yet concluded.

C. For the purposes of this section:

(1) notice to the contractor by a labor organization shall be made in writing by a duly authorized representative of the labor organization to either (i) the chief executive officer of the contractor; or (ii) the business address or e-mail address provided for in section 14.04 of Appendix A of this contract; and

(2) notice to the contracting agency shall be made in writing by a duly authorized representative of the labor organization to the contracting agency at the physical address or e-mail address provided for in section 14.04 of Appendix A of this contract.

D. In evaluating any violation of this section or any other provision of this rider or Admin. Code § 6-145, the city shall consider any relevant conduct of a labor organization, the size of the contractor's business, the contractor's good faith efforts to comply with the terms of this rider and Admin. Code § 6-145, the gravity of the violation, the history of previous violations, and the failure to comply with recordkeeping, reporting or other requirements. In considering whether the contractor has exercised good faith efforts in attempting to comply with obligations related to the submission of attestations in compliance with this section, the city shall consider the contractor's documented efforts to negotiate with labor organizations.

E. Notwithstanding any other provision of this rider, where a class of a contractor's covered employees are covered by a collective bargaining agreement with a labor organization, such contractor is neither required to include any statements in an attestation in regards to labor peace agreements or negotiations relating thereto with any other labor organization with respect to such class of covered employees, nor required to seek such other labor organization's signature on any attestation with respect to such class of covered employees.

Sec. 5 SUBCONTRACTORS

A. The contractor shall cause its city service subcontractors to comply with Admin. Code § 6-145, as applicable, and include the following provisions and the attached Labor Peace Agreement Attestation in each of its subcontracts with such city service subcontractors, and shall be responsible for collecting subcontractor attestations and providing them to the contracting agency:

Labor Peace Agreements

A. No later than 90 days after the approval by the contracting agency of a city service subcontractor, such city service subcontractor, shall either:

(1) submit an attestation to the contracting agency, through the city service contractor, signed by one or more labor organizations, as applicable, stating that the city service subcontractor has entered into or is in the process of negotiating one or more labor peace agreements with such labor organizations as have provided notice pursuant to subsection (C)(1), and identify: (i) the classes of covered employees covered by the labor peace agreements, (ii) the classes of covered employees not currently represented by a labor organization and that no labor organization has sought to represent, and (iii) the classes of covered employees for which labor peace agreement negotiations have not yet concluded; or

(2) submit an attestation to the contracting agency, through the city service contractor, stating that the city service subcontractor's covered employees are not currently represented by a labor organization and that no labor organization has sought to represent such covered employees by providing notice pursuant to subsection (C)(1).

B. Where a labor organization seeks to represent the covered employees of the city service subcontractor after the 90-day period following the approval of the city service subcontractor, and a labor organization has provided notice to the contracting agency and city service subcontractor pursuant to subsection (C) regarding such interest, the city service subcontractor shall then submit an attestation signed by the labor organization to the contracting agency no later than 90 days after the date of notice stating that it has entered into a labor peace agreement with such labor organization or that labor peace agreement negotiations have not yet concluded.

C. For the purposes of this section:

(1) notice to the city service subcontractor by a labor organization shall be made in writing by a duly authorized representative of the labor organization to either (i) the chief executive officer of such city service subcontractor; or (ii) the business address or e-mail address set forth pursuant to the notice provisions of this city service subcontract; and

(2) notice to the contracting agency shall be made in writing by a duly authorized representative of the labor organization to the contracting agency at the address or e-mail address provided for in section 14.04 of Appendix A of the agreement between the city service contractor and the contracting agency under which this city service subcontract is being performed.

D. In evaluating any violation of this section, the city service contractor shall consider any relevant conduct of a labor organization, the size of the city service subcontractor's business, the city service subcontractor's good faith efforts to comply with the terms of this section and Admin. Code § 6-145, the gravity of the violation, the history of previous violations, and the failure to comply with recordkeeping, reporting or other requirements. In considering whether the city service subcontractor has exercised good faith efforts in attempting to comply with obligations related to the submission of attestations in compliance with this section, the city service contractor shall consider the city service subcontractor's documented efforts to negotiate with labor organizations.

E. Notwithstanding any other provision of this section, where a class of a city service subcontractor's covered employees are covered by a collective bargaining agreement with a labor organization, such city service subcontractor is neither required to include any statements in an attestation in regards to labor peace agreements or negotiations relating thereto with any other labor organization with respect to such class of covered employees, nor required to seek such other labor organization's signature on any attestation with respect to such class of covered employees.

F. The definitions in section 1 to the "Rider to City Service Contracts pursuant to Admin. Code § 6-145 Labor Peace Agreements for Human Services Contracts" to the agreement between the city service contractor and the contracting agency under which this city services subcontract is being performed shall apply to this terms used in section, unless another meaning is clear from context.

Sec. 6 AWARD DATE

A. For the purposes of this rider, the date of an award shall be deemed to be the date upon which a contract is signed by both the contractor and the contracting agency.

B. For the purposes of this rider, the date of a renewal shall be deemed to be the date upon which a contract renewal is signed by both the contractor and the contracting agency.

Labor Peace Agreement Certification

Certification Prior to Contract Award or Renewal

Pursuant to NYC Admin. Code § 6-145(c)

Contract Name: _____ **E-PIN#:** _____

This certification is (select one): ☐ **The first such certification under for contract award/renewal.**

☐ **a subsequent (yearly) certification. If so, provide date of first certification:** _____

I, _____ ***(print),*** **the undersigned,**

am a duly authorized officer of _____ ***(vendor name)***

Chief Executive Officer (CEO) of the city service contractor, bidder or proposer seeking award or the city service contractor seeking renewal of a city service contract, as applicable:

Check if updated from a previous certification

CEO Name: _____ ☐

Address: _____ ☐

Telephone: _____ Email: _____ ☐

If the city service contract is awarded or renewed (as applicable), I, the undersigned, agree to comply with the requirements of NYC Admin. Code § 6-145, and with all applicable federal, state and local laws.

Labor Relations findings: Instances during the preceding five years in which the bidder or proposer seeking award, or the city service contractor seeking renewal, as applicable, has been found by a court or government agency to have violated federal, state or local laws regulating labor relations, in which any government body initiated a judicial action, administrative proceeding or investigation of the bidder, proposer, or city service contractor in regard to such labor relations laws: ***Add pages as necessary. If not applicable write "N/A".***

Violation: _____ Date of Action: _____ Charging Agency: _____

Summary: _____

_____

_____ ***Check if updated from a previous certification*** ☐

Violation: _____ Date of Action: _____ Charging Agency: _____

Summary: _____

_____

_____ ***Check if updated from a previous certification*** ☐

Violation: _____ Date of Action: _____ Charging Agency: _____

Summary: _____

_____

_____ ***Check if updated from a previous certification*** ☐

I _____ *(print)* **swear or affirm, under penalty of perjury, that the above information is accurate as of the date noted below.**

Signed: _____ Date: _____

State: _____ County: _____ S.S.

Sworn or affirmed before me on: _____

Notary Public: _____

[Stamp]

Labor Peace Agreement Attestation

Pursuant to NYC Admin. Code § 6-145(b)

Contract Name: _____ **E-PIN#:** _____

1. I, _____ ***(print),*** **the undersigned, a duly authorized officer of the ☐ city service contractor or ☐ city service subcontractor** *(choose one)* **of** _____ *(business name)* **("covered employer[1]"), do hereby certify: As of this date, the following is true with regard to Labor Peace Agreements ("LPA" or "LPAs"): (Choose one of the following)**

☐ **Labor Peace Agreement(s) have been entered into or are under negotiation.** *(Complete section 2 and 3)*

or…

☐ **Covered employees[2] are not currently represented by a labor organization and no labor organization has sought to represent such covered employees.** *(Complete section 3* ***ONLY)***

If a city service contractor or city service subcontractor has entered into a collective bargaining agreement (CBA) with a labor organization that remains in effect, such CBA may be listed as an LPA for the purposes of this form.

2. The above-named covered employer has entered into or is in negotiations for the following Labor Peace Agreements with the following labor organizations: ***(complete the below as applicable and add additional sheets as necessary)***

LPA entered into with _____ *(labor organization)* on _____ *(date)*

Class(es) of covered employees[2] covered by this LPA: _____

Labor Organization Signature: _____
(authorized labor organization representative print and sign) ***(date)***

Negotiations have been initiated with the following Labor Organization but have not yet concluded.

_____ ***(labor organization)***

Class(es) of covered employees[2] to be covered by this LPA: _____

Labor Organization Signature: _____
(authorized labor organization representative print and sign) ***(date)***

The following classes of covered employees are NOT currently represented by a labor organization and no labor organization has sought to represent them: _____

3. If, after the expiration of the 90-day period following the award or renewal date of the city service contract or the approval of a city service subcontractor, a labor organization seeks to represent the covered employees of a covered employer and the labor organization has provided notice to the contracting agency and the covered employer regarding such interest in accordance with the terms of the rider, as applicable, then the covered employer shall submit an attestation (signed by the labor organization) to the contracting agency (or, if the covered employer is a subcontractor, submit to the city service contractor for submission to the contracting agency) no later than 90 days after the date of notice stating that it has entered into a labor peace agreement with such labor organization or that labor peace agreement negotiations have not yet concluded.

Sign: _____ Date: _____
By signing, I am certifying the information contained in this attestation is true.

[1] ***"covered employer":*** *a city service contractor or a city service subcontractor, having entered into a service contract with an agency of the City.*

[2] ***"covered employee":*** *an employee of a covered employer who directly renders human services in performance of a city service contract, except that the term "covered employee" shall not include any building service employee.*