

# THE PORT AUTHORITY OF NY & NJ

PROCUREMENT DEPARTMENT  
4 WORLD TRADE CENTER  
150 GREENWICH STREET, 21<sup>ST</sup> FL.  
NEW YORK, NY 10007

5/21/2019

## ADDENDUM #5

To prospective Proposer(s) on RFP # 57356 for Staffing Resources for the Cybersecurity Program

Now Due back on 5/22/2019, no later than 2:00PM:

### I. CHANGES/MODIFICATIONS

**The following changes/modifications are hereby made to the solicitation documents:**

1. Page 35, Section 8 entitled “Insurance Procured by the Contractor”: Delete the entire section and replace it with the following:

“The Contractor and its subcontractor(s) shall take out, maintain, and pay the premiums on Commercial General Liability Insurance, for the life of the Contract and such Insurance and shall be written on an ISO occurrence form CG 00 01 0413 or its equivalent covering the obligations assumed by the Contractor under this Contract including but not limited to premise-operations, products and completed operations, and independent contractors coverage, with contractual liability language covering the obligations assumed by the Contractor under this Contract and, if vehicles are to be used to carry out the performance of this Contract, then the Contractor shall also take out, maintain, and pay the premiums on Automobile Liability Insurance covering any autos in the following minimum limits:

**Commercial General Liability Insurance** coverage of not less than \$5,000,000 (Two Million) combined single limit per occurrence for bodily injury and property damage liability; coverage cannot exclude as described under ISO form CG 21 06 05 14 - Exclusion – Access Or Disclosure Of Confidential Or Personal Information And Data-Related Liability – With Limited Bodily Injury Exception; and, the removal of this exclusion on the ISO form CG 21 06 05 14, as described under a Commercial General Liability policy.

**Terrorism Liability endorsement** under the Commercial General Liability coverage or a **Terrorism Liability policy**, as may be required to comply with requirements as outlined by the federal government grant program requirements, under which funding may be obtained.

**Automobile Liability Insurance** coverage of not less than \$5,000,000 (Five Million dollars) per each accident/per occurrence covering “any” vehicles on the broadest commercially available form, with Combined Single Limit (“CSL”) per each accident for bodily injury and property damage liability.

The Contractor and its subcontractor(s) shall also take out, maintain, and pay premiums on **Workers’ Compensation Insurance** in accordance with the requirements of law in the state(s) where work will take place, and **Employer’s Liability Insurance** with limits of not less than \$1,000,000 (One Million) per accident; and a **waiver of subrogation** issued in favor of the Port Authority, when work will take place within the State of New York. The policy shall include endorsement for the Federal Employers Liability Act (FELA) in a minimum limit of \$1,000,000 (One Million) per accident.

**Technology Services and Miscellaneous Professional Liability - Errors and Omissions** coverage of not less than \$5,000,000 (Million) per claim and in the annual aggregate, covering negligent acts, errors, mistakes, and omissions in rendering or failing to render professional technology services or advisory consultation services required by this contract, arising out of the work or services performed by, or any person employed by Contractor in connection with services provided. All endorsements and exclusions shall be evidenced on the certificate of insurance. The coverage shall be written on an occurrence basis or may be written on a claims made basis with a minimum of a three-year reporting/discovery period.

**Cyber Liability, Network Security and Data Breach Insurance** – shall provide, coverage for professional errors, acts or omissions arising out of the scope of services covered by this Contract; the rendering/failure to render technology based products or services; failure of Contractor’s products to perform the function or serve the purpose intended; loss, theft, unauthorized dissemination of non-public third party information in the Contractor’s care, custody, and control; and unauthorized access of computer networks, denial of service attacks and transmission of malicious code for the unauthorized access, accidental or deliberate disclosure of any of the Port Authority’s confidential, security, personally identifiable information or data, coverage in the amount of not less than \$5,000,000 (Five Million Dollars) per claim.

The insurance shall be written, where applicable and as indicated, on an occurrence basis for Commercial General Liability and Automobile Liability, as distinguished from a “claims made” basis for the Professional/ Technology Error and Omissions, Cyber Liability, Network Security and Data Breach Insurance policies shall not include any exclusions for “action over claims” (insured vs. insured). As required per the terms of the contract; and, as applicable to the Contractor and/or its subcontractors, the limits required herein may be provided through a combination of endorsements, primary and

umbrella/excess policies and minimally arranged to provide and encompass at least the following coverages:

- **Contractual Liability** to cover liability assumed under the Contract;
- **Independent Contractor's Coverage**;
- **Premise-Operations, Products and Completed Operations Liability Insurance**;
- Coverage for work within fifty feet (50') of railroad, as applicable;
- The insurance coverage (including primary, excess and/or umbrella) hereinafter afforded by the Contractor and all subcontractor(s) shall be primary insurance and non-contributory with respect to the additional insureds;
- Excess/umbrella policies shall "follow form" to the underlying policy;
- Excess/umbrella policies shall have a liberalization clause with drop down provision;
- To the extent any coverage the Contractor and subcontractor(s) obtains and/or maintains under this Contract contains "Other Insurance" language or provisions, such language or provisions shall not be applicable to the additional insureds or to any insurance coverage maintained by the additional insureds;
- All insurance policies shall include a **Waiver of Subrogation**, as allowed by law, in favor of the Additional Insureds;
- Defense costs must be outside of policy limits. Eroding limits policies are not permitted;
- In the event the Contractor and/or its subcontractors obtains and/or maintains insurance in an amount greater than the minimum limits required under this Contract, then the full limits of that insurance coverage will be available to respond to any claim asserted against the additional insureds that arises out of or is in any way connected with this Contract;
- Additional insureds coverage shall not be restricted to vicarious liability unless required by controlling law.
- Limits may be met by a combination of primary and excess (umbrella) policies. For the Commercial General Liability and Automobile Liability, excess/umbrella coverages shall follow form to the underlying policy/ies.

In addition, the liability policy(ies) shall be written on a form at least as broad as ISO Form CG 20 10 10 01 (for ongoing operations work) together with ISO Form CG 20 37 10 01 (for completed operations work) or their equivalent and endorsed to and name "**The Port Authority of New York and New Jersey and its related entities, their Commissioners, Directors, Superintendents, officers, partners, employees, agents, their affiliates, successors or assigns,**" as "Insured" (as defined in the policy or in an Additional Insured endorsement amending the policy's "Who is An Insured" language as the particular policy may provide). The "Additional Insured" shall be afforded coverage and defense as broad as if they are the first named Insured and regardless of whether they are otherwise identified as Additional Insured under the liability policies, including but not

limited to Premise-Operations, Products-Completed Operations on the Commercial General Liability policy. Such Additional Insured status shall be provided regardless of privity of contract between the parties. The liability policy(ies) and certificate(s) of insurance shall contain separation of insured and severability of interests' clause(s) for all policies so that coverage will respond as if separate policies were in force for each Insured. An act or omission of one of the Additional Insureds shall not reduce or void coverage to the other Additional Insureds. The Contractor is responsible for all deductibles and losses not covered by commercially procured insurance. Any portion of the coverage to be provided under a Self-Insured Retention (SIR) of the Contractor is subject to the review and approval of the General Manager, Risk Finance. Furthermore, any insurance or SIR maintained by the above Additional Insureds shall not contribute to any loss or claim.

If any of the Work is to be done on or at Port Authority [or PATH] facilities by subcontractors and, if the Contractor requires its subcontractors to procure and maintain such insurance in the name of the Contractor, then such insurance as is required herein shall include and cover the additional insureds and it must have insurance limits not lower than those set forth by the Port Authority herein, along with all the insurance requirements in this section known as "Insurance Procured by the Contractor".

All insurance coverage shall be provided by the Contractor and/or by or for any of its subcontractors at no additional expense to the Port Authority and its related entities. A copy of this section titled "Insurance Procured by the Contractor" shall be given to your insurance agent and subcontractors and shall form a part of the covered contract or subcontract for insurance purposes in furtherance of the insurance requirements under this Contract.

Further, it is the Contractor's responsibility to maintain, enforce and ensure that the type of coverages and all limits maintained by it and any of all subcontractors are accurate, adequate and in compliance with the Port Authority requirements; and the Contractor is to retain a copy of its subcontractors' certificates of insurance. All certificates of insurance shall be turned over to the Port Authority prior to the start of work, including subcontractors' work, and upon completion of the Contract.

***The Contractor, its subcontractors, and its insurers(s) shall not, without obtaining the express advance written permission from the General Counsel of the Port Authority raise any defense involving in any way the jurisdiction of the Tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.***

Each policy above shall contain an endorsement that the policy may not be canceled, terminated, or modified without thirty (30) days' prior written notice to the Port Authority Attn: Facility Contract Administrator, at the location where the work will take place with a copy to the General Manager, Risk Finance.

The Port Authority may, at any time during the term of this Contract, change or modify the limits and coverages of insurance. Should the modification or change results in an additional premium, the General Manager, Risk Finance for the Port Authority may consider such cost as an out-of-pocket expense. Submit proof of insurance by (a) e-mail: [certificates-portauthority@riskworks.com](mailto:certificates-portauthority@riskworks.com) and (b) to Certificate Holder: Port Authority of New York and New Jersey/PATH c/o EXIGIS Insurance Compliance Services P.O. Box 4668 - ECM #35050 New York, NY 10163-4668.

Within five (5) days after the award of this Contract and prior to the start of work, the Contractor must submit an original certificate of insurance to the PATH Facility Contract Administrator, at the location where the work will take place. This certificate of insurance MUST show evidence of the above insurance policy (ies), including, but not limited to, the cancellation notice endorsement and stating the contract number prior to the start of work. The Contractor is also responsible for maintaining and conforming to all insurance requirements from the additional insureds and their successors or assigns. The General Manager, Risk Finance must approve the certificate(s) of insurance before any work can begin. Upon request by the Port Authority, the Contractor shall furnish to the General Manager, Risk Finance, a certified copy of each policy, including the premiums.

If at any time the above liability insurance should be canceled, terminated, or modified so that the insurance is not in effect as above required, then the Contractor and all subcontractors shall suspend performance of the Contract at the premises until a satisfactory insurance policy (ies) and certificate of insurance is provided to and approved by Risk Finance, unless the Facility or Project Manager directs the Contractor, in writing, to continue to performing work under the Contract. If the Contract is so suspended, no extension of time shall be due on account thereof.

Renewal certificates of insurance or policies shall be delivered to the Port Authority Facility Contractor Administrator, and upon request from the additional insureds, their successors or assigns at least fifteen (15) days prior to the expiration date of each expiring policy. The General Manager, Risk Management must approve the renewal certificate(s) of insurance before work can resume on the facility. If at any time any of the certificates or policies shall become unsatisfactory to the Port Authority, the Contractor shall promptly

obtain a new and satisfactory certificate and policy and provide same to the Port Authority.

Failure by the Contractor to meet any of the insurance requirements, including the requirement that the Port Authority be afforded the full extent of the insurance obtained under this Contract without limitation, shall be deemed a material breach of contract and may be a basis for termination of this Contract by the Port Authority.

The requirements for insurance procured by the Contractor and subcontractor(s) shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Contractor under this Contract. The insurance requirements are not a representation by the Port Authority as to the adequacy of the insurance necessary to protect the Contractor against the obligations imposed on it by law or by this or any other contract. **CITS#6013N**

This communication should be initialed by you and annexed to your Proposal upon submission.

In case any Proposer fails to conform to these instructions, its Proposal will nevertheless be construed as though this communication had been so physically annexed and initialed.

THE PORT AUTHORITY OF NY & NJ

SELENE ORTEGA, MANAGER  
COMMODITIES & SERVICES DIVISION

PROPOSER'S FIRM NAME: \_\_\_\_\_

INITIALED: \_\_\_\_\_

DATE: \_\_\_\_\_

QUESTIONS CONCERNING THIS ADDENDUM MAY BE ADDRESSED TO  
LUZ SANTANA AT LSANTANA@PANYNJ.GOV OR (212) 435-4625.