



Mayor's Office of
Immigrant Affairs
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Commissioner

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Testimony of Commissioner Bitta Mostofi
NYC Mayor's Office of Immigrant Affairs

Before a hearing of the New York City Council Committee on Immigration:

“Oversight – The IDNYC Program”



Thank you to Chair Menchaca and the members of the Committee on Immigration. My name is Bitta Mostofi, and I am the Commissioner of the Mayor's Office of Immigrant Affairs. I am pleased to be here with my colleague Sonia Daly from the Department of Social Services, who is available to answer questions.

It is remarkable to take a few moments here, with the sponsors of the Local Law and our partners from community and advocacy groups, to reflect on the IDNYC program more than four years since our launch in January 2015, and as we approach the first set of renewals beginning in January 2020.

I have been fortunate to have been part of the birth and incredible growth of the IDNYC program since before it launched in 2014, first as the director of external affairs for the program and then as Assistant Commissioner and now Commissioner of MOIA. I am proud that more than 1.2 million New Yorkers now carry an IDNYC card—more than 18% of the city's population age 10 and older. But setting aside the sheer size and reach of the program, I also want to share a few stories about some of the people who have become cardholders, to help paint a picture of what the City and the City Council have accomplished.

A Queens housekeeper in her sixties who never had a bank account, despite living in New York City for 27 years.

A Puerto Rican woman who was raising her granddaughter after the child's mother passed away, and wanted help finding educational activities to bring her to.

An immigrant who only had photo ID from his country of origin and faced discrimination when asked to present it.

An elderly man who could not speak English and suffered a fall while walking in Chinatown, and had his IDNYC with language preference and emergency contact information listed on the back.

A working mother, whose daughter had never seen the elephants that her mother had gone to see in India as a child.

For these people, IDNYC has been more than just a piece of plastic in their wallets. It has been a facilitator of access, a key to unlock the services and supports as well as the best of New York City's cultural offerings. It allowed that housekeeper to open her first bank account. It meant that the man who fell was given the appropriate assistance right away. It meant that that woman from India could afford to bring her daughter to the zoo for the first time in her life.

These people are the faces of IDNYC's success. They are the New Yorkers who, because of their income or their language or their immigration status, had been denied the full participation in the life of the city that they deserved. With IDNYC, I am happy to say that we have helped to make a difference in their lives and to begin to address these kinds of inequities in access and



opportunity—not just for immigrants, but for New Yorkers of all backgrounds and circumstances.

It is a pleasure to have this time to testify about how we got to where we are today, and where we can go in the future to continue to grow and build IDNYC to even better serve our residents.

IDNYC's development and launch

When he entered office in 2014, Mayor de Blasio promised to create a municipal ID card. The Mayor's Office of Immigrant Affairs, the Human Resources Administration, and the Office of Operations, along with others in the Administration, worked closely with the Council, leading to the passage of Local Law 35 less than six months in to the session. The law directed the Administration to develop and launch a program, set standards for acceptable application documentation, and provided the framework for confidentiality protections that remain in place today. The law also required all City agencies to accept the card to access services, and directed the Administration to continue to build the program by increasing access and securing acceptance by other entities, including financial institutions, private businesses, and non-local government agencies.

We worked quickly to get the program up and running in a matter of months, partnering closely with the City Council, advocacy organizations, and community groups to inform the process. We hired and trained a remarkable and diverse staff, promulgated rules and regulations, built computer systems, worked with designers and artists, developed a massive public education campaign, negotiated benefits, and much more.

In January 2015, the Mayor and then Speaker Melissa Mark-Viverito launched IDNYC at the Flushing branch of the Queens Library and we opened our doors to applicants. Demand quickly exceeded our capacity. The Human Resources Administration, which was tasked with administration of the program, rapidly hired more staff and opened more enrollment centers. In our first year alone, we enrolled more than 700,000 cardholders – including former United Nations Secretary-General Ban Ki-Moon and, on an honorary basis, Pope Francis.

Importantly, we took care to build the program to deliver on our promise to New Yorkers to create a card that works for everyone, while addressing the needs and concerns of those most vulnerable amongst us. One of the crucial early decisions in program development was the imperative of creating a card program that would prove valuable to all New Yorkers, and not just undocumented immigrants or the homeless or other underserved groups. This decision avoided stigmatizing the use of the card as a symbol of populations that have traditionally been the victims of discrimination. Among the best examples of this was our partnership with the members of the Cultural Institutions Group, the several dozen museums and theaters and other cultural institutions that operate on City property. These institutions, such as the American Museum of Natural History, the Metropolitan Museum of Art, El Museo del Barrio, BAM, and many more CIG institutions and others were crucial early partners, and played an indispensable role in our efforts to demonstrate that IDNYC is for all New Yorkers.

I personally spent considerable time at enrollment centers at the beginning of the program—days, nights, and weekends. I helped our staff as they were beginning this incredible initiative and working through challenges; working with our wonderful on-the-ground partners to ensure efficiency and cooperation as we looked at a quick expansion and response to the demand; and, of course, assisting New Yorkers who were coming in to learn about the program, determine their eligibility, and share with me why this was so significant for them.

The growth of the IDNYC program

The IDNYC program grew dramatically over the several years following the launch. We now have 20 permanent enrollment centers across the city and five pop-up enrollment teams to host temporary sites in additional locations—a significant increase over the 18 that were in operation at the launch in 2015. We have also created a “homebound” system to bring enrollment equipment to those applicants who need a reasonable accommodation due to their inability to visit an enrollment center, as well as a Mobile Command Center to bring IDNYC enrollment wherever it is needed—particularly areas in the city where we do not have permanent locations.

The IDNYC program became an important part of the life of the city, facilitating access to City services and other benefits for a huge number of residents. This would not have been possible without the exceptional and careful attention paid to privacy and confidentiality protections throughout the development and administration of the program. These protections have remained and will remain intact, and they stand as a lesson for other cities and counties seeking to replicate a measure of IDNYC’s success: the first priority must be the protection of cardholder information. In line with this goal, at the end of 2016, Commissioner Banks made a determination pursuant to the Local Law that it was no longer necessary for the program to retain copies of the documents submitted by applicants after they have been evaluated and authenticated by our staff, further building on our privacy and confidentiality protections.

In 2016, we brought in outside researchers to conduct an evaluation of the program and share their findings. Their report, which is available on our website, helped to confirm that the program had succeeded in many, many respects. Some of the results that have stayed with me the most are that:

- 94% of cardholders surveyed reported that it was easy to go through the enrollment process;
- 72% of those who used IDNYC to access public benefits said that the card had helped them do so;
- 59% of those who expressed concerns about interactions with police said that having an IDNYC made them feel more confident about doing so; and
- 77% of immigrants said that IDNYC had increased their sense of belonging in New York City.

These results demonstrated that, even just a relatively short time in to the life of the program, IDNYC had already had achieved real, positive outcomes and made a difference in the lives of New Yorkers.



IDNYC has continued to expand. A few salient examples: We established a fruitful partnership with the Department of Education to conduct enrollment at high schools, where we have been able to expand access to thousands of students. We worked with the Department of Homeless Services and the New York State Office of Mental Health to help enroll shelter residents and individuals with mental health disabilities. We launched an online portal, to make the program easier to access online and on mobile devices.

Our successes span multiple areas: We have connected cardholders to 646,942 cultural institution memberships, saved shoppers more than \$1.9 million in groceries at Food Bazaar and more than \$800,000 on prescription medications, connected 87,000 cardholders' library accounts to their IDNYC cards, and more. As I travel across the city and meet people of all walks of life, I am continually gratified that the program has remained popular and appreciated, and has been embraced by both community members as well as by organizational partners.

In recent months, we have made a number of new advancements. Those include opening eligibility to children age 10 to 13, building an electronic verification system for certain categories of information, completing our integration with all NYC Health + Hospitals facilities, and, just a few weeks ago, changing our application system to allow cardholders to identify their gender as "X" if they desire.

The future of IDNYC

As IDNYC approaches its fifth birthday in January 2020, we have been considering the ways in which the program can continue to improve and to serve residents in new ways.

Based on our learnings working in communities and with partners, at our enrollment centers and through our customer service line, as well as from surveying our cardholders, we strive to continue to build on the promise we set forth at the outset of the program, through innovation and new partnerships. Accordingly, we have worked in tandem with the City's Chief Technology Officer, our sister agencies, and external partners to explore new opportunities for the card. We are looking to address key issues and challenges set out in the local law, elevated to us by community partners, elected officials, and advocates, and expressed to us by cardholders. These include: (1) expanding access to banking; (2) integrating this card further in to other systems so that it can function in a range of circumstances, including the option of using it to enter the MTA; and (3) full acceptance by pharmacies as identification to pick up prescriptions.

As I described above, expanding New Yorkers' access to financial services has always been a goal of the program. During the development of IDNYC, the Administration met with a range of banks and credit unions and obtained positive written guidance from federal and state financial regulatory agencies. This effort has yielded us 14 financial institutions that accept IDNYC as a form of primary identification to open an account—including the addition of a new bank, People's United Bank, as recently as last month. We have conducted significant public education and outreach about the opportunities for financial access afforded by IDNYC, including multilingual informational materials, pop-up enrollment services offered at bank and credit union branches, and a major transit-based advertising campaign in conjunction with the Department of

Consumer Affairs. We are pleased that we have been able to assemble these 14 options for cardholders, and we hope to continue to add more. However, we have heard repeatedly from cardholders that access to banking remains a major unmet need for too many.

We simply have not yet been able to fully achieve our goal of achieving broad access and making a large-scale dent in the size of the unbanked and underbanked populations in the city. As a result, we are now in the process of exploring the possibility of adding a payment and banking feature on a “smart chip” on the IDNYC card. It is important to note that exploring means just that—we have taken this process seriously and understand the importance of engaging an array of voices to inform any decision. We began learning about technology options, including financial services, for future integrations, in 2017. We briefed elected officials and many organizations critical to the program in the summer of 2018 before deciding to launch a challenge with the Chief Technology Officer, and we shared updates in the late summer on what we had learned from our exploration. We then informed stakeholders in late 2018 that we would continue this process through a notice of intent to enter in to negotiations and that we would invite ongoing discussion as we learn more. In our notice, we asked interested parties to explain whether and how they could broaden financial access for New Yorkers while protecting cardholders’ information and offering a consumer-friendly financial product. That exploration is the process that is currently underway. We will continue to engage in conversations, and we appreciate and value the questions and concerns that have been raised throughout this process. We look forward to ensuring that all voices are heard, and that we can bring to any decision-making the voices of our partners as well as New Yorkers more broadly. I want to make very clear that if we are not satisfied that we can obtain the protections and benefits that we seek for IDNYC cardholders, we are not under any obligation to award a contract and will not do so.

In addition to seeking options for how we can expand access to financial services, we are also examining methods to increase integrations and access through IDNYC. By way of example, we are looking at how the IDNYC can serve as a contactless-payment Metrocard on MTA subways and buses. This is a function we have always hoped to be able to provide and has been one of the most consistent requests from cardholders and New Yorkers broadly. Now the MTA is in the process of adopting a contactless-payment turnstile system, slated to be in place citywide as early as 18 months from now. We have taken this opportunity into consideration in this process.

We have also been exploring how we can secure full acceptance of the IDNYC card by pharmacies for pick-up of prescription medications. Currently, the IDNYC is widely accepted by pharmacies for most purposes and pick-up of most prescription medications, thanks in part to a “Dear Pharmacist” letter from the commissioners of MOIA, DSS, and the Department of Health and Mental Hygiene and a notice we placed in the New York State *Medicaid Update* newsletter in 2016. However, because of technological card-scanning requirements imposed by pharmacies in response to federal methamphetamine control laws, the IDNYC has generally not been accepted for purposes of registration of a purchase of pharmaceutical products that contain methamphetamine precursors, like common medicines that include the very common decongestant pseudoephedrine. We are exploring whether this problem could be addressed by

adopting a 2D bar code on the IDNYC card, rather than the 1D bar code currently on the back of the card.

We also hope to expand the functionality of the IDNYC card through new state legislation. Although we have secured acceptance with a number of state agencies, including the Education Department, the Department of Health, and the Department of State, there are a number of areas in which state agencies' and private businesses' acceptance of the card has been limited by state laws that, in most cases, simply did not anticipate the creation of a municipality-issued identification card. We look forward to working with the City Council and others to explore possible state legislative solutions in these areas.

Lastly, among the most important and most immediate future needs of the IDNYC program will be card renewals, beginning just 11 months from now. We are well underway in the process of developing an efficient and easy-to-use renewal system, and we will share more information on that soon so that cardholders can plan to get their new IDNYC cards and continue to take advantage of the program.

It is important to reiterate that every decision that is made around IDNYC has held at its core a few key values and goals:

- ensuring access for vulnerable NYers who have been left without identification for too long;
- a commitment to protecting the privacy of cardholders;
- a commitment to program integrity and safety in partnership with NYPD and HRA's Investigation, Revenue and Enforcement Administration;
- a program that works for all New Yorkers to ensure no one is isolated or stigmatized for use of the card; and
- fulfilling our obligation to ensure the continued growth of the program, in consultation with myriad crucial voices, from the Council and advocates to cardholders and community-based organizations and other partners.

I want to end by thanking you for the opportunity to testify today and for the Council's partnership. And, if I may, I would like to add how deeply proud I have been to be a part of this program and how grateful I am to so many for these experiences. In particular, I want to say to the many staff who worked day and night to get things right and who continue to show up with the spirit of the program day in and day out, and to the over 1 million New Yorkers who have embraced IDNYC in ways that may have seemed unimaginable and those who enrolled in solidarity with those who lacked other options for identification: You have demonstrated that collectively we are New Yorkers and we all belong here, regardless of language, gender identity, homelessness, immigration status, and all of the other things that make us all unique New Yorkers.

Testimony re: Oversight – IDNYC Program

FOR THE RECORDSubmitted to
NYC Council, Committee on ImmigrationSubmitted by
Stephanie Gomez
Director of Immigration Initiatives
Hispanic Federation

February 11, 2019

Good Afternoon. My name is Stephanie Gomez and I am the Director of Immigration Initiatives at the Hispanic Federation. I would like to thank Chair Menchaca and committee members for bringing us together today and affording us the opportunity to express our comments and suggestions for the future of New York's IDNYC.

Hispanic Federation is the premier Latino membership organization in the nation founded to address the many inequities confronting Latinos and the nonprofits that serve them. For more than 20 years, Hispanic Federation has provided grants, administered human services and coordinated advocacy for our broad network of agencies that serve more than 2 million Latinos in the areas of health, education, economic empowerment, immigration and civic engagement.

Hispanic Federation worked with City officials and advocates to help shape the IDNYC program in 2014 and we are proud of its success – with over 1.2 million IDNYC card holders – but, we are prouder of the City's commitment to protecting the privacy and confidentiality of all IDNYC cardholders and applicants.

As a member-based organization with a network of over 100 Latino community-based organizations, 70 that directly serve New York City, we have seen how beneficial IDNYC has been for all New Yorkers – especially undocumented immigrants. Instead of having large amounts of cash on their person or in their homes, IDNYC can be used to open bank accounts at select financial institutions. It is an acceptable form of ID when interacting with the NYPD and it also offers many recourses to the cardholder. IDNYC empowers cardholders by recognizing their right to feel safe and welcome in public spaces.

Hispanic Federation commends the City for exploring ways to expand options and benefits for IDNYC holders. Making IDNYC more attractive to all New Yorkers benefits the undocumented community. For example, integrating IDNYC with the MTA's planned contactless card payment system would greatly increase the appeal of the card to all New Yorkers – alleviating a certain stigma some may have with IDNYC being a telltale sign of lack of immigration status. However, we urge the City to conduct deep research and analysis regarding their ideas for expansion and

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continue engaging in conversations with advocates and community members about the future of IDNYC.

IDNYC is the nation's largest municipal identification program in the nation, and we have already seen that there are forces who would like to access this information to harm and intimidate undocumented immigrants. Since the start of his presidency, President Trump has attempted – and unfortunately succeeded in some cases – to enact draconian measures to harm and punish our nation's immigrants. These include his multiple attempts to enact a Muslim ban, his decision to rescind DACA for Dreamers and end TPS for hundreds of thousands of people of color, his current efforts to rewrite the rules around the Public Charge and his actions to separate migrant children from their parents and carry out en masse immigrant family separations and incarcerations. These actions have forced our immigrant communities into a state of utter fear.

As such a crucial and sensitive time in our nation's history for immigrants, it's essential that we continue to work to protect the most vulnerable – undocumented immigrants. The City should take every caution possible to protect vulnerable IDNYC holders.

Thank you for your time. Hispanic Federation is here to serve and is happy to work with the New York City Council to ensure that IDNYC continues to be a success.

TESTIMONY BEFORE THE NEW YORK CITY COUNCIL COMMITTEE ON IMMIGRATION
REGARDING IDNYC PROGRAM OVERSIGHT

BY DEYANIRA DEL RIO, CO-DIRECTOR, NEW ECONOMY PROJECT

FEBRUARY 11, 2019

Good afternoon, Committee Chair Menchaca and members of the Committee. Thank you for holding today's IDNYC oversight hearing, and for the opportunity to testify. My name is Deyanira Del Rio and I am the co-director of New Economy Project, an economic justice organization that works with community groups and low-income New Yorkers throughout NYC. New Economy Project was part of the original municipal ID coalition that worked with the City to create and promote IDNYC in 2015, and we applaud Mayor de Blasio and the City Council for launching this vital program. Like other coalition partners here today, we remain committed to ensuring the continued integrity of the program and security of undocumented, homeless, and other New Yorkers who rely on IDNYC in their daily lives.

My testimony today will focus on the Mayoral administration's dangerous proposed plan to partner with a financial technology or other financial services company to embed an EMV/contact and RFID/contactless chip in the next generation of IDNYC cards, to allow for broad integration with private and public services and systems.¹

New Economy Project unequivocally objects to the administration's planned integration of IDNYC with financial services, MTA, and other systems. Such sweeping integration would result in massive data collection about IDNYC cardholders and expose undocumented and other New Yorkers to serious privacy, surveillance, and financial risks. Our organization fights for fair access to banking -- but this is not the way to achieve that.

It is vital that the NYC Council understand just how problematic -- and dangerous -- this proposal is. Given the threshold issues presented today, it should be clear that the risks presented would not be eliminated by making tweaks to the proposed program. We urge you to join us in calling on the administration to abandon its plan.

My testimony will focus on a few main points:

1. The administration's proposed plan would unnecessarily jeopardize the integrity and security of IDNYC and undermine public confidence in the program.

¹ The City issued a Request for Expressions of Interest (RFEI) in an "IDNYC Dual Interface Card Payment Initiative" on May 30, 2018, with responses from financial services providers due by June 29, 2018. In mid-December, the City issued a solicitation for negotiated acquisition, with responses from financial services providers due on January 8, 2019 (the deadline was then extended by 10 days). See <https://tech.cityofnewyork.us/2018/05/22/idnyc-nycx-rfei/>.

2. The administration's proposed plan would not, in fact, address "bank deserts" or expand access to banking.
3. Nonbank and financial technology (fintech) companies, with which the City would likely partner to implement its envisioned plan, present specific fair lending, privacy, and consumer protection risks.
4. The administration should pursue progressive approaches to financial inclusion that prioritize equity and transparency, in partnership with community groups and other stakeholders.

Founded in 1995, New Economy Project works with community groups and low-income New Yorkers throughout the city to build an economy that works for all, based on principles of cooperation, equity, racial justice, and ecological sustainability. We have been at the forefront of efforts in New York and nationally to combat predatory finance; hold regulators and elected officials accountable; and support community development and cooperative finance. Our staff includes nationally-recognized experts on financial regulation and consumer protection, fair housing and fair lending, community development finance, debt collection, immigrants' rights in the banking system, and more. My comments today are informed by New Economy Project's 24 years of experience providing legal advice and representation to low income New Yorkers; bringing major impact litigation against predatory financial companies; conducting community know-your-rights workshops for tens of thousands of people; and securing local, state, and federal policy changes on issues ranging from subprime lending, foreclosures, and debt collection to immigrant taxpayer rights, insurance redlining, payday lending, and more.

1. THE PROPOSED CHANGES WOULD UNNECESSARILY JEOPARDIZE THE INTEGRITY OF IDNYC AND UNDERMINE PUBLIC CONFIDENCE IN THE PROGRAM

The proposed changes would go far beyond IDNYC's original intent of providing safe, government-issued photo ID to immigrant, homeless and other New Yorkers. The administration would effectively be creating a platform through which a range of public and private services would be connected to people's identity cards -- now and going forward -- without a clear sense of the kinds of data that will be created, or how this data will be used. The proposed changes would raise risks that outweigh any potential benefits, and chill uptake and renewal of IDNYC cards among populations it was designed to serve. Other groups here today are testifying in greater detail about privacy, surveillance, and other risks associated with the proposed plan.

The administration's rationale and motivation for pursuing these changes are unclear, given the risks to vulnerable New Yorkers. The administration has cited multiple, distinct reasons for incorporating changes to IDNYC card. Rather than pursue wholesale integration with IDNYC as a solution to distinct issues and concerns, the City should address each of these on the merits, and develop solutions that do not expose IDNYC cardholders to undue risk.

2. THE ADMINISTRATION'S PLAN WOULD NOT EXPAND ACCESS TO BANKING

As a steering committee member of the municipal ID coalition, New Economy Project worked closely with coalition partners and the administration to ensure that IDNYC was designed to meet federal regulatory requirements, precisely so that banks and credit unions could accept IDNYC as primary ID to open accounts. Fourteen financial institutions currently accept IDNYC as primary identification to open accounts. These include the city's not-for-profit community development credit unions, which not only open accounts for IDNYC cardholders but also provide responsible loans, Individual Taxpayer Identification Number (ITIN) application services, free tax preparation and financial counseling, and more to promote their members' well-being and financial stability. Large national banks, for their part, do not accept IDNYC or recognize it only as a secondary form of ID, adding to barriers that immigrant and low-income New Yorkers face with respect to banking access. The federal regulators, meanwhile, have clearly affirmed that banks are permitted to accept IDNYC as they would other forms of government-issued ID.²

The administration has cited big banks' refusal to accept IDNYC in justifying its pursuit of a fintech solution. This plan, however, would do nothing to increase acceptance of IDNYC by banks or credit unions, which would continue to open accounts based on their existing identification and other requirements. What would be newly-introduced through this proposal is a reloadable prepaid debit/payment option, discussed below, widely regarded by advocates, financial regulators and experts as an inferior option to fully-insured, federally-protected depository accounts. By steering IDNYC cardholders to these services, the City would effectively be reinforcing disparities in banking access.

3. NONBANK AND FINANCIAL TECHNOLOGY (FINTECH) COMPANIES PRESENT SPECIFIC FAIR LENDING, PRIVACY, AND CONSUMER PROTECTION RISKS.

The administration has stated that IDNYC cardholders who do not have bank or credit union accounts would have the option to load funds into a prepaid account, linked to their IDNYC cards. Cities like Oakland, CA, that have previously incorporated prepaid debit services directly into their municipal ID cards quickly ceased to do so, because of widespread and widely-reported problems including high and hidden fees charged to cardholders.³ Other cities, including Chicago, considered and ultimately decided that connecting their municipal IDs to financial services was too risky. The NYC municipal ID coalition opposed a similar proposal when IDNYC was developed in 2015. The Center for Popular Democracy, which has advised and supported municipal ID programs throughout the country, recommends against incorporating financial services on the IDs, citing problems experienced by municipalities like Oakland as well as regulations that require financial institutions to retain customers' documents used to open accounts for five years after the account is closed.⁴ We are unaware of any municipal ID program connected to financial services, at this point -- for good reason.

² On April 30, 2015, the federal bank regulators, including Treasury Department's Financial Crimes Enforcement Network (FinCen), issued a joint letter confirming that banks may accept IDNYC to verify a customer's identity, and use the ID card's number as a valid identification number for non-U.S. citizens.

³ See, e.g., <https://www.sfgate.com/bayarea/article/Oakland-debit-card-fees-draw-criticism-4368734.php#ixzz2O5Nxqfka>

⁴ See, CPD *Municipal ID Toolkit*, at https://populardemocracy.org/sites/default/files/Municipal-ID-Report_WEB_Nov2015_0.pdf

Problems with prepaid debit cards are widespread and not limited to those connected to municipal IDs. These cards, targeted to lower income people, are not uniformly covered by the strong federal consumer protections that shield all bank and credit unions accounts, in the event of fraud or loss of funds. Depending on how prepaid cards are established, a cardholders' funds may or may not be fully FDIC-insured. In October 2015, the RushCard company left thousands of people stranded -- in some cases, for weeks -- without access to their wages, Social Security benefits, and other funds.⁵ NetSpend was cited for engaging in deceptive marketing and other practices, and the list goes on.⁶ For decades, prepaid card proponents have touted these reloadable cards as a solution to "banking deserts" and, for decades, the rhetoric has failed to match the reality. Whatever one thinks of the product, New Yorkers who wish to purchase a prepaid debit card can readily do so online, at check cashing storefronts, drugstores, and other locations. There is no compelling reason for the City of New York to steer IDNYC cardholders to this service, much less to connect it to people's identity cards.

Financial technology (fintech) companies engage in broad and invasive data collection, and often attempt to circumvent strong state consumer protection laws, like New York's interest rate (usury) cap.⁷ According to U.S. PIRG and Center for Digital Democracy, "The use of personal data by Fintech companies is pervasive and touches every aspect of their business operation, including marketing, customer loyalty management, pricing, fraud prevention, and underwriting.....either directly collecting data from consumers or relying on third parties for Big Data analytics to classify consumers and to make predictions about them." The consequences "are not well understood and may further increase social inequities."⁸

Under the Trump administration, federal regulators are seeking to exempt fintech companies from key consumer protection rules.⁹ The national bank regulator has moved to issue "special purpose charters" to nonbank fintech companies, potentially conferring broad powers to evade state consumer protection laws. New York State's Department of Financial Services has forcefully cracked down on abusive practices by online lenders and taken outspoken positions on fintech.¹⁰ In short, the City of New York would be exposing IDNYC cardholders and the IDNYC program to serious risks by steering undocumented, low income and other New Yorkers to fintech companies.

⁵ See, e.g., <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/unirush-llc-and-mastercard-international-incorporated/>

⁶ See, e.g., <https://www.ftc.gov/news-events/press-releases/2016/11/ftc-charges-prepaid-card-company-deceptively-marketed-reloadable>

⁷ See, e.g., Senate Testimony by Frank Pasquale, Professor of Law, University of Maryland, "Exploring the Fintech Landscape", at https://www.google.com/url?q=https://www.banking.senate.gov/download/pasquale-testimony-9-12-17pdf&sa=D&ust=1546531847924000&usg=AFQjCNEuinJlk00_U_5hFPUZQLfQ7oyVGA

⁸ See <https://www.occ.gov/topics/responsible-innovation/comments/comment-cdd-uspirg.pdf>

⁹ <https://news.bloomberglaw.com/banking-law/2019-outlook-cfpb-innovation-policies-may-face-state-challenges> and <https://www.occ.treas.gov/topics/responsible-innovation/comments/comment-ny-atty-general.pdf>

¹⁰ See, https://www.dfs.ny.gov/reportpub/online_lending_survey_rpt_07112018.pdf and <https://www.occ.treas.gov/topics/responsible-innovation/comments/comment-ny-dfs.pdf>

We must note that the administration has previously stated to groups like ours that it is interested in making loans and alternative credit scoring available, through IDNYC. This would be an extremely dangerous move likely to open the door to usurious lending and other abuses. This reinforces the administration's lack of understanding about the industries with which it is seeking to partner and the serious risks involved.

4. THE ADMINISTRATION SHOULD PURSUE PROGRESSIVE APPROACHES TO FINANCIAL INCLUSION THAT PRIORITIZE EQUITY AND TRANSPARENCY, IN PARTNERSHIP WITH COMMUNITY GROUPS AND OTHER STAKEHOLDERS.

New York City is a banking capital of the world, and billions of municipal dollars move through banks each year. New York is also home also to some of the strongest community development financial institutions (CDFIs) in the country, including the community development credit unions that have stepped up to accept and promote IDNYC, from day one. New York City and State enforcement agencies have been national leaders in promoting responsible lending, cracking down on unfair and abusive industries and practices, and keeping payday and other forms of predatory lending out of our state, working closely with financial justice, labor, and civil rights advocates and coalitions. The administration and Council should work with these and other stakeholders to craft solutions to bank redlining that address root causes and ensure equitable access to financial services for all New Yorkers.

We appreciate the opportunity to testify at today's hearing, to shine a light on groups' serious concerns and unanswered questions about proposed IDNYC program changes. When groups like ours learned about the administration's plan and expressed concerns throughout the summer, MOIA and HRA repeatedly said the RFEI was "exploratory" only and that further discussion, research and engagement would follow. In mid-December, the administration contacted groups saying they were moving forward, and soon after issued a "solicitation for negotiated acquisition" with responses due soon thereafter. The process has moved forward quickly, without meaningful consultation or engagement of community groups, advocates, City Council, and the broader public, including IDNYC cardholders. The lack of transparency is a stark contrast to the collaborative way in which groups and the City worked together to create and promote public confidence in IDNYC, and gives the impression that the administration is on a fast track and this is a "done deal."

We urge the City Council to use its oversight authority to obtain concrete answers to the many questions and concerns groups have raised (including in the attached letter and memo). We hope that the Council will probe into the administration's Request for Expressions of Interest and subsequent Solicitation for Negotiated Acquisition to identify the kinds of companies with which the administration is considering partnering and the projected costs to the City of New York. We further urge the Council to probe how the current IDNYC proposal may relate to other city initiatives, as well as any potential conflicts of interest between administration officials and companies responding to the administration's solicitations.

Thank you for your consideration. I would be happy to answer any questions.

MEMORANDUM

To: Commissioner Bitta Mostofi, MOIA; Colette Samman, IDNYC Executive Director, HRA; J. Phillip Thompson, Deputy Mayor for Strategic Policy Initiatives
Cc: NYC Council Speaker Corey Johnson; Council Member Carlos Menchaca; Council Member Daniel Dromm
From: NYC Municipal ID Coalition Members
Date: January 11, 2019
Re: Follow-up on IDNYC proposed changes

Thank you for meeting with us on January 7, 2019 to further discuss the administration's interest in partnering with a financial services provider to implement a smart chip on IDNYC identification cards. Our organizations have outlined our serious concerns about this proposal and process, in prior conversations and in a joint letter dated December 26, 2018 (reattached here). Although we appreciated the opportunity to meet this week, we remain deeply concerned that the City is considering making major, unprecedented changes to the IDNYC program that could expose New Yorkers to serious privacy, surveillance, and financial risks, and undermine public trust in the program. As organizations that have been instrumental in shaping and building support for IDNYC since 2014, we remain committed to the principles of inclusivity, equity, and security on which IDNYC was built. We appreciate your attention and responsiveness to community concerns.

We respectfully request the administration's responses, in writing, to our organizations' outstanding concerns and questions, below, by next Friday, January 17, 2019. Concrete answers to these questions and concerns are necessary to fully understand and address specific risks presented by the potential addition of a smart chip to IDNYC cards.

We additionally ask your agencies to commit to holding public hearings on proposed IDNYC changes. We were pleased to hear from MOIA, at this week's meeting, that the City has not decided whether it will move forward with an IDNYC smart chip. However, the administration has moved forward significantly and quickly, without sufficient engagement of community groups, advocates, City Council Members, or the general public.¹¹ With so much at stake, the City must conduct hearings and ensure a thorough, transparent public process.

Our concerns and questions about the IDNYC smart chip proposal include:

Unclear rationale and motivation for the change, given the risks to vulnerable NYers. The administration has cited multiple, distinct reasons for incorporating EMV/RFID smart chip

¹¹ The City issued a Request for Expressions of Interest (RFEI) in an "IDNYC Dual Interface Card Payment Initiative" on May 30, 2018, with responses from financial services providers due by June 29, 2018. In mid-December, the City issued a solicitation for negotiated acquisition, with responses from financial services providers due on January 8, 2019 (the deadline has since been extended by 10 days).

technology on IDNYC cards. These include a desire to address “banking deserts” in NYC; to integrate IDNYC with MTA’s planned contactless card payment system; to integrate IDNYC with other city agencies and services, such as DHS shelters and NYC Health + Hospitals; and to ensure IDNYC’s longevity and continued appeal, including in the event that NYS driver licenses become available to undocumented immigrants. No other municipal ID program, to our knowledge, has implemented the kind of technology and broad integration that NYC is now considering. Particularly in the current political context, unnecessary data collection on immigrant, homeless, and other New Yorkers is of grave concern. The proposed changes raise risks that outweigh any potential benefits, and could chill uptake and renewal of IDNYC cards among populations it was designed to serve.

Questions:

- Can you describe the administration’s due diligence in crafting, and evaluating responses to, the IDNYC smart chip RFEI and its privacy and technological criteria? With which entities (technology, privacy, and financial services experts, regulators, and others) has the City consulted? What examples have you identified of successful municipal ID/financial services/technology partnerships, and what were their outcomes?
- Would the City collect smart chip data, either individually or in the aggregate, about IDNYC cardholders’ activity? (The negotiated acquisition solicitation specifically states that “data collected through the financial institution cannot be shared with any entity *other than the City of New York.*”)
- What do you project would be the City’s annual cost to contract with a financial services provider to host and execute a smart chip? Is the City seeking to generate revenue from any of the proposed smart card features?

Privacy and surveillance risks, particularly those associated with RFID technology and data collection. Possible RFID harms are significant, and the potential for harm is unclear from the City’s statements and RFEI. Specifically:

- RFID is not a standard but rather a collection of terms for different wireless identification technologies. Security of wireless transmission and encryption protocols depends on vendor and model. The RFEI only calls for ISO 7816 (contact), 14443 A/B (contactless), and 7813 (magnetic stripe) standards, which by themselves do not implement security or privacy features. Some products are highly insecure and have been hacked or cloned in the past.¹²
- Potential identification of IDNYC cardholders would be dependent on RFID implementation. The RFID technology could reveal from a distance whether someone is carrying an IDNYC card. Some RFID cards are readable with widely accessible technology from distances of more than 200 feet, without the cardholder’s knowledge.¹³ It is unclear how the chosen technology would transmit information, and whether it would

¹² RFID/NFC- A Pentesters Perspective by Gerhard Klostermeier:
<https://media.ccc.de/v/gpn18-79-rfid-nfc-grundlagen-a-pentesters-perspective#t=333>

¹³ The 900MHz EPC Gen2 tag (found in Enhanced Drivers Licenses and some passports) is readable from 30 feet with off-the-shelf equipment. Without amplifying the signal from a commercial reader the tag can be read from 69 feet, and with less than \$1000 of radio equipment it can be read from 217 feet away. See: DEF CON 18 - Chris Paget - Extreme-Range RFID Tracking: https://www.youtube.com/watch?v=q9_8F_BKeto

allow for the distinction/tracking of IDNYC cards specifically. Regardless of encryption protocol, a RFID wireless implementation is passively powered by induction response, which allows for card visibility to transmitters and could make the IDNYC appear—based on frequency, communication, or response—unique compared to other RFID chip cards.

- Cardholders would not be able to “opt in” to or “opt out” of the RFID technology. The administration has emphasized that IDNYC cardholders would have the option to activate (or not) the financial services and other features. However, RFID cannot be turned on or off, and all IDNYC cardholders would be exposed to the risks associated with this technology—even if they did not opt in to the financial services, MTA, or other features.

Questions:

- What are the privacy risks to which the RFID chip would expose IDNYC cardholders?
 - Specifically, what type of data would be collected with the use of this technology? Would the card or RFID chip vendor, MTA, or any other entity collect location/usage data from the contactless cards?
 - From what distance could the contactless RFID cards be read? How would the public check to verify that any RFID cannot be tracked from a distance without the cardholder’s knowledge?
 - What measures would the City implement to prevent city or federal agencies, or hackers, from being able to track the location of the IDNYC RFID cards?
 - What disclosures would vendors be required to share with the City and the public about how they implement any new or contactless features?
 - Would RFID implementation make the IDNYC appear—based on frequency, communication, response—unique compared to other RFID chip cards?
- Would NYPD or other law enforcement agencies be able to access the data? If so, what procedures would be required for them to do so? How have your agencies engaged NYPD or other law enforcement agencies in the smart chip research/planning, to date?
- What protections would be available to cardholders if a federal government agency demanded data/information/analysis from the City or the RFID chip vendor?
- When and how would the City be made aware of any data requests made to the private vendor and whether or not they were fulfilled?

Concerns regarding IDNYC integration with financial services and fintech companies.

The City’s RFEI seeks a financial services provider to host and execute a dual interface smart chip on IDNYC cards. The financial services entity would also provide what we understand to be a reloadable prepaid debit account or similar payment option for “unbanked” cardholders. Cities that have previously attempted to incorporate (or considered incorporating) financial services

directly into their municipal ID cards have ceased to do so, because of widespread problems.¹⁴ Local advocates strongly opposed a similar proposal when IDNYC was created in 2014.¹⁵

There are myriad privacy and financial risks to equipping an identity card, such as IDNYC, that contains a wealth of sensitive personal information about the cardholder—including name, address, date of birth, and ID number—with the functionality to carry out routine financial transactions. Many credit card companies have rules that prohibit merchants from requiring cardholders to provide additional identification when making purchases, precisely to guard against identity theft and other risks.¹⁶ In the IDNYC smart chip scenario, the identification and payment card would be one and the same, depriving cardholders of these protections. Problems associated with hybrid student ID-debit cards may also be instructive: students have been hard-hit with overdraft and other fees; and the exclusive partnerships between colleges and financial institutions have exposed students to aggressive marketing by the financial partners.¹⁷

Additional concerns include:

- Widespread problems associated with the financial technology (fintech) industry, which includes companies that rely on broad and invasive data collection, and that often attempt to circumvent state fair lending and consumer protection laws.¹⁸ Under the Trump administration, federal regulators are actively seeking to exempt fintech companies from key consumer protection rules.¹⁹
- Prepaid debit cards and fintech products and services often carry high and hidden fees and are not uniformly covered by strong federal consumer protections that apply to bank and credit union accounts—reinforcing a two-tiered system in which the poor pay more for less advantageous (and sometimes predatory) services.
- The administration has previously stated to advocates that it is interested in making credit available to IDNYC cardholders through a smart chip—a dangerous move that could open the door to usurious lending and other abuses that are currently illegal in

¹⁴ <https://www.sfgate.com/bayarea/article/Oakland-debit-card-fees-draw-criticism-4368734.php#ixzz2O5Nxqfka>; <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/unirush-llc-and-mastercard-international-incorporated/> and <https://www.ftc.gov/news-events/press-releases/2016/11/ftc-charges-prepaid-card-company-deceptively-marketed-reloadable>

¹⁵ The Center for Popular Democracy's *Building Identity: A Toolkit for Designing and Implementing a Successful Municipal ID Program* recommends against inclusion of a reloadable debit card feature on municipal IDs. https://populardemocracy.org/sites/default/files/Municipal-ID-Report_WEB_Nov2015_0.pdf

¹⁶ See, e.g., MasterCard Rules, dated December 18, 2018, at <https://www.mastercard.us/content/dam/mccom/global/documents/mastercard-rules.pdf>, at p. 93, section 5.10.4; and Visa Core Rules and Visa Product and Service Rules, dated October 13, 2018, at p. 100, section 1.5.5.3

¹⁷ See Center for Responsible Lending, *Overdraft U.: Student Bank Accounts Often Loaded with High Overdraft Fees*, March 2015, http://www.responsiblelending.org/student-loans/research-policy/overdraft_u_final.pdf.

¹⁸ https://www.google.com/url?q=https://www.banking.senate.gov/download/pasquale-testimony-9-12-17pdf&sa=D&ust=1546531847924000&usg=AFQjCNEuinJlk00_U_5hFPUZQLfQ7oyVGA;

¹⁹ <https://news.bloomberglaw.com/banking-law/2019-outlook-cfpb-innovation-policies-may-face-state-challenges> and <https://www.americanbanker.com/opinion/cfpbs-disclosure-sandbox-puts-consumers-at-risk> and <https://www.occ.treas.gov/topics/responsible-innovation/comments/comment-ny-dfs.pdf> and <https://www.occ.treas.gov/topics/responsible-innovation/comments/comment-ny-atty-general.pdf>

NYS. (We were informed by MOIA, at our January 7, 2019 meeting, that loans are not currently a priority.)

Questions:

- Has the administration consulted with credit unions and banks that accept IDNYC, about ways to expand responsible financial services access to underserved populations?
- What steps has the administration undertaken to secure broader acceptance of IDNYC—including by Designated Banks that hold municipal deposits? Have you consulted with advocates, regulators, and elected officials regarding ways to increase bank acceptance?
- We understand that one of the administration's priorities is to increase access to banking for New Yorkers through IDNYC. Can you clarify how a smart chip would directly allow IDNYC cardholders to open bank accounts?
- Federal Know-Your-Customer rules require financial institutions to retain customers' identification and other underlying documents used to open accounts, while an account is open and for 5 years after an account is closed. Could this jeopardize in any way IDNYC's commitment to not retain cardholders' personal background documents? How would the City's agreement with a financial entity be structured to avoid conflicts between local and federal law? Could someone's records held by a smart chip provider be subject to Freedom of Information Law (if not, please explain why not)?

Thank you for your time and consideration. If the City requires additional time to answer some of our questions, please provide as much information as you are able, and a timeframe for answers to the remaining questions, by Friday, January 17, 2019. For further info, please contact Mizue Aizeki (maizeki@immigrantdefenseproject.org); Deyanira Del Rio (dey@neweconomynyc.org); Jonathan Stribling-Uss (jstriblinguss@nyclu.org); or Betsy Plum (eplum@nyic.org).

December 26, 2018

[Resubmitted on January 11, 2019 with additional signatories]

Mayor Bill de Blasio
City Hall
New York, NY 10007

Dear Mayor de Blasio:

The undersigned organizations write to express our serious concerns about the City of New York's plan to implement "smart chip" technology and a financial services component on NYC's municipal identification (IDNYC) cards. The proposed changes raise a host of privacy, security, consumer protection, and other questions and concerns, which we have attempted to raise with the City agencies coordinating this process. While the City has elicited proposals from a number of financial services providers, it has failed to meaningfully engage our public interest organizations or the 1.2 million IDNYC cardholders that stand to be affected, or to substantively address concerns we have raised. With so much at stake for the undocumented, homeless, and other New Yorkers who rely on IDNYC in their daily lives, we urge the City to change course.

We call on the City to immediately halt the IDNYC "smart chip" procurement process and to conduct public hearings about this proposal, at which the public and subject matter experts may testify. The City must engage in a transparent, accountable process and ensure that the IDNYC program does not inadvertently expose New Yorkers to serious privacy and financial risks, as well as increased vulnerability due to potential surveillance.

Given the Trump administration's ongoing assault on immigrants, including heightened threat from Immigration and Customs Enforcement (ICE) and other Department of Homeland Security (DHS) agencies -- not to mention the long list of data breaches in the financial services arena -- there is clearly a tremendous amount at stake for New Yorkers with this proposal. The incorporation of the smart chip, and the City's intention to enable multiple uses for the IDNYC, has the potential to expose New Yorkers to a wide range of privacy and surveillance risks. The City's interest in including a small dollar loan feature in the card raises additional red flags, as this could make IDNYC cardholders vulnerable to high-cost loans and other abuses. These are threshold concerns that call for careful scrutiny; the process should not be rushed or allowed to bypass meaningful public input.

Our organizations include key members of the city-wide coalition that was instrumental in shaping and building support for the IDNYC program, in 2014, as well as community development credit unions that readily accept IDNYC to open accounts and provide loans and other vital financial services to New Yorkers. Collectively, we represent hundreds of thousands

of immigrant, senior, homeless, and other New Yorkers who have benefited tremendously from the IDNYC program. We are grateful to you and to New York City for initiating IDNYC, which has grown to become the largest municipal ID program in the country. We are pleased that since the program's inception, the City has made changes to IDNYC to strengthen privacy protections and expand access to the ID. We trust that we share the overarching goal of advancing New Yorkers' security and access to the City. We appreciate also the administration's interest in increasing financial options for underserved New Yorkers. The current proposal, however, presents risks that far outweigh any potential benefits.

Collectively, our organizations have decades of expertise in a range of privacy, financial inclusion, regulatory, consumer protection, immigration, DHS and ICE surveillance and deportation practices, and other relevant matters, which form the basis of our concerns regarding the current proposal. We are troubled also by the lack of transparency and meaningful public engagement that such a large-scale and far-reaching proposal warrants. The participatory process in which the City engaged when designing IDNYC was critical to ensuring that the program met New Yorkers' needs, and to building widespread trust and buy-in for the program. A similar process must be instituted now.

Our organizations learned that the City was seeking a financial services partner after it issued a Request for Expressions of Interest (RFEI), on May 30, 2018, regarding an "IDNYC Dual Interface Card Payments Initiative." Several of our groups immediately contacted the Mayor's Office of Immigrant Affairs, Human Resources Administration, and the office of the Deputy Mayor for Strategic Initiatives to express our concerns.

After consistently telling groups for months that the RFEI was merely exploratory, and that there would be ample time and a process for our organizations to provide input, the City recently indicated that it is on a fast track to implementing the chip-embedded cards. A single meeting was convened with groups, in August, to address this proposal. The City has not yet followed through on commitments to provide greater details and to bring other stakeholders into the conversation. Just last week, the City released a Negotiated Acquisition solicitation, directed at financial services providers, with responses due by January 8, 2019. (We must note that the timeline for the solicitation coincides with the end-of-year holidays -- another indication of flawed process.)

We look forward to discussing in greater detail our organizations' serious concerns relating to cardholder privacy, data collection and sharing, surveillance, consumer protection, financial technology, fair lending, and equity issues associated with the smart chip proposal. We remain eager to work with the City to address financial access barriers that immigrant, senior, and other low-income New Yorkers face, and to develop solutions that ensure equity and fairness.

For further information, please feel free to contact Mizue Aizeki, Deputy Director, Immigrant Defense Project (maizeki@immigrantdefenseproject.org); Theo Oshiro, Deputy Director, Make the Road New York (theo.oshiro@maketheroadny.org); Deyanira Del Rio, Co-Director, New

Economy Project (dey@neweconomynyc.org); or Betsy Plum, Vice President of Policy, New York Immigration Coalition (eplum@nyic.org).

Sincerely,

Arab American Association of New York
Asian American Federation
Brooklyn Cooperative Federal Credit Union
Center for Popular Democracy
Families for Freedom
Immigrant Defense Project
Inclusiv (formerly National Federation of Community Development Credit Unions)
Lower East Side People's Federal Credit Union
Make the Road NY
MinKwon Center for Community Action
Neighborhood Trust Federal Credit Union
New Economy Project
New Sanctuary Coalition
New York Civil Liberties Union (NYCLU)
New York Immigration Coalition
Northern Manhattan Coalition for Immigrant Rights

Cc:

NYC Council Speaker Corey Johnson
NYC Council Member Daniel Dromm
NYC Council Member Carlos Menchaca

Commissioner Steven Banks, Human Resources Administration (HRA)
Commissioner Bitta Mostofi, Mayor's Office of Immigrant Affairs
Laura Negrón, Chief Privacy Officer for the City of New York
Nicole Perry, Deputy Commissioner for Office of Financial Empowerment, DCA
Commissioner Lorelei Salas, Department of Consumer Affairs (DCA)
Colette Samman, IDNYC Executive Director, HRA
J. Phillip Thompson, Deputy Mayor for Strategic Initiatives

Testimony before the New York City Council
Subcommittee on Immigration
February 11, 2019

Elisabeth Rhyne
Managing Director
Center for Financial Inclusion at Accion

Good afternoon, and thank you for the opportunity to share my views with you.

My name is Elisabeth Rhyne, and I am the Managing Director of the Center for Financial Inclusion at Accion. We are an action-oriented think tank devoted to bringing financial services to people who have previously been excluded. We operate the Smart Campaign, a global consumer protection campaign with a far-reaching impact to embed Client Protection Principles into the DNA of financial service providers around the world. We have certified over 110 financial institutions against a rigorous set of practices, prompting, these institutions to make their services work better for customers.

Financial inclusion means providing access to high quality financial services – payments, savings, credit and insurance – to people previously excluded from the formal financial system. The IDNYC program has the opportunity to bring financial inclusion and its benefits to New Yorkers who must otherwise conduct their economic lives using inconvenient, expensive and often predatory or fraudulent means.

Consider how payments functions would change lives for IDNYC card holders. Without the ability to pay electronically, it can be virtually impossible to carry out certain basic tasks. Imagine being unable to make online purchases, rent a car, book a hotel, or even buy a train ticket. Being unable to carry out these tasks excludes a person from mainstream modern life. Many other transactions, like rent and utility payments and so many others, become significantly easier when conducted electronically. A payment card allows a person to conduct a transaction with someone far away – often a huge savings. Consider the time and cost saved by not taking time off work to ride the bus across town to make a payment. That's why results from rigorous research show a boost to economic productivity from electronic payments services. In the 21st century, electronic payments are necessities, no longer optional.

If IDNYC can offer financial services through the card, especially payments, card holders would gain in many ways:

- *Safety.* When I ask financially excluded people about their financial problems, they nearly always mention frauds, scams and rip-offs they have experienced. It's a fact of life. IDNYC would give them safer alternatives. The City is well-placed ensure that any contract it signs with a company to provide financial features will meet high standards of consumer protection.
- *Better pricing.* IDNYC could provide better pricing for the same function than financially excluded people can now access. Through competitive bidding, New York City is in a position to bargain harder and with more leverage than could any individual, especially a vulnerable one. It could put pressure on the providers it selects to keep fees fair.
- *Financial education.* The City and NYC community groups could use the card's financial features as a starting point for providing financial education. The outreach that accompanies card promotion and sign-up, could be a wonderful channel to ensure that clients are better informed about financial services and understand how to become more financially healthy.
- *Building a credit score.* A card could boost access to formal credit, especially if it allows card holders to lay down an electronic footprint that can build up their credit score. Credit from formal providers would be a positive step away from the high-priced lenders that are the current alternative for the financially excluded, such as title loan and payday loan companies.

Adding payments capacities and other financial functions to IDNYC would make it easier for card holders to participate in 21st century economic life. IDNYC was started several years ago to reduce the discrimination suffered by immigrant and other disadvantaged population groups – seeking social justice. With added financial functionality, the card could reduce economic discrimination and promote economic justice, too. Given the track record of IDNYC to date, there is every reason to believe that the City has the intent and ability to deliver a program will empower and protect the people it serves.

Elisabeth Rhyne is the founder and Managing Director of the Center for Financial Inclusion at Accion (CFI). CFI is an action-oriented think tank that challenges and engages the financial inclusion sector to better serve, empower and protect its customers. Ms. Rhyne co-founded the Smart Campaign, housed at CFI, a global campaign to embed Client Protection Principles in the financial inclusion sector. The Smart Campaign has certified over 110 financial institutions around the world for their adherence to a detailed set of Client Protection Standards. Prior to the CFI, Ms. Rhyne was senior vice president at Accion, where she initiated the entry of Accion into Africa and India. Ms. Rhyne's career in financial inclusion began at the U.S. Agency for International Development, where she led the Office of Microenterprise Development. She is the author of numerous books and articles.

Ms. Rhyne is the former chair of Just Neighbors, a Northern Virginia non-profit that provides immigration legal services to those who could otherwise not afford them. She is a member of the board of the Grameen Foundation.

See: www.accion.org; www.centerforfinancialinclusion.org and www.smartcampaign.org



Make the Road New York Testimony on The IDNYC Program

February 11, 2019
New York City Council, Committee on Immigration

Good afternoon. Thank you to Councilman Menchaca and to the rest of the members of the Immigration Committee holding this hearing and listening to community members today. My name is Natalia Aristizabal and I'm the Co-Director of organizing at Make the Road New York (MRNY). Make the Road New York is a non-profit community-based membership organization with over 23,000 members dedicated to building the power of immigrant and working class communities to achieve dignity and justice through organizing, policy innovation, transformative education, and survival services. As most of you know, we operate five community centers in Brooklyn, Queens, Staten Island, Long Island, and Westchester County.

I'm here today to speak to you all about the innovative program known as IDNYC, and concerns our community has regarding potential changes that have been proposed. MRNY was an early voice urging the creation of a municipal identification card, and fought hard alongside the immigrant community for the existence and implementation of what came to be IDNYC. Our experience working with our members demonstrated to us that it was imperative that local government administer an identification for every one of its residents, including for those who are undocumented, homeless, and queer -- populations that have barriers to accessing traditional forms of identification. After the adoption of the IDNYC program, our MRNY offices in Jackson Heights, Queens and Bushwick, Brooklyn became host sites where community members were able to sign up and receive the municipal ID. This program and its successful continuation is a key priority for the communities that MRNY serves.

MRNY is deeply concerned by the direction the IDNYC program is proposing to take. As of now, IDNYC has been effective because of its simplicity, as well as because the program committed to not store applicant data and to protect information from potential overreach by the federal government. The changes that have been proposed introduce unnecessary complications, as well as potentially dangerous ones, to the program. The administration has solicited pitches from financial technology (fintech) and other firms to embed an EMV/contact and RFID/contactless "smart chip"

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JACKSON HEIGHTS, NY 11372
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STATEN ISLAND
161 PORT RICHMOND AVENUE
STATEN ISLAND, NY 10302
718 727 1222

LONG ISLAND
1090 SUFFOLK AVENUE
BRENTWOOD, NY 11717
631 231 2220

WESTCHESTER
46 WALLER AVENUE
WHITE PLAINS, NY 10605
914 948 8466

in IDNYC identity cards, to enable integration of the ID with a broad range of public and private systems, including financial services, the MTA, DHS shelters, and other NYC agencies and services. The changes suggested to the ID, which aim to make it a multipurpose document, fail at really focusing on the needs and dangers of some of the most vulnerable ID carriers.

For immigrants, and more specifically undocumented people who live in heightened fear during this particularly challenging time, the need to protect private information is of utmost concern, and any potential conveniences that may be realized by information sharing must be strictly evaluated. Changes proposed to use technology to link IDNYC with other programs have the potential to increase risk of exposure to groups of folks who in this moment do not wish to be exposed. Other experts today will report on the danger of third parties having access to data, and how these changes may increase the mechanisms by which people can be surveilled. MRNY is unable to support any kind of similar expansion of the IDNYC program, without more facts about how information will be truly protected and without more assurance that community members will not be at increased risk in obtaining or renewing their municipal ID.

The administration's proposed changes would unnecessarily jeopardize the security and integrity of IDNYC and -- particularly in the current political context -- undermine public confidence in the program. The proposed changes go far beyond IDNYC's original intent of providing safe, government-issued photo ID to immigrant, homeless and other New Yorkers. Our collective organizations, which represent hundreds of thousands of New Yorkers and were part of the coalition that helped design and build public support for IDNYC, would be hard-pressed to continue promoting the program given the unanswered questions about privacy, surveillance, and financial risks to which the proposed changes would expose undocumented and other New Yorkers. If the city is looking for ways to keep the ID relevant to New Yorkers and increase who has access to the ID and how is being used, it should do it without putting people at risk.

This administration should focus on ensuring that the municipal ID is actually able to be used in all the ways that were promised. For example the City has said the ID could be used as a form of identification for opening a bank account, but most banks don't accept it even as a secondary form of identification. Those banks who do are small and not necessarily located in all of the communities where our undocumented community members reside.

We want for community members to have a way to identify themselves, to have access to institutions where they conduct their regular business, and to have all the perks the IDNYC has been offering to them until now, but not at the risk of the safety of individuals. Is it critically important that transgender community members are able to have an identification with their preferred gender marking, or that undocumented members have an identification to gain access to secure buildings with dignity? Of course, but we cannot in good faith recommend that our members obtain an ID that we feel may put them at greater risk. We hope to continue working with the administration to identify solutions that achieve the goals for this program as well as protects our most vulnerable New Yorkers. Thank you for the opportunity to testify before you today.

/ inclusiv /

Testimony Before the New York City Council on Immigration Regarding IDNYC Program Oversight

On behalf of:

Inclusiv (formerly Nat'l Federation of Community Development Credit Unions)

and

Brooklyn Cooperative Federal Credit Union
Lower East Side People's Federal Credit Union
Neighborhood Trust Federal Credit Union

I want to thank Committee Chair Menchaca and all the members of the City Council Committee on Immigration for this opportunity to speak with you today about the IDNYC Program. My name is Alicia Portada from the Lower East Side People's FCU. Today I'm providing testimony on behalf of my credit union, as well as Inclusiv and the network of community development credit unions throughout New York City.

Inclusiv is a national network of community development credit unions dedicated to closing the gaps and removing barriers to financial opportunities for people living in distressed and underserved communities. We believe that true financial inclusion and empowerment is a fundamental right for all. Inclusiv members serve over eight million residents of low-income urban, rural and reservation-based communities across the U.S. and hold over \$92 billion in community-controlled assets. There are 18 Inclusiv member credit unions within the 5 boroughs, all working to provide access to affordable banking services and loans.

Together NYC community development credit unions like Lower East People's FCU, Brooklyn Cooperative FCU and Neighborhood Trust FCU are able to serve **all** New Yorkers with safe and responsible services. Our institutions have a Juntos Avanzamos designation which indicates that our institutions are oriented to serving the Hispanic population and other immigrant communities in the City.

As locally owned and managed financial cooperatives, we are **all** committed to reaching and serving New Yorkers who are otherwise excluded from the financial mainstream. Specifically, our credit unions actively open accounts using IDNYC as the primary form of identification. We also work to help undocumented members of our communities obtain taxpayer ID numbers (ITINs) to be able to file tax returns, earn interest on their savings, establish credit and even one day achieve the dream of homeownership.



IDNYC

We commend the Administration and City Council for having established this groundbreaking municipal identification offering all our City residents an accessible and secure document that enables residents to access City services and grant admission to buildings, such as schools, hospitals and other professional buildings requiring identification. The IDNYC has enabled us to open accounts and serve all within our communities.

Proposed changes

Over the past several months, the City of New York has explored the opportunity to implement integrations with the IDNYC and the MTA and adding a financial services or banking component through “smart chip” technology onto the cards.

While well-intentioned, we believe that trying to integrate banking access directly onto the IDNYC raises a host of privacy, security, consumer protection, and other concerns. The credit unions have raised these concerns with the City agencies coordinating this process. While the City has elicited proposals from a number of financial services providers, we believe it has failed to recognize the security concerns related to the overall concept; the numerous ways in which implementation flaws could cause unnecessary consumer harm and the inadvisability of testing such an undertaking with a population that is disproportionately composed of some of the most vulnerable members of our community. With so much at stake for the undocumented, homeless, and other New Yorkers who rely on IDNYC in their daily lives, we urge the City to change course.

Through our discussions we have specifically raised the following areas of concern:

The proposed changes would risk the security of IDNYC and create uncertainty among the vulnerable communities who most need the identification.

In the current political climate, the concentration of information and data from the primary ID coupled with account access, transactional information and possibly the funds themselves could place cardholders at greater risk both to federal authorities and to purveyors of identity theft and scams. Data breaches could cause substantial harm to many who may feel least empowered to report or fight it.

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Financial Technology (Fintech) firms will attempt to minimize the challenges to implementing a compliant banking access platform at this scale.

Financial technology firms will often focus on the technology necessary to design a delivery system of this type without full understanding of the complexity in managing accounts that must be compliant with federal and state banking and consumer protection laws and regulations. As financial institutions, we have extensive experience implementing technology to increase access for our members and communities. Technology firms, particularly those positioning themselves as disruptors or innovators, will often skip essential steps to be in full compliance with federal and state regulations, relying instead on the financial institutions to ensure that any innovation is safe and compliant. This process can be costly and time-consuming; with the full liability resting with the institution (or in this case the City). In addition, any time a new product or service is delivered through a technology platform it is critical for the implementing institution to do extensive testing with experienced, knowledgeable users who will be able to sound the alarm on bugs and flaws in the system. These processes are best tested through pilot testing with the most vocal users. We are concerned that this totally new and untested technology platform is planned to be delivered to a population that has limited knowledge and trust in the financial system and will not feel empowered to complain or raise challenges to the inevitable flaws in the system.

The administration's interest in providing banking services – including prepaid debit -- through IDNYC raises a number of questions and concerns, including whether cardholders' funds would be fully-insured, whether state consumer protections would apply, and whether the bank managing the funds would have any obligations to reinvest in NYC communities.

We presume that the City would intend for any funds deposited on the card to be fully insured by federal deposit insurance. In order to offer deposit insurance, the accounts would have to be held at a regulated depository institution. Most Fintech providers develop partnerships with a handful of OCC-chartered banks based outside of New York State and thereby are pre-empted from our strong consumer protection laws and regulations. Moreover, these out of state banks do not have community reinvestment responsibilities in New York. Funds that would be deposited on these cards would therefore flow outside NY and not yield the benefits to our communities. We believe that banks that are either NY State chartered or are based in NYC and already engaging in community reinvestment responsibilities are not likely to step up to this challenge or they would have already participated as an IDNYC Financial Institution. Many of the

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large banks continue to shy away from accepting IDNYC as primary form of identification. It is unlikely that their legal\compliance teams would pursue this higher-risk undertaking.

Lack of transparency in the development of this program.

When the IDNYC program was first designed, the City solicited and received extensive input from groups representing immigrant communities, activists, and local financial institutions like ours. Despite our best efforts, we are still in the dark as to why these changes to a successful program are being implemented now. We have been given many different reasons for the incorporation of the smart chip, including financial inclusion, to achieve access to the MTA's soon-changing payment system, and integration with and across City agencies. In addition, the administration has expressed concern that IDNYC enrollment is falling and that if the NYS Driver's License becomes available to undocumented immigrants there will be no need for IDNYC. As a result of these disparate concerns, a multi-functioning card is seen as a "one-stop" solution. However, other cities have determined that pursuing multiple of these strategies simultaneously is not feasible. Evidence from other cities shows that financial inclusion promises do not bear fruit and are either scrapped during the design phase or unable to be successfully implemented

So what are the solutions?

We are all committed to the success of IDNYC. We will continue to accept the IDNYC as a primary identification in opening accounts in our communities. But we would welcome the opportunity to explore together with City agencies how we can continue to grow the program and increase financial inclusion.

Just as the City worked with immigrant communities and advocates in designing the original IDNYC, we encourage the same input in this process of enhancing the IDNYC card. We invite City agencies to work together with the community development credit unions and banks that accept IDNYC to be able to enroll cardholders more easily in a seamless manner and achieve the goal of true financial inclusion.

Testimony on Oversight: Implementation of ID NYC

Submitted to New York City Council Committee on Immigration

Submitted by Sophia Genovese, Co-Chair of the Advocacy Committee for the American Immigration Lawyers Association (AILA), New York Chapter

February 11, 2019

Members of the Committee on Immigration:

Good afternoon. My name is Sophia Genovese and I am the co-chair of the Advocacy Committee for the American Immigration Lawyers Association (AILA), New York Chapter. My comments today are made on behalf of the organization, which welcomes the opportunity to provide feedback on the IDNYC program, particularly as it impacts immigrants.

AILA is the national association of more than 15,000 attorneys and law professors who practice and teach immigration law. The AILA New York Chapter consists of nearly 2,000 immigration attorneys and law professors, making it the largest AILA Chapter in the country. AILA-New York attorneys interact with diverse immigrant populations, from recently arrived asylum seekers, to documented immigrants, to undocumented immigrants. Our clients, however, are more than the documentation that they do or do not have. They are mothers and fathers, grandparents, artists, entrepreneurs, service industry workers, and students – but most importantly, they are New Yorkers.

With that being said, documentation issues can certainly interfere with our clients reaching their full potential. Without identification documents, immigrants encounter insurmountable barriers to accessing basic services. Upon implementation of the IDNYC program in January 2015, AILA-New York welcomed the City's municipal ID and saw it as an opportunity to address these barriers.

The IDNYC program has allowed many asylum-seekers and vulnerable immigrant populations to obtain a form of identification, which enables them to participate in civic life. IDNYC has helped folks overcome barriers to renting apartments, registering their children for school and extracurricular activities, and even gaining access to their attorneys' office buildings which require ID for entry. Critically, the IDNYC program has allowed immigrants to open bank accounts. Studies have shown that immigrants are disproportionately "unbanked," forcing them to rely upon check cashing stores and lenders at a high cost, heightening their vulnerability for exploitation. With IDNYC, immigrants may now access and open bank accounts, which lowers transaction costs, reduces their vulnerability to theft, and enables them to participate in the local economy.

Over the past several years, IDNYC has worked closely with immigration advocates to overcome initial documentation barriers to obtaining the IDNYC card. One member attorney reports that his elderly, home-bound client – whom only possessed an expired green card and some foreign country documents – was able to work with an IDNYC caseworker and ultimately obtain an ID. AILA-New York thanks the IDNYC program for working closely with this individual and his attorney so that he may obtain an unexpired form of identification.

However, not all folks have access to attorneys who can help guide them through the IDNYC process or advocate for them on their behalf. Some immigrant populations, particularly those who

were previously detained by immigration authorities, continue to encounter barriers in obtaining IDNYC. As a background, when immigrants are detained, their identification documents are confiscated and are not returned until the conclusion of their removal proceedings. Given the backlog of immigration court cases, which is now nearly 810,000 nationwide and 110,000 in New York alone, immigrants are often in proceedings for at least several years. This delay results in immigrants not having access to their confiscated identification documents for many years. This situation severely impacts newly-arrived asylum seekers, who came with very little documentation to begin with, if any at all.

As has been previously suggested by immigration advocates, we continue to encourage the expansion of the IDNYC required documents list. In particular, we suggest that DHS documentation be added, such as detention release documents, so those who were previously detained and whose documents were taken can obtain some form of identification to access City services. For asylum seekers in particular, whom have overcome and escaped severe persecution, such an addition to the documents list would help to dismantle one of the many barriers they encounter on their road to safety.

AILA-New York continues to support the privacy standards of the IDNYC program. Such privacy protections encourage, instead of deter, immigrants to use the program. In its June 2018 quarterly report, the Human Resources Administration for the City reaffirmed its commitment to preserving the privacy of immigrant New Yorkers by reporting that IDNYC denied a request from DHS for an applicant's identification information. We continue to support and applaud the privacy policies of the program, as it enhances the safety of all New Yorkers.

We remain concerned, however, about the potential for stigmatization of the card. AILA-New York applauds the IDNYC program for taking steps to ensure that the card is desirable to all New Yorkers by offering perks such as discounts on city services, free entry to museums, and much more. We strongly support these continued efforts to destigmatize the IDNYC card so that there is not an inherent presumption by federal officials or law enforcement that those whom possess the card are undocumented.

Relatedly, AILA-New York would like to address the recent arrests of immigrants at federal facilities and how the IDNYC program can work to limit such occurrences. Although AILA-New York attorneys have reported great success in obtaining IDNYC for their clients, they have consistently had to advise clients of its limitations. IDNYC is a municipal ID and is only to be used for City purposes. However, not all users of IDNYC know this, which has caused some folks to run into issues when they try to use the ID for federal purposes. For some, use of the IDNYC card at federal facilities has led to their immigration detention. AILA-New York believes that an easy solution to this problem would be the creation of infographic material on where to use and not to use the card so that New Yorkers, documented or otherwise, represented by counsel or not, are informed of its intended purposes and limitations.

AILA-New York continues to strongly support the IDNYC program and thanks the program for all the work it has done on integrating immigrant populations into the City. We look forward to the continued success of the program so that all New Yorkers, new and old, can get the most out of their City.

February 11, 2019

Immigration Committee
New York City Council
City Hall
City Hall Park
New York, New York 10007



Testimony Re: Oversight – IDNYC Program

My name is Kinjal Patel. I am an attorney in the LGBTQ/HIV Advocacy Unit at Staten Island Legal Services (“SILS”), an office of Legal Services NYC (“LSNYC”). Legal Services NYC is the largest provider of free civil legal services in the country, with offices in all five boroughs serving over 80,000 New Yorkers annually. Thank you to the Committee and the Council for this opportunity to testify regarding the IDNYC program.

LSNYC applauds the City’s IDNYC program. The IDNYC program has provided many overlooked members of our community, including undocumented immigrants, access to government-issued identification and the numerous benefits that require such identification. More members of our community can now enter many of the New York City buildings that require photo-ID. More members of our community can now access the social services agencies that are often located inside of federal, state, and municipality buildings. And more members can access employment and housing.

While New York City is a leader in immigrant inclusivity and began the IDNYC program with undocumented immigrants, along with other segments of our community, in mind, we remind the City Council that there is always more work to be done. In striving to protect our immigrant communities, we must continuously ask what else can be done to further include overlooked members of our community. The IDNYC program can be made more inclusive for our immigrant communities.

Currently, in order to obtain an IDNYC, an applicant must present at least three points of documents proving identity. Despite the long list of documents accepted, including recently expired passports, many NYC residents, including some of LSNYC’s client, are unable to present at least three points of identity. Holding more than one form of identification, and even holding one form, is a privilege that many of us take for granted every day. Many immigrants escape persecution in their home countries by fleeing to the United States without any form of identification. Others, as is true with one of my clients, adopt aliases to escape abusive situations and leave their old identities behind. Others live in the United States for years and then suddenly and unexpectedly lose their only identity documents. For example, my client, who is a transgender woman, did not know about the IDNYC program until she contacted LSNYC. Prior to her contact with us, her passport was stolen. She has no recently-expired passports and has been living without an ID for months. Despite fleeing her home country due to its persecution of transgender women, she made the difficult decision of contacting her home country’s government in order to try and obtain a new passport because a government-issued ID is so essential to living in New York City.

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Lack of ID has also directly affected some of my clients' abilities to access certain legal rights. For example, many of my transgender clients wish to legally change their names, which is an option open to all New York residents regardless of immigration status. However, a name change hearing occurs in a courthouse, which requires visitors to present a photo-ID.

For IDNYC, if the City Council enacted an attorney protocol, similar to the attorney protocol that allows individuals to obtain copies of their NYC birth certificates without presenting identity documents, many more members of our immigrant communities would be able to obtain IDs. The attorney protocol for NYC birth certificates allows a licensed attorney to request and obtain a birth certificate on behalf of a client by affirming that the client has made reasonable efforts to provide identity documents but was unable to obtain such documents; the attorney assessed their client's credibility through an in-person interview and is satisfied that their client has accurately and honestly represented the client's identity based on a number of factors; and the attorney has attached a photograph of the client. Such an attorney protocol for IDNYC would make the program more accessible to our immigrant communities and make it easier for them to access many of the privileges and rights we take for granted every day.

Thank you for scheduling this hearing and for affording our organization the opportunity to submit this testimony.

Kinjal Patel, Esq.

Skadden Fellow, LGBTQ/HIV Advocacy Unit, Staten Island Legal Services (Legal Services NYC)



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**New York City Council Committee on Immigration
February 11, 2019 Hearing on Oversight--IDNYC Program
Testimony of Mizue Aizeki, Deputy Director, Immigrant Defense Project**

Thank you to the Committee for holding this public hearing and for allowing the public the opportunity to address the proposal to integrate multiple functions into the IDNYC with the City. The Immigrant Defense Project (IDP) is a New York-based nonprofit that works to secure fairness and justice for all immigrants by focusing on the rights of those caught at the intersection of the criminal justice system and the immigration system. IDP fights to end the current era of unprecedented mass criminalization, detention and deportation through a multi-pronged strategy including advocacy, litigation, legal support, community partnerships, and strategic communications.

IDP is part of the NYC Municipal ID Coalition that worked in 2014 with the New York City Council and the administration for a municipal ID that would ensure equal access to services and protections for all New Yorkers. As a coalition, we were committed to ensuring that the IDNYC would offer a secure state-issued ID to New Yorkers who faced obstacles in acquiring one—namely the homeless, formerly incarcerated people, gender non-conforming people, youth and undocumented immigrants. Given that many of these New Yorkers were also subject to frequent interaction with the NYPD, the City secured a commitment from the NYPD that the IDNYC would be regarded as a valid form of ID so people would not be brought into the precinct solely because of a lack of an ID. For immigrants, not being brought to a precinct significantly limits the potential of ICE being notified of someone in police custody.¹ Privacy concerns were also a central concern. The Coalition advocated for the City to not retain any underlying documents—the result being a decision by the City to retain the documents for two years, rather than five, and to destroy the documents by December 31, 2016.² Fortunately, the City was able to fight off a legal challenge filed by two State Assembly members in December 2016 who argued that destroying the records would threaten national security and that the data should be made accessible under New York State’s freedom of information law.³

Keeping New Yorkers and their personal information safe from discriminatory local and federal policing and surveillance remains a central principle to our vision for the IDNYC. For this

¹ Fingerprints taken at booking are sent to ICE, allowing ICE to make a detainer request to police to notify ICE when the person is being released from criminal custody. In some jurisdictions, ICE will request that the police hold the person for up to 48 hours after release from custody for ICE to pick them up. Given the increasing risk of deportation that immigrants face when brought into the police precinct, avoiding arrest is ever more critical. Once immigrants are funneled from the criminal legal system into ICE custody, they are often transferred to remote immigration detention centers, making their lack of access to services more severe. People in ICE detention face an incredibly difficult time fighting a pending criminal charge, reuniting with children, or fighting their deportation

² http://rules.cityofnewyork.us/sites/default/files/adopted_rules_pdf/amendments_to_idnyc_rule.pdf;

³ <https://www.nytimes.com/2017/04/07/nyregion/new-york-can-destroy-documents-judge-rules-in-municipal-id-case.html>

reason, IDP joins our coalition members today in expressing our grave concern about the potential risks associated with the City's proposal to integrate multiple functions into the IDNYC and urge the City to halt the current proposal and pursue an alternative path.⁴ The proposed integrations with public and private partners to the IDNYC—including "MTA's planned contactless fare payment system, the NYC Health + Hospitals medical records," and a financial services component—put immigrants at even greater risk of ICE surveillance and targeting.

While we acknowledge and appreciate the City's commitment to serve the needs of New Yorkers, we urge the City to pursue progressive solutions that are not connected to the IDNYC. Combining all these functions on the IDNYC increases the vulnerability of card holders to data breaches. It also increases the likelihood that they will be profiled, targeted, and surveilled based on this data. At a time when the federal government has made clear that immigrants in cities who have passed policies to protect its residents from ICE are the number one target, we cannot afford to put our communities at even greater risk.

For the coalition's overall concerns related to the proposed integrations, please see our December 26, 2018 letter and January 11, 2019 memo with follow up questions to the City.⁵

My comments today focus on the privacy and surveillance risks of the proposed integrations—assessments made in consultation with data security experts. Forest Gregg of DataMade, a civic technology company based in Chicago, is one of the experts who helped ensure maximum privacy protections for the municipal ID program in Chicago. Rocio Baeza, the CEO and Founder of CyberSecurityBase, specializes in helping tech companies with information security. I also consulted with Dr. Tom Fisher with Privacy International, a London-based nonprofit that has expertise in global security issues, and Jason M. Schultz, Director of NYU's Technology Law & Policy Clinic, who focus includes practical frameworks and policy options to help traditional areas of law such as privacy, consumer protection, and civil rights adapt in light of new technologies and the challenges they pose.

Risks from Data-mining and Metadata – When Data Gets Into the Wrong Hands:

Five days after the inauguration on January 20, 2017, the Trump administration laid out its mass deportation agenda in an Executive Order, "Enhancing Public Safety in the Interior of the United States."⁶ This has included an escalation of Immigration and Customs Enforcement (ICE) community arrests and raids, with a stated focus on the targeting of "sanctuary jurisdictions" such as New York City—those with policies limiting collusion between local law enforcement

⁴ These integrations with public and private partners include "MTA's planned contactless fare payment system, the NYC Health + Hospitals medical records," and a financial services component. The City of New York, Request for Information (RFI) IDNYC Dual Interface Card Payments Initiative, IDNYC, Human Resources Administration, Issue Date: Wednesday, May 30, 2018

⁵ The NYC Municipal ID Coalition letter to Mayor Bill de Blasio and follow up memo to MOIA Commissioner Bitta Mostofi, Collette Samman, IDNYC Executive Director, HRA, and J. Phillip Thompson, Deputy Mayor for Strategy Policy Initiatives were submitted along with the testimony of Deyaniro del Rio, Co-Director, New Economy Project

⁶ Enhancing Public Safety in the Interior of the United States. <https://www.whitehouse.gov/presidential-actions/executive-order-enhancing-public-safety-interior-united-states/>

ICE. Indeed, IDP has documented a 1700% increase in ICE operations at New York courthouses during the Trump administration.⁷

We also learned in early 2017 that ICE, through a contract with data-mining firm, Palantir, has a web-based system that allows “ICE agents to access a vast ‘ecosystem’ of data” that facilitates ICE targeting of immigrants for deportation.⁸ This system allows ICE to quickly search multiple databases to build profiles on people they want to target for deportation. This includes databases of federal and local law enforcement agencies, as well as any other information they can get access to—data gathered and sold by private companies, location data, social media content and contacts, financial information, health information, and more.

We are deeply concerned that the potential integrations to the IDNYC put immigrants at even greater risk of ICE surveillance, as the data collected through multiple points associated with the ID can become a very useful tool for creating profiles about people or groups of people. According to Privacy International, “Smartcard metadata are usually sufficient to identify an individual with a high degree of precision. Behavioral patterns, physical movements, and purchasing habits can then all be inferred and attributed to the identified individual(s). Should these data become accessible to a third party...they can be used to track and persecute vulnerable groups.”⁹

According to the privacy experts that we consulted, combining an ID with multiple functions exposes people to significant privacy and surveillance risks, including:

- **Tying ID to healthcare and financial data:** There is big money made from collecting and selling data. For example, MasterCard has widely noted this is a growing revenue source for the company, selling data to retailers, banks, governments, and Google.¹⁰ Data brokers also make substantial profits by combining personal information, such as healthcare data with financial data, and selling to insurance companies who may deny coverage or increase health insurance rates based on that information.¹¹ The FBI has warned health care facilities about the potential for cyber attacks to gather medical data—as the sale of this type of personal data is extremely profitable.¹²
- **Tying ID to location data:** In other cities where contactless transit systems are in place, police and federal intelligence agencies have regularly accessed collected data. A position paper on the Australian transit system states: “In almost every jurisdiction where smartcard ticketing has been implemented, police and intelligence agencies are able to access travel information on smartcards for the investigation or prevention of crime. In

⁷ Immigrant Defense Project, *The Courthouse Trap: How ICE Operations Impacted New York Courts in 2018*, <https://www.immigrantdefenseproject.org/ice-courts/>

⁸ <https://theintercept.com/2017/03/02/palantir-provides-the-engine-for-donald-trumps-deportation-machine/>

⁹ *The Humanitarian Metadata Problem - Doing No Harm in the Digital Era*: page 16;

<https://privacyinternational.org/report/2509/humanitarian-metadata-problem-doing-no-harm-digital-era>

¹⁰ <https://www.forbes.com/sites/petercohan/2018/07/22/mastercard-amex-and-envestnet-profit-from-400m-business-of-selling-transaction-data/#120c3df77229>

¹¹ <https://www.newsweek.com/secretive-world-selling-data-about-you-464789>

¹² <https://www.reuters.com/article/us-cybersecurity-hospitals/your-medical-record-is-worth-more-to-hackers-than-your-credit-card-idUSKCN0HJ21I20140924>

the UK, police make over 3,000 requests per year for travel information from Transport for London.”¹³

- **Creating multiple databases tied to the ID:** The various integrations with the IDNYC would create multiple databases with different data and potentially varying levels of security protections. For example, transit data that may be limited to ID number and travel time and location, could be coupled with the medical data which would have much more detailed personal information. It is critical to have more information regarding data protection. That information should include: what data is being stored, who (the government or a third-party provider) is storing it, how long the data will be kept, and who will have access to the data.
- **Narrowing the pool of IDNYC cardholders to those most vulnerable to surveillance:** Privacy experts also have noted that by offering and requiring services on the card that are most likely to be used by people without other options (those who rely on the City’s health insurance system, who do not have a bank card, who need the IDNYC as their metro card), this will narrow the group of people who are IDNYC users in the various databases, making it easier to de-anonymize the data and to identify individuals based on the data.
- **Function creep:** According to Privacy International, function creep is one of the main dangers of an ID system—once implemented, the ID begins to be used in an increasing range of functions which not only makes the ID a source of more and more data for both the public and private sector but also potentially forces residents to get an ID as they would otherwise not be able to access services. Two notable examples of ID systems where function creep has violated rights include the national ID controversies in Ireland (the Public Services Card or PSC) and in India (Aadhaar).¹⁴ In Ireland, the PSC ID card started off as an optional card, but became mandatory to access social welfare benefits, to apply for a passport, to take a driver’s test, and more.¹⁵ The PSC, which has come under growing scrutiny, may be terminated as it may be in violation of the European Union’s General Data Protection Regulation (GDPR).¹⁶ In India, the Aadhaar ID card, where it is compulsory to link a unique biometric identify with bank accounts, income tax returns, and access to government benefits, has been subject to at least 21 leaks or data breaches—including the breach of personal details of over 1 billion people. The use of Aadhaar by the private sector was declared unconstitutional by the Indian Supreme Court. The court ruled, ‘Allowing private entities to use Aadhaar numbers will lead to commercial exploitation of an individual’s personal data without his/her consent and could lead to individual profiling’.¹⁷

¹³ <http://www.ttf.org.au/wp-content/uploads/2016/06/TTF-Smartcard-Ticketing-On-Public-Transport-2010.pdf>; <https://privacyinternational.org/blog/1596/oyster-octopus-and-metro-cards-what-happens-our-data>

¹⁴ <https://www.thejournal.ie/public-services-card-oireachtas-committee-3840426-Feb2018/>;

<https://www.sbs.com.au/news/what-is-aadhaar-india-s-controversial-billion-strong-biometric-database>

¹⁵ <https://www.irishtimes.com/business/technology/wary-of-the-public-services-card-you-have-good-reason-to-be-1.3351106>

¹⁶ <https://www.dublinlive.ie/news/dublin-news/public-service-cards-scrapped-14271141>

¹⁷ <https://www.hindustantimes.com/india-news/right-to-privacy-a-fundamental-right-7-aadhaar-controversies-that-raised-concerns/story-UGTtXhgJDtaWrmyuli2LwO.html>; <https://privacyinternational.org/feature/2299/initial-analysis-indian-supreme-court-decision-aadhaar>

Need for more participatory evaluation of the risks, and answers to questions:

Community involvement has been a central feature of the IDNYC, and we appreciate the City's ongoing commitment to an IDNYC that serves the best interests of New Yorkers. While we support the City's efforts to address the financial, medical, and transit needs of New Yorkers, we do not believe that integrating these functions into the IDNYC is a viable solution.

We continue to ask the City for more clarity on the privacy and surveillance risks before the City continues to move forward with this proposal. Some of the questions below were raised in the January 11, 2019, memo submitted by the NYC Municipal ID Coalition to the City, and some have been added based on consultation with privacy experts. In the spirit of ongoing community collaboration, we respectfully request responses to our questions raised in the memo as well as the questions below:

- Given our knowledge about security breaches of data, such as Equifax, why is the City confident that there is adequate security in place to protect IDNYC cardholders from a breach of data at the multiple points where data will be collected (e.g., transit, health services, financial services, homeless shelters)
- What data will be collected about IDNYC cardholders' activity? (transit, health services, homeless shelters, financial services)
 - What data is being stored?
 - Who will hold the data? (The City and/or a third-party vendor?)
 - How long will it be held?
 - Who will have access to the data?
 - What protections will be in place to limit access to the data?
 - What transparency will the City offer to cardholders around how personal information including how it will be collected, stored, and used, and who might have access to it?¹⁸
 - The negotiated acquisition solicitation specifically states that "data collected through the financial institution cannot be shared with any entity *other than the City of New York.*" Why does the City want access to this data?
- Would NYPD or other law enforcement agencies, such as ICE, be able to access the data? If so, what procedures would be required for them to do so?
- How have your agencies engaged NYPD or other law enforcement agencies in the smart chip research/planning process?, to date?
- What protections would be available to cardholders if a federal government agency demanded data/information/analysis from the City or the vendor?
- When and how would the City be made aware of any data requests made to the private vendor and whether or not they were fulfilled?
- Will the City include provisions to assure that anyone who has an IDNYC has the right to gain access to any data collected about them through the ID and then subsequently, the right to correct or delete any information they wish?
- How will the City publicize and inform cardholders about which local, state, and federal agencies have access to their data and when new agencies gain access.

¹⁸ Example from UK: <https://tfl.gov.uk/corporate/privacy-and-cookies/zip-oyster-photocard#on-this-page-8>

- What mechanism will the City create to ensure the right to be notified and contest any decisions made about benefits based on data gathered through the IDNYC? For example, if their IDNYC data is used related to employment, education, access to healthcare, etc., people should have basic due process and equal protection rights to understand and challenge such decisions.

Our concerns are not unfounded or overly cautious. What we know is that data breaches and the collecting and sharing of personal data is highly profitable and a key focus of financial corporations, such as MasterCard, companies such as Facebook and Google, as well as cyber hackers. We also know that ICE is focused on gathering all forms of personal data to fuel their deportation machine and that other global efforts to expand ID systems, such as in Ireland and India, have led to serious privacy violations.

In contrast to the European Union, the United States does not have comprehensive legal protections for personal data, despite record-breaking data breaches and inadequate data-protection practices.¹⁹ Given a political climate that is hostile to the rights of immigrants, LGBTQ people, certain political activists, people of color, and low-income people, the unnecessary collection of data of IDNYC cardholders is a grave concern.

No other municipal ID program in the U.S. has implemented the kind of technology and integration that NYC is now considering. Chicago opted for minimal data retention with their municipal ID card—in addition to not retaining any supporting documents, the system does not retain names or addresses. The transit card function to Chicago's municipal ID is completely optional, as the City offers metro cards that are not linked to the ID. Also, Chicago decided against including a financial services function to their municipal ID due to concerns about data collection as well the exorbitant fees typically charged by the financial services providers.

For these reasons, we are extremely concerned that the proposed changes to the IDNYC are an unnecessary dangerous experimentation with big data collection, and urge the City to reexamine their consideration of this proposal and instead, to pursue progressive solutions that are grounded in maximum privacy and security protections for New Yorkers.

¹⁹ “In 2017, there was a disastrous breach at Equifax, Yahoo’s admission that billions of its email accounts were compromised, Deep Root Analytics’ accidental leak of personal details of nearly two hundred million U.S. voters, and Uber’s attempt to conceal a breach that affected fifty-seven million accounts. Individuals are left stymied about what action they can take, if any, to protect their digital assets and identity.” <https://www.cfr.org/report/reforming-us-approach-data-protection>

Good Afternoon,

I am honored to have been asked to share a few words regarding the experience of the Boro Park Jewish Community Council's IDNYC joint effort which we have participated in throughout the past few years.

FOR THE RECORD

Because of this program, thousands of Boro Parkers who would otherwise not have any official i.d. whatsoever have received this card giving them a new feeling of respect and belonging.

The process is so simple that once our residents know that the card is available, they are eager to go through the simple and easy process of applying.

We, at the BPJCC, would like to take this opportunity to thank the incredible people behind this important program and especially those from IDNYC who helped us directly,

- Hanif Yazdi; Field Manager
- Lena Tsodikovich; Neighborhood Organizer
- Anna Olson; Intake Supervisor
- Pinny Ringle; Senior Community Liaison to Mayor deBlasio

for making this process such a smooth and simple one for our clients and allowing the BPJCC to offer this service. Our clients appreciate every feature of the card. This includes the free one-year membership at many of the City's leading museums, zoos, concert halls, and botanical gardens as well as other NYC offers. Most of all though,

what is appreciated is the simple fact that now can utilize the card as an accepted form of id when needed giving them peace of mind while moving through the community which they now feel so much more a welcome part of.

So on behalf of Boro Park, I want to thank those of you at the IDNYC for making the IDNYC program a reality year after year for the grateful residents of Boro Park. We look forward to working with you again next year on this project, and of course, being one of the top locations in bringing in applicants as well once again.

Avi Greenstein
CEO of the BPJCC.



New York City Council – Immigration Committee – IDNYC Hearing

Testimony from the New York Immigration Coalition

February 11, 2019

Good Afternoon. My name is Betsy Plum and I am the Vice President of Policy at the New York Immigration Coalition, an umbrella policy and advocacy organization that works statewide with over 200 immigrant-serving member organizations. Thank you to the members of the City Council and its Immigration Committee, chaired by Council Member Menchaca, for convening this important hearing on IDNYC and proposed changes that would jeopardize the safety and integrity of the card and program.

Since its inception in 2015, IDNYC has been a vital and well-received tool, especially for immigrant and other New Yorkers who have traditionally faced obstacles to securing a government-issued form of identification. The card has helped individuals prove their identity at hospitals and government buildings, helped parents enter their child's school, and helped hardworking New Yorkers open bank and credit union accounts to protect their earnings. Barrier after barrier has been overcome to create a more inclusive and welcoming city.

Much of IDNYC's success came from its root in community organizing and listening clearly to what communities and advocates were calling for to ensure the safest and most inclusive program. Sitting at one table, advocates and city government navigated how the program's rules and regulations could protect cardholders while encouraging wide acceptance of the card, and later worked together in the aftermath of the 2016 presidential election to fortify the security of the program and roll back document retention policies. Sitting here today, I feel more confident than ever in the safety, security, and straightforward nature of the current program. At community events across the City and with the NYIC's member organizations, the NYIC actively encourages immigrant New Yorkers to apply for and use their card. In nearly every case, the benefits far outweigh the risks. And that is a principle that must be maintained.

This is a major reason why we were so concerned (and surprised) when the Mayor's Office issued an RFEI last year, with no advance notice to advocates or the community, seeking proposals from financial services providers to "host and execute an open-architecture, dual interface smart chip to be embedded in the IDNYC card". The proposal's stated intent was to support the hundreds of thousands of New Yorkers who are unbanked or underbanked. In subsequent conversations with the City, we also learned that technological upgrades would seek to support the MTA's transition away from metro cards in favor of contactless payment, as well as increase IDNYC enrollment and ensure IDNYC's continued relevance if New York State allows driver's licenses to become available to undocumented immigrants as advocates across New York are currently fighting for. These are all goals we agree with, but the means to reaching them cannot be technological upgrades that would jeopardize the safety of the IDNYC program.

In particular, embedding “smart chips” into IDNYC cards is a dangerous and ill-advised solution. There are myriad privacy and financial risks to equipping an identity card, such as IDNYC, that contains a wealth of sensitive personal information about the cardholder—including name, address, date of birth, and ID number—with the functionality to carry out routine financial transactions. Many credit card companies have rules that prohibit merchants from requiring cardholders to provide additional identification when making purchases, precisely to guard against identity theft and other risks. For this and other reasons, no other municipal (or state) ID program has implemented the kind of technology and broad integration that the Mayor’s Office is currently exploring. The unprecedented nature of this transition is due not to no other municipality not being innovative or progressive enough, but that the risks are too high. The City should address banking access, MTA, and other stated concerns on their own merits. Any solutions, including payment cards that the City may wish to develop, should not be connected to IDNYC cards. This should be common sense.

Lastly, it merits mention that in response to advocate concerns around smart chip integrations and the RFID technology that would be required, the administration has misleadingly stated to advocates that IDNYC cardholders will have a choice of whether or not to “activate” or “opt-in” to the smart chip functionality and that they will seek contactless near-field communication in place of RFID technology. However, near-field communication is a form of RFID, and the associated risks remain. Possible RFID harms are significant, and the potential for harm is unclear from the City’s statements and RFEI. Contactless RFID technology cannot be turned on or off, and all IDNYC cardholders would be exposed to the risks associated with this technology—even if they did not opt into the financial services, MTA, or other features.

The proposed changes go far beyond IDNYC’s original intent of providing safe, government-issued photo ID to immigrant, homeless and other New Yorkers who face barriers to securing other forms of government-issued ID. In fact, it runs completely contrary to this goal, effectively creating a re-envisioned program that sacrifices the safety and security of the cardholders who most rely on the IDNYC program. The most important principle of the program, that the benefits always far outweigh the risks, is lost.

We want to work alongside our municipal leaders to continue to think progressively around how IDNYC can be a more inclusive program and card, but this cannot include the proposed expansions. We call for an immediate halt to the current exploration. We are happy to work with leaders to find alternative solutions to many of the goals they have, from expanding financial access to ensuring meaningful access to expanded health coverage and other programs that could benefit from greater coordination. But finding a “one size fits all” solution via the IDNYC program and card is unacceptable and dangerous.

All of this is deeply true in 2019 when Donald Trump is broadcasting hate and fear from the nation’s highest office, and his agencies are attacking immigrant communities daily. Just last Tuesday during his State of the Union speech, President Trump proudly stated that in the last two years “brave ICE officers” made 266,000 arrests of what he calls “criminal aliens.” He also

boasted of his incredible record in rolling back regulations, many of which have protected consumers from the unscrupulous practices of the financial services industry.

Our immigrant communities have been left beaten and bruised by rampant immigration enforcement. Parents, children, spouses, and friends are all left reeling after the deportation of a loved one, the detention of another, an unlawful home raid, the fear that entire lives and dreams will be shattered in an instant. New York City is one of the most welcoming cities in the nation for immigrants but there is still a stigma and confusion around government for many. Even with the best of intentions, our governments no longer have the benefit of the doubt. We must acknowledge the fears of immigrant communities and work together to break them down and build back trust. It is not time to dangerously play with a program that has been an incredible asset to over 1.2 million New Yorkers. Privacy must be maintained and legitimacy must be afforded to the program.

Thank you, and we look forward to continuing to work with City Council and the Mayor's Office to expand access and opportunity to New Yorkers, while enshrining the integrity and safety of the IDNYC program.

FOR THE RECORD

February 2019

**New York City Council Committee on Immigration
February 11, 2019 Hearing on Oversight--IDNYC Program**

Thank you to the Committee for holding this hearing. My name is Rocio Baeza, I am a Chicagoan, child of immigrant parents, cybersecurity professional, and data privacy advocate. In the form of this letter, I'm looking to share concerns over proposed changes to link the IDNYC's to transit data, medical records, and financial data. The City of Chicago rolled out a similar program in 2018, and in collaboration with other Chicagoans, we successfully influenced changes to the original program design. My goal is that in this meeting, we can do the same.

I have strong concerns over the proposed changes to link IDNYC card to transit, medical, and financial data. My perspective is that of a Chicagoan that was raised in an immigrant community on the South Side of Chicago, a professional with experience working with software development companies, a data security auditor, a data security consultant, and a data privacy advocate. Over the years, I have gained knowledge of thinking about data security and data privacy from various perspectives. As a security professional, I have been tasked with security due diligence activities, as the one requesting for information and as the one providing requested information. As a product manager, I have close knowledge of the inner workings of Tech companies that rely on in-house software development solutions and the value of data. As a data security consultant, I can make an excellent living by helping organizations comply with various data security laws, regulations, standards, and frameworks. As a data privacy advocate, I can view data management practices from the perspective of a young mother with maternal instincts to protect others. All in all, I have a sense of responsibility to help find a way to balance the good that can come out of data aggregation and data analytics, and the evil that can come out of improper handling of consumer information.

My first concern is that the current adoption of the program may have unintentionally created a set of "mini-databases" linking an IDNYC ID Number to an individual. As I understand it, the City of New York rolled out the program with layers of assurance to minimize the likelihood of 3rd parties, including local, state, federal law enforcement entities, from gaining access to IDNYC data. This is an excellent measure that was advanced in good faith. My concern is that these 3rd parties can very likely circumvent this measure by making information requests to any of the organizations that are accepting the IDNYC card as a form of identification or residency. These 3rd parties no longer have to go thru NYC to obtain a list of IDNYC cardholders, they can go directly to a large number of smaller organizations holding this unique identifier and their own records of consumer information.

My second concern is that current data repositories, technology, and data analytic advancements make it much easier to cross-reference data points for meaningful analysis. Let's take for example an effort to identify undocumented immigrants. In Chicago, there are a number of publicly available databases that tie a person to a property, in the case of county records. One can argue that interested parties may compile a list of individuals, cross-reference that with

IDNYC cardholders, and produce a list of individuals of interest, because they are not present in traditional databases (i.e. State ID, Driver's License, SSN Bearers). This creates the opportunity for interested parties to have a list of individuals to target and scrutinize. And I believe that the liberties and wellbeing of undocumented immigrants are being placed at risk.

It would be irresponsible to ignore the combination of these concerns. Historically, we have 2 concrete examples of the US federal government using databases of people's information to target specific communities and subjecting them to poor, unfair, and in some cases, unethical or questionable conditions. Example 1 is the internment of Japanese-Americans during WWII. Example 2 is a lesser known happening, the targeting of Italian-Americans during WWII. The US Federal government has used identification databases to target Americans, during a time of fear and uncertainty. The Administration, law enforcement agencies, and politicians were pressured to react to these emotions. This led to displacement, the disruption of family units, financial loss, and professional setbacks until after this wave of fear had passed. These two events have had a ripple effect across families and generations, and a great impact that only the affected families truly understand. If the US Federal government was capable of taking this action against Americans, it's reasonable to assume it has the capacity to go to great lengths to access databases of specific groups of people, including undocumented immigrants.

I have prepared a set of **actionable** recommendations for you to consider, as you weigh how to proceed with today's discussion points:

- ***Assess the design and operational effectiveness of data privacy controls with the current project design.*** I recommend that this be undertaken by a committee of professionals with expertise in financial services, card payments, data analytics, software development, appsec, and data privacy. The committee should independently assess the robustness of data privacy controls pre-launch and post-launch.
- ***Add specificity to the regulatory/compliance requirements that the Card Provider must satisfy.*** Organizations are incentivized to prioritize innovation and financial gain over compliance. Data security laws and regulations are oftentimes written with a level of ambiguity that allows organizations to interpret in a way that minimizes impacts to innovation and financial gain. This varies, and can be intentional or unintentional. The RFI issued on May 30, 2018 reads that the Provider shall meet relevant regulatory and compliance requirements. This has to be more specific, this can be interpreted differently by different parties. I have seen first hand how far organizations are willing to go to invest in resources to undercut the spirit of data security requirements.
- ***Incorporate GDPR-like and CCPA-like requirements providing true choice, transparency, and control for consumers over data.***
 - Choice: Provide consumers with true choice on how their data can be used.
 - Transparency: Provide consumers with information as to how their data is being used (in layman terms, not legal jargon)
 - Control: Provide consumers with control over how their data can be used, including erasure (i.e. right to be forgotten) and data processing activities.
- ***Undertake a risk analysis to determine the risk that US citizens, NYC residents, and undocumented immigrants are exposed to, as a result of multiple***

organizations internally linking IDNYC ID numbers to individuals. A similar analysis should be taken to assess the linkage to transit, medical, and financial records. This should weigh the severity of impact, likelihood of harm, and risk level to individuals. At a minimum, to include: inability to exercise choice and control over the use of their data, inability to access services or opportunities, discrimination, identity theft or fraud, financial loss, physical harm, and targeted action to linked to undocumented immigration status.

To close, the proposed changes will expand the footprint of databases linking personally identifiable information to IDNYC ID Numbers. This is a concern because it may cause unfair and harm to the undocumented immigrant community. Linkage to transit records may subject individuals to unlawful surveillance. Linkage to financial records may subject individuals to targeted action, including financial loss.

Thank you for your time and attention. Shall you have any follow-ups, feel free to reach out to me at rocio@cybersecuritybase.com. I would be happy to elaborate as needed over calls, and if necessary, in person.

Sincerely,

Rocio Baeza



FOR THE RECORD

FOR YOUTH DEVELOPMENT
FOR HEALTHY LIVING
FOR SOCIAL RESPONSIBILITY

NYC Council Committee on Immigration
February 11, 2019, 1:00 pm
Oversight – IDNYC Program

Good afternoon, my name is Sharon Levy and I am the Vice President of Public Affairs for the YMCA of Greater New York. I would like to first take the opportunity to thank Chair Menchaca and all of the members of the committee as well as Council staff for hosting today's hearing.

The Y is a nonprofit organization dedicated to empowering youth, improving health, and strengthening community. Founded in 1852, today the Y serves a diverse population of more than half a million New Yorkers who learn and grow through programs and services at our 24 branches and 150 program sites. Community is the cornerstone of the Y. Together, we connect active, engaged New Yorkers to build stronger communities.

The YMCA has been a partner of the City of New York on the IDNYC program since its inception in 2015. Not only do we offer a reduction in membership fees with an IDNYC card but we have hosted pop-up centers at various branches and distribute information regarding the program and its benefits at individual branch as well as citywide events each year.

Since 2015 thousands of New Yorkers have taken advantage of the benefit and we believe that getting people in the doors of our centers brings them one step closer to the programs and services they need to live a healthier more supported life.

The YMCA of Greater New York is proud to continue our partnership with IDNYC, a key tool that gives New York City's growing and diverse population an opportunity to access all that this great city offers. The Y is here for all New Yorkers and by offering discounted memberships to IDNYC cardholders, we're working together to help New Yorkers learn, grow, and thrive.

Thank you very much for this opportunity to speak about the IDNYC program as it enters into its fifth year.

I have seen first hand the difference that owning this municipal ID makes in peoples' lives. How it offers a sense of belonging, a sense of power and a sense of pride to those New Yorkers who carry it.

At the Sikh Cultural Society, in the South Richmond Hill neighborhood of Queens, we held registration drives, offering people help with signing up for IDNYC.

Over two separate occasions we saw a diverse group of more than a few hundred people come in to learn about getting a card. These people came from different backgrounds, different communities, and they all shared a common need for an ID card that would help them navigate daily life in the city.

Several of these people were construction workers, day laborers, who have the language barrier and who needed an ID card they could present when going into buildings where they were working. Without it they had great difficulty in getting into the buildings to work. Later on, when I ran into one of these people after he had received his card, he thanked me, and told me how much of a difference it made.

"Now when I have to show security my ID when I enter a building, I can do it," he told me. "And feel like a human, not a criminal."

The card has been of great benefit to the immigrant community. It provides a way for immigrants to feel connected, to be a part of the city. The fact that the police accept it as a valid ID makes a big difference with police-community relations. And the fact that it can be used to enter municipal buildings, opening a bank account, using a public library and getting access to health care, among other uses, truly transforms lives.

And the fact that it can be used for free membership to museums, zoos and other New York cultural institutions makes learning more about the city, and engaging with it, affordable for many people.

From everything I have seen and heard from members of the immigrant community, IDNYC has been a great success, a powerful tool that enriches the life's, and the fortunes, of many New Yorkers.

I thank the Mayor and the City of New York for making IDNYC available to all New Yorkers, 10 and older.

And I thank you for providing me with the opportunity to express my support of this program.

Harpreet Singh Toor
Sikh Cultural Society.

BROOKLYN PUBLIC LIBRARY
OVERSIGHT HEARING – IDNYC PROGRAM
Committee on Immigration
February 11, 2019

Thank you, New York City Council Speaker and Acting Public Advocate Johnson and Immigration Committee Chair Menchaca, for the opportunity to submit written testimony on behalf of Brooklyn Public Library (BPL) today. Our partnership with the City of New York on the IDNYC is a strong one. BPL's 59 branches are centers of learning and opportunity for the 2.6 million individuals who call Brooklyn home and we are proud to serve as a registration site for an ID card that is—like the library—free and available to all.

Over 18,000 IDNYC cards have been activated as library cards at BPL, allowing users to check out materials, access online courses and databases, use library computers, borrow devices and reserve meeting rooms. Over 90,000 New Yorkers have signed up for the IDNYC at the enrollment centers located in Central Library and New Lots Library, as well as at the numerous short-term pop-up enrollment centers hosted in other BPL branches. Every day, BPL's staff serve many of the people who are most in need of photo identification and often least likely to have it.

BPL is embarking on building a new home for the IDNYC enrollment center at Central Library as one of the anchors of our new Civic Commons. This new space, part of BPL's plans to upgrade Central Library, will provide a more comfortable experience for patrons seeking civic assistance. The Civic Commons is funded in large part by Borough President Eric Adams.

Beyond IDNYC, BPL frequently partners with the Mayor's Office of Immigrant Affairs (MOIA), including hosting New American Corners in each of our branches. Working with MOIA, HRA and NY Legal Assistance Group, BPL is able to offer free weekly immigration legal services in four branches and we participate in many of MOIA's initiatives, including Immigrant Heritage Week, We Speak NYC, community resource fairs, and many others.

Brooklyn Public Library is proud of our multifaceted partnership with MOIA, and in particular of the IDNYC program. At BPL, our doors are open wide to everyone, and our branches provide resources that support personal advancement and strengthen the fabric of our communities. We look forward to continuing this important work together.

Submitted Electronically on February 11, 2019

Testimony re: Oversight – IDNYC Program

Submitted to
NYC Council, Committee on Immigration

Submitted by
Stephanie Gomez
Director of Immigration Initiatives
Hispanic Federation

February 11, 2019

Good Afternoon. My name is Stephanie Gomez and I am the Director of Immigration Initiatives at the Hispanic Federation. I would like to thank Chair Menchaca and committee members for bringing us together today and affording us the opportunity to express our comments and suggestions for the future of New York’s IDNYC.

Hispanic Federation is the premier Latino membership organization in the nation founded to address the many inequities confronting Latinos and the nonprofits that serve them. For more than 20 years, Hispanic Federation has provided grants, administered human services and coordinated advocacy for our broad network of agencies that serve more than 2 million Latinos in the areas of health, education, economic empowerment, immigration and civic engagement.

Hispanic Federation worked with City officials and advocates to help shape the IDNYC program in 2014 and we are proud of its success – with over 1.2 million IDNYC card holders – but, we are prouder of the City’s commitment to protecting the privacy and confidentiality of all IDNYC cardholders and applicants.

As a member-based organization with a network of over 100 Latino community-based organizations, 70 that directly serve New York City, we have seen how beneficial IDNYC has been for all New Yorkers – especially undocumented immigrants. Instead of having large amounts of cash on their person or in their homes, IDNYC can be used to open bank accounts at select financial institutions. It is an acceptable form of ID when interacting with the NYPD and it also offers many recourses to the cardholder. IDNYC empowers cardholders by recognizing their right to feel safe and welcome in public spaces.

Hispanic Federation commends the City for exploring ways to expand options and benefits for IDNYC holders. Making IDNYC more attractive to all New Yorkers benefits the undocumented community. For example, integrating IDNYC with the MTA’s planned contactless card payment system would greatly increase the appeal of the card to all New Yorkers – alleviating a certain stigma some may have with IDNYC being a telltale sign of lack of immigration status. However, we urge the City to conduct deep research and analysis regarding their ideas for expansion and

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continue engaging in conversations with advocates and community members about the future of IDNYC.

IDNYC is the nation's largest municipal identification program in the nation, and we have already seen that there are forces who would like to access this information to harm and intimidate undocumented immigrants. Since the start of his presidency, President Trump has attempted – and unfortunately succeeded in some cases – to enact draconian measures to harm and punish our nation's immigrants. These include his multiple attempts to enact a Muslim ban, his decision to rescind DACA for Dreamers and end TPS for hundreds of thousands of people of color, his current efforts to rewrite the rules around the Public Charge and his actions to separate migrant children from their parents and carry out en masse immigrant family separations and incarcerations. These actions have forced our immigrant communities into a state of utter fear.

As such a crucial and sensitive time in our nation's history for immigrants, it's essential that we continue to work to protect the most vulnerable – undocumented immigrants. The City should take every caution possible to protect vulnerable IDNYC holders.

Thank you for your time. Hispanic Federation is here to serve and is happy to work with the New York City Council to ensure that IDNYC continues to be a success.

Testimony of Planned Parenthood of New York City

To the New York City Council Committee on Immigration Regarding Resolution 100-A: Calling on the New York State Legislature to pass the Driver's License and Access and Privacy Act

February 12, 2019

Planned Parenthood of New York City (PPNYC) is a trusted name in health care because of our commitment to comprehensive, inclusive care. We have been a leading provider of sexual and reproductive health services in New York City for more than 100 years, reaching approximately 85,000 New Yorkers annually through our clinical and education programs.

PPNYC provides a wide range of health services including access to birth control; emergency contraception; gynecological care; cervical and breast cancer screenings; colposcopies; male sexual health exams; testing, counseling, and treatment for sexually transmitted infections; the HPV vaccine; HIV testing and counseling; and pregnancy testing, options counseling and abortion. We also provide PrEP and PEP, transgender hormone therapy, vasectomies, and, recently, menopausal hormonal therapy.

We believe that high quality health care is a human right every person deserves and our doors are open to all New Yorkers regardless of income, gender, gender-identity, insurance, ability to pay, or immigration status. As a trusted health care provider, we see firsthand the challenges and barriers immigrant New Yorkers face when accessing care. We are committed to fighting for laws and policies that improve immigrants' lives.

To this end, PPNYC strongly supports New York City Council's Resolution 100-A, calling on the New York State Legislature to pass the Driver's License and Access and Privacy Act (A3675/S1747). This legislation would allow Standard Licenses to be accessible to all New York State residents regardless of immigration status.

Without access to licenses, immigrants may risk driving because they lack transportation alternatives and must travel to meet basic needs such as education, employment, and health care. Immigrants who do not have proper identification may fear simple interactions with police, placing them at risk of detention and deportation. This fear may even lead to avoiding law enforcement when they are a victim of or a witness to a crime.

Allowing every resident in New York State to apply for and obtain a standard license is a public health issue: it would make New York roads safer for everyone; build trust between law enforcement and immigrants; let all immigrants travel to work, school, and health appointments; and promote immigrants' participation, integration and contribution into community life.

We applaud New York City's commitment to protect and expand immigrants' rights in the face of increased federal attack directed at immigrant communities, and we look forward to continuing to work with the New York City Council and the administration in shared efforts to break down the barriers immigrant New Yorkers face in realizing safe and healthy lives.

Thank you.

Yours truly,

A handwritten signature in black ink, appearing to read "Christina Chang". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Christina Chang
Chief External Affairs Officer

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Since 1916, Planned Parenthood of New York City (PPNYC) has been an advocate for and provider of sexual and reproductive health services and education for New Yorkers. Through clinical services, education, and advocacy, PPNYC is bringing better health and more fulfilling lives to each new generation of New Yorkers. As a voice for sexual and reproductive health equity, PPNYC supports legislation and policies to ensure that all New Yorkers will have access to the full range of sexual and reproductive health care services and information



NEW YORK CITY COUNCIL COMMITTEE ON IMMIGRATION
IDNYC OVERSIGHT HEARING – FEBRUARY 11, 2019

TESTIMONY BY DEYANIRA DEL RIO
CO-DIRECTOR, NEW ECONOMY PROJECT

Good afternoon, Committee Chair Menchaca and members of the Committee. Thank you for holding today's IDNYC oversight hearing and for the opportunity to testify. My name is Deyanira Del Rio and I am the co-director of New Economy Project, an economic justice organization that works with community groups and low-income New Yorkers throughout NYC. New Economy Project was part of the original municipal ID coalition that worked with the City to create and promote IDNYC in 2015, and we applaud Mayor de Blasio and the City Council for launching this vital program. Like other coalition partners here today, we remain committed to ensuring the continued integrity of the program and security of undocumented, homeless, and other New Yorkers who rely on IDNYC in their daily lives.

My testimony today will focus on the Mayoral administration's dangerous proposed plan to partner with a financial technology or other financial services company to embed an EMV/contact and RFID/contactless chip in the next generation of IDNYC cards, to allow for broad integration with private and public services and systems.¹

New Economy Project unequivocally objects to the administration's planned integration of IDNYC with financial services, MTA, and other systems. Such sweeping integration would result in massive data collection about IDNYC cardholders and expose undocumented and other New Yorkers to serious privacy, surveillance, and financial risks. Our organization fights for fair access to banking -- but this is not the way to achieve that. It is vital that the NYC Council understand just how problematic -- and dangerous -- this proposal is. Given the threshold issues presented today, it should be clear that the risks presented would not be eliminated by making tweaks to the proposed program. We urge you to join us in calling on the administration to abandon its plan.

My testimony will focus on a few main points:

1. The administration's proposed plan would unnecessarily jeopardize the integrity of IDNYC and undermine public confidence in the program.

¹ The City issued a Request for Expressions of Interest (RFEI) in an "IDNYC Dual Interface Card Payment Initiative" on May 30, 2018, with responses from financial services providers due by June 29, 2018. In mid-December, the City issued a solicitation for negotiated acquisition, with responses from financial services providers due on January 8, 2019 (the deadline was then extended by 10 days). See <https://tech.cityofnewyork.us/2018/05/22/idnyc-nycx-rfei/>.

2. The administration's proposed plan would not expand access to banking.
3. Nonbank and financial technology (fintech) companies, with which the City would likely partner to implement its envisioned plan, present specific fair lending, privacy, and consumer protection risks.
4. The administration should pursue progressive approaches to financial inclusion that prioritize equity and transparency, in partnership with community groups and other stakeholders.

Founded in 1995, New Economy Project works with community groups and low-income New Yorkers throughout the city to build an economy that works for all, based on principles of cooperation, equity, racial justice, and ecological sustainability. We have been at the forefront of efforts in New York and nationally to combat predatory finance; hold regulators and elected officials accountable; and support cooperative finance and community-led development. Our staff includes nationally-recognized experts on financial regulation and consumer protection, fair housing and fair lending, community development finance, debt collection, immigrants' rights in the banking system, and more. My comments today are informed by New Economy Project's 24 years of experience providing legal advice and representation to low income New Yorkers; bringing major impact litigation against predatory financial companies; conducting community know-your-rights workshops for tens of thousands of people; and securing local, state, and federal policy changes on issues ranging from subprime lending, foreclosures, and debt collection to immigrant taxpayer rights, insurance redlining, payday lending, and more.

1. PROPOSED CHANGES WOULD UNNECESSARILY JEOPARDIZE THE INTEGRITY OF IDNYC AND UNDERMINE PUBLIC CONFIDENCE IN THE PROGRAM

The administration's proposed changes would go far beyond IDNYC's original intent of providing safe, government-issued photo ID to immigrant, homeless and other New Yorkers. The City would in effect be creating a platform through which a range of public and private services would be connected to people's identity cards -- now and going forward -- without a clear sense of the kinds of data that will be created, or how this data will be used. The proposed changes would raise risks that outweigh any potential benefits, and chill uptake and renewal of IDNYC cards among populations it was designed to serve. Other groups here today are testifying in greater detail about privacy, surveillance, and other risks associated with the proposed plan.

The administration's rationale and motivation for pursuing these changes are unclear, given the risks to vulnerable New Yorkers. The administration has cited multiple, distinct reasons for incorporating changes to the IDNYC card. Rather than pursue wholesale integration with IDNYC as a solution to distinct issues and concerns, the City should address each of these on the merits, and develop solutions that do not expose IDNYC cardholders to undue risk.

2. THE ADMINISTRATION'S PLAN WOULD NOT EXPAND ACCESS TO BANKING

As a steering committee member of the municipal ID coalition, New Economy Project worked closely with coalition partners and the administration to ensure that IDNYC was designed to meet federal regulatory requirements, precisely so that banks and credit unions could accept IDNYC as primary ID to open accounts. Fourteen financial institutions currently accept IDNYC as a primary form of identification. These include the city's not-for-profit community development

credit unions, which not only open accounts for IDNYC cardholders but also provide responsible loans, Individual Taxpayer Identification Number (ITIN) application services, free tax preparation and financial counseling, and more to promote their members' well-being and financial stability. Large national banks, for their part, do not accept IDNYC or recognize it only as a secondary form of ID, adding to barriers that immigrant and low-income New Yorkers face with respect to banking access. The federal regulators, meanwhile, have clearly affirmed that banks are permitted to accept IDNYC as they would other forms of government-issued ID.²

The administration has cited big banks' refusal to accept IDNYC in justifying its pursuit of a fintech solution. This plan, however, would do nothing to increase acceptance of IDNYC by banks or credit unions, which would continue to open accounts based on their existing identification and other requirements. What would be newly-introduced through this proposal is a reloadable prepaid debit option, discussed below, widely regarded by advocates, financial regulators and experts as an inferior option to fully-insured, federally-protected depository accounts. By steering IDNYC cardholders to these services, the City would effectively be reinforcing disparities in banking access.

3. NONBANK AND FINANCIAL TECHNOLOGY (FINTECH) COMPANIES PRESENT SPECIFIC FAIR LENDING, PRIVACY, AND CONSUMER PROTECTION RISKS.

The administration has stated that IDNYC cardholders who do not have bank or credit union accounts would have the option to load funds into a prepaid account, linked to their IDNYC cards. Cities like Oakland, CA, that have previously incorporated prepaid debit services directly into their municipal ID cards quickly ceased to do so, because of widespread and widely-reported problems including high and hidden fees charged to cardholders.³ Other cities, including Chicago, considered and ultimately decided that connecting their municipal IDs to financial services was too risky. The NYC municipal ID coalition opposed a similar proposal when IDNYC was developed in 2015. The Center for Popular Democracy, which has advised and supported municipal ID programs throughout the country, recommends against incorporating financial services on the IDs, citing problems experienced by municipalities like Oakland as well as regulations that require financial institutions to retain customers' documents used to open accounts for five years after the account is closed.⁴ We are unaware of any municipal ID program connected to financial services, at this point -- for good reason.

Problems with prepaid debit cards are widespread and not limited to those connected to municipal IDs. These cards, targeted to lower income people, are not uniformly covered by the strong federal consumer protections that shield all bank and credit unions accounts, in the event of fraud or loss of funds. Depending on how prepaid cards are established, a cardholders' funds may or may not be fully FDIC-insured. In October 2015, the RushCard company left thousands of people stranded -- in some cases, for weeks -- without access to their wages, Social Security benefits, and other funds.⁵ NetSpend was cited for engaging in deceptive marketing and other

² On April 30, 2015, the federal bank regulators, including Treasury Department's Financial Crimes Enforcement Network (FinCen), issued a joint letter confirming that banks may accept IDNYC to verify a customer's identity, and use the ID card's number as a valid identification number for non-U.S. citizens.

³ See, e.g., <https://www.sfgate.com/bayarea/article/Oakland-debit-card-fees-draw-criticism-4368734.php#ixzz2O5Nxqfka>

⁴ See, CPD *Municipal ID Toolkit*, at https://populardemocracy.org/sites/default/files/Municipal-ID-Report_WEB_Nov2015_0.pdf

⁵ See, e.g., <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/unirush-llc-and-mastercard-international-incorporated/>

practices, and the list goes on.⁶ For decades, prepaid debit card companies have touted their product as a solution to “banking deserts” and, for decades, the rhetoric has failed to match the reality. Whatever one thinks of the product, New Yorkers who wish to purchase prepaid debit cards can readily do so online, at check cashing storefronts, drugstores, and other locations. There is no compelling reason for the City of New York to steer IDNYC cardholders to this service, much less to connect it to people’s identity cards.

Financial technology (fintech) companies engage in broad and invasive data collection, and often attempt to circumvent strong state consumer protection laws, like New York’s interest rate (usury) cap.⁷ According to U.S. PIRG and Center for Digital Democracy, “The use of personal data by Fintech companies is pervasive and touches every aspect of their business operation, including marketing, customer loyalty management, pricing, fraud prevention, and underwriting.....either directly collecting data from consumers or relying on third parties for Big Data analytics to classify consumers and to make predictions about them.” The consequences “are not well understood and may further increase social inequities.”⁸

Under the Trump administration, federal regulators are seeking to exempt fintech companies from key consumer protection rules.⁹ The national bank regulator has moved to issue “special purpose charters” to nonbank fintech companies, potentially conferring broad powers to evade state consumer protection laws. New York State’s Department of Financial Services has forcefully cracked down on abusive practices by online lenders and taken outspoken positions on fintech.¹⁰ In short, the City of New York would be exposing IDNYC cardholders and the IDNYC program to serious risks by steering undocumented, low income and other New Yorkers to fintech companies.

We must note that the administration has previously stated to groups like ours that it is interested in making loans and alternative credit scoring available, through IDNYC. This would be an extremely dangerous move likely to open the door to usurious lending and other abuses. This reinforces the administration’s apparent lack of understanding about the industries with which it is seeking to partner and the serious risks involved.

4. THE ADMINISTRATION SHOULD PURSUE PROGRESSIVE APPROACHES TO FINANCIAL INCLUSION THAT PRIORITIZE EQUITY AND TRANSPARENCY, IN PARTNERSHIP WITH COMMUNITY GROUPS AND OTHER STAKEHOLDERS.

New York City is a banking capital of the world, and billions of municipal dollars move through banks each year. New York is also home also to some of the strongest community development financial institutions (CDFIs) in the country, including the community development credit unions that have stepped up to accept and promote IDNYC, from day one. New York City and State

⁶ See, e.g., <https://www.ftc.gov/news-events/press-releases/2016/11/ftc-charges-prepaid-card-company-deceptively-marketed-reloadable>

⁷ See, e.g., Senate Testimony by Frank Pasquale, Professor of Law, University of Maryland, “Exploring the Fintech Landscape”, at https://www.google.com/url?q=https://www.banking.senate.gov/download/pasquale-testimony-9-12-17pdf&sa=D&ust=1546531847924000&usq=AFQjCNEuinJlk00_U_5hFPUZQLfQ7oyVGA

⁸ See <https://www.occ.gov/topics/responsible-innovation/comments/comment-cdd-uspig.pdf>

⁹ <https://news.bloomberglaw.com/banking-law/2019-outlook-cfpb-innovation-policies-may-face-state-challenges> and <https://www.occ.treas.gov/topics/responsible-innovation/comments/comment-ny-atty-general.pdf>

¹⁰ See https://www.dfs.ny.gov/reportpub/online_lending_survey_rpt_07112018.pdf and <https://www.occ.treas.gov/topics/responsible-innovation/comments/comment-ny-dfs.pdf>

enforcement agencies have been national leaders in promoting responsible lending, cracking down on unfair and abusive industries and practices, and keeping payday and other forms of predatory lending out of our state, working closely with financial justice, labor, and civil rights advocates and coalitions. The administration and Council should work with these and other stakeholders to craft solutions to bank redlining that address root causes and ensure equitable access to financial services for all New Yorkers.

We appreciate the opportunity to testify at today's hearing, to shine a light on groups' serious concerns and unanswered questions about proposed IDNYC program changes. When groups like ours learned about the administration's plan and expressed concerns throughout the summer, MOIA and HRA repeatedly said the RFEI was "exploratory" only and that further discussion, research and engagement would follow. In December, the administration contacted groups saying it was moving forward, and on December 14, 2018 issued a Solicitation for Negotiated Acquisition, with financial services providers' responses due in early January. The process has moved forward quickly, without meaningful consultation or engagement of community groups, advocates, City Council, and the broader public, including IDNYC cardholders. The lack of transparency is a stark contrast to the collaborative way in which groups and the City worked together to create and promote public confidence in IDNYC, and gives the impression that the administration is on a fast track and this is a "done deal."

We urge the City Council to use its oversight authority to obtain concrete answers to the many questions and concerns groups have raised (including in the attached letter and memo). We hope that the Council will probe into the administration's Request for Expressions of Interest and subsequent Solicitation for Negotiated Acquisition to identify the kinds of companies with which the administration is considering partnering and the projected costs to the City of New York. We further urge the Council to probe how the current IDNYC proposal may relate to other city initiatives, as well as any potential conflicts of interest between administration officials and companies responding to the administration's solicitations.

Thank you for your consideration. I would be happy to answer any questions.

MEMORANDUM

To: Commissioner Bitta Mostofi, MOIA; Colette Samman, IDNYC Executive Director, HRA; J. Phillip Thompson, Deputy Mayor for Strategic Policy Initiatives
Cc: NYC Council Speaker Corey Johnson; Council Member Carlos Menchaca; Council Member Daniel Dromm
From: NYC Municipal ID Coalition Members
Date: January 11, 2019
Re: Follow-up on IDNYC proposed changes

Thank you for meeting with us on January 7, 2019 to further discuss the administration's interest in partnering with a financial services provider to implement a smart chip on IDNYC identification cards. Our organizations have outlined our serious concerns about this proposal and process, in prior conversations and in a joint letter dated December 26, 2018 (reattached here). Although we appreciated the opportunity to meet this week, we remain deeply concerned that the City is considering making major, unprecedented changes to the IDNYC program that could expose New Yorkers to serious privacy, surveillance, and financial risks, and undermine public trust in the program. As organizations that have been instrumental in shaping and building support for IDNYC since 2014, we remain committed to the principles of inclusivity, equity, and security on which IDNYC was built. We appreciate your attention and responsiveness to community concerns.

We respectfully request the administration's responses, in writing, to our organizations' outstanding concerns and questions, below, by next Friday, January 17, 2019. Concrete answers to these questions and concerns are necessary to fully understand and address specific risks presented by the potential addition of a smart chip to IDNYC cards.

We additionally ask your agencies to commit to holding public hearings on proposed IDNYC changes. We were pleased to hear from MOIA, at this week's meeting, that the City has not decided whether it will move forward with an IDNYC smart chip. However, the administration has moved forward significantly and quickly, without sufficient engagement of community groups, advocates, City Council Members, or the general public.¹¹ With so much at stake, the City must conduct hearings and ensure a thorough, transparent public process.

Our concerns and questions about the IDNYC smart chip proposal include:

Unclear rationale and motivation for the change, given the risks to vulnerable NYers. The administration has cited multiple, distinct reasons for incorporating EMV/RFID smart chip technology on IDNYC cards. These include a desire to address "banking deserts" in NYC; to integrate IDNYC with MTA's planned contactless card payment system; to integrate IDNYC with other city agencies and services, such as DHS shelters and NYC Health + Hospitals; and to

¹¹ The City issued a Request for Expressions of Interest (RFEI) in an "IDNYC Dual Interface Card Payment Initiative" on May 30, 2018, with responses from financial services providers due by June 29, 2018. In mid-December, the City issued a solicitation for negotiated acquisition, with responses from financial services providers due on January 8, 2019 (the deadline has since been extended by 10 days).

ensure IDNYC's longevity and continued appeal, including in the event that NYS driver licenses become available to undocumented immigrants. No other municipal ID program, to our knowledge, has implemented the kind of technology and broad integration that NYC is now considering. Particularly in the current political context, unnecessary data collection on immigrant, homeless, and other New Yorkers is of grave concern. The proposed changes raise risks that outweigh any potential benefits, and could chill uptake and renewal of IDNYC cards among populations it was designed to serve.

Questions:

- Can you describe the administration's due diligence in crafting, and evaluating responses to, the IDNYC smart chip RFEI and its privacy and technological criteria? With which entities (technology, privacy, and financial services experts, regulators, and others) has the City consulted? What examples have you identified of successful municipal ID/financial services/technology partnerships, and what were their outcomes?
- Would the City collect smart chip data, either individually or in the aggregate, about IDNYC cardholders' activity? (The negotiated acquisition solicitation specifically states that "data collected through the financial institution cannot be shared with any entity *other than the City of New York.*")
- What do you project would be the City's annual cost to contract with a financial services provider to host and execute a smart chip? Is the City seeking to generate revenue from any of the proposed smart card features?

Privacy and surveillance risks, particularly those associated with RFID technology and data collection. Possible RFID harms are significant, and the potential for harm is unclear from the City's statements and RFEI. Specifically:

- RFID is not a standard but rather a collection of terms for different wireless identification technologies. Security of wireless transmission and encryption protocols depends on vendor and model. The RFEI only calls for ISO 7816 (contact), 14443 A/B (contactless), and 7813 (magnetic stripe) standards, which by themselves do not implement security or privacy features. Some products are highly insecure and have been hacked or cloned in the past.¹²
- Potential identification of IDNYC cardholders would be dependent on RFID implementation. The RFID technology could reveal from a distance whether someone is carrying an IDNYC card. Some RFID cards are readable with widely accessible technology from distances of more than 200 feet, without the cardholder's knowledge.¹³ It is unclear how the chosen technology would transmit information, and whether it would allow for the distinction/tracking of IDNYC cards specifically. Regardless of encryption protocol, a RFID wireless implementation is passively powered by induction response, which allows for card visibility to transmitters and could make the IDNYC appear—based on frequency, communication, or response—unique compared to other RFID chip cards.
- Cardholders would not be able to "opt in" to or "opt out" of the RFID technology. The administration has emphasized that IDNYC cardholders would have the option to

¹² RFID/NFC- A Pentesters Perspective by Gerhard Klostermeier:

<https://media.ccc.de/v/gpn18-79-rfid-nfc-grundlagen-a-pentesters-perspective#t=333>

¹³ The 900MHz EPC Gen2 tag (found in Enhanced Drivers Licenses and some passports) is readable from 30 feet with off-the-shelf equipment. Without amplifying the signal from a commercial reader the tag can be read from 69 feet, and with less than \$1000 of radio equipment it can be read from 217 feet away. See: DEF CON 18 - Chris Paget - Extreme-Range RFID Tracking: https://www.youtube.com/watch?v=q9_8F_BKeto

activate (or not) the financial services and other features. However, RFID cannot be turned on or off, and all IDNYC cardholders would be exposed to the risks associated with this technology—even if they did not opt in to the financial services, MTA, or other features.

Questions:

- What are the privacy risks to which the RFID chip would expose IDNYC cardholders?
 - Specifically, what type of data would be collected with the use of this technology? Would the card or RFID chip vendor, MTA, or any other entity collect location/usage data from the contactless cards?
 - From what distance could the contactless RFID cards be read? How would the public check to verify that any RFID cannot be tracked from a distance without the cardholder's knowledge?
 - What measures would the City implement to prevent city or federal agencies, or hackers, from being able to track the location of the IDNYC RFID cards?
 - What disclosures would vendors be required to share with the City and the public about how they implement any new or contactless features?
 - Would RFID implementation make the IDNYC appear—based on frequency, communication, response—unique compared to other RFID chip cards?
- Would NYPD or other law enforcement agencies be able to access the data? If so, what procedures would be required for them to do so? How have your agencies engaged NYPD or other law enforcement agencies in the smart chip research/planning, to date?
- What protections would be available to cardholders if a federal government agency demanded data/information/analysis from the City or the RFID chip vendor?
- When and how would the City be made aware of any data requests made to the private vendor and whether or not they were fulfilled?

Concerns regarding IDNYC integration with financial services and fintech companies.

The City's RFEI seeks a financial services provider to host and execute a dual interface smart chip on IDNYC cards. The financial services entity would also provide what we understand to be a reloadable prepaid debit account or similar payment option for "unbanked" cardholders. Cities that have previously attempted to incorporate (or considered incorporating) financial services directly into their municipal ID cards have ceased to do so, because of widespread problems.¹⁴ Local advocates strongly opposed a similar proposal when IDNYC was created in 2014.¹⁵

There are myriad privacy and financial risks to equipping an identity card, such as IDNYC, that contains a wealth of sensitive personal information about the cardholder—including name, address, date of birth, and ID number—with the functionality to carry out routine financial transactions. Many credit card companies have rules that prohibit merchants from requiring cardholders to provide additional identification when making purchases, precisely

¹⁴ <https://www.sfgate.com/bayarea/article/Oakland-debit-card-fees-draw-criticism-4368734.php#ixzz2O5Nxqfka>; <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/unirush-llc-and-mastercard-international-incorporated/> and <https://www.ftc.gov/news-events/press-releases/2016/11/ftc-charges-prepaid-card-company-deceptively-marketed-reloadable>

¹⁵ The Center for Popular Democracy's *Building Identity: A Toolkit for Designing and Implementing a Successful Municipal ID Program* recommends against inclusion of a reloadable debit card feature on municipal IDs. https://populardemocracy.org/sites/default/files/Municipal-ID-Report_WEB_Nov2015_0.pdf

to guard against identity theft and other risks.¹⁶ In the IDNYC smart chip scenario, the identification and payment card would be one and the same, depriving cardholders of these protections. Problems associated with hybrid student ID-debit cards may also be instructive: students have been hard-hit with overdraft and other fees; and the exclusive partnerships between colleges and financial institutions have exposed students to aggressive marketing by the financial partners.¹⁷

Additional concerns include:

- Widespread problems associated with the financial technology (fintech) industry, which includes companies that rely on broad and invasive data collection, and that often attempt to circumvent state fair lending and consumer protection laws.¹⁸ Under the Trump administration, federal regulators are actively seeking to exempt fintech companies from key consumer protection rules.¹⁹
- Prepaid debit cards and fintech products and services often carry high and hidden fees and are not uniformly covered by strong federal consumer protections that apply to bank and credit union accounts—reinforcing a two-tiered system in which the poor pay more for less advantageous (and sometimes predatory) services.
- The administration has previously stated to advocates that it is interested in making credit available to IDNYC cardholders through a smart chip—a dangerous move that could open the door to usurious lending and other abuses that are currently illegal in NYS. (We were informed by MOIA, at our January 7, 2019 meeting, that loans are not currently a priority.)

Questions:

- Has the administration consulted with credit unions and banks that accept IDNYC, about ways to expand responsible financial services access to underserved populations?
- What steps has the administration undertaken to secure broader acceptance of IDNYC—including by Designated Banks that hold municipal deposits? Have you consulted with advocates, regulators, and elected officials regarding ways to increase bank acceptance?
- We understand that one of the administration's priorities is to increase access to banking for New Yorkers through IDNYC. Can you clarify how a smart chip would directly allow IDNYC cardholders to open bank accounts?
- Federal Know-Your-Customer rules require financial institutions to retain customers' identification and other underlying documents used to open accounts, while an account is open and for 5 years after an account is closed. Could this jeopardize in any way IDNYC's commitment to not retain cardholders' personal background documents? How would the City's agreement with a financial entity be structured to avoid conflicts

¹⁶ See, e.g., MasterCard Rules, dated December 18, 2018, at <https://www.mastercard.us/content/dam/mccom/global/documents/mastercard-rules.pdf>, at p. 93, section 5.10.4; and Visa Core Rules and Visa Product and Service Rules, dated October 13, 2018, at p. 100, section 1.5.5.3

¹⁷ See Center for Responsible Lending, *Overdraft U.: Student Bank Accounts Often Loaded with High Overdraft Fees*, March 2015, http://www.responsiblelending.org/student-loans/research-policy/overdraft_u_final.pdf.

¹⁸ https://www.google.com/url?q=https://www.banking.senate.gov/download/pasquale-testimony-9-12-17pdf&sa=D&ust=1546531847924000&usq=AFQjCNEuinJlk00_U_5hFPUZQLfQ7oyVGA;

¹⁹ <https://news.bloomberglaw.com/banking-law/2019-outlook-cfpb-innovation-policies-may-face-state-challenges> and <https://www.americanbanker.com/opinion/cfpbs-disclosure-sandbox-puts-consumers-at-risk> and <https://www.occ.treas.gov/topics/responsible-innovation/comments/comment-ny-dfs.pdf> and <https://www.occ.treas.gov/topics/responsible-innovation/comments/comment-ny-atty-general.pdf>

between local and federal law? Could someone's records held by a smart chip provider be subject to Freedom of Information Law (if not, please explain why not)?

Thank you for your time and consideration. If the City requires additional time to answer some of our questions, please provide as much information as you are able, and a timeframe for answers to the remaining questions, by Friday, January 17, 2019. For further info, please contact Mizue Aizeki (maizeki@immigrantdefenseproject.org); Deyanira Del Rio (dey@neweconomynyc.org); Jonathan Stribling-Uss (jstriblinguss@nyclu.org); or Betsy Plum (eplum@nyic.org).

December 26, 2018

[Resubmitted on January 11, 2019 with additional signatories]

Mayor Bill de Blasio
City Hall
New York, NY 10007

Dear Mayor de Blasio:

The undersigned organizations write to express our serious concerns about the City of New York's plan to implement "smart chip" technology and a financial services component on NYC's municipal identification (IDNYC) cards. The proposed changes raise a host of privacy, security, consumer protection, and other questions and concerns, which we have attempted to raise with the City agencies coordinating this process. While the City has elicited proposals from a number of financial services providers, it has failed to meaningfully engage our public interest organizations or the 1.2 million IDNYC cardholders that stand to be affected, or to substantively address concerns we have raised. With so much at stake for the undocumented, homeless, and other New Yorkers who rely on IDNYC in their daily lives, we urge the City to change course.

We call on the City to immediately halt the IDNYC “smart chip” procurement process and to conduct public hearings about this proposal, at which the public and subject matter experts may testify. The City must engage in a transparent, accountable process and ensure that the IDNYC program does not inadvertently expose New Yorkers to serious privacy and financial risks, as well as increased vulnerability due to potential surveillance.

Given the Trump administration’s ongoing assault on immigrants, including heightened threat from Immigration and Customs Enforcement (ICE) and other Department of Homeland Security (DHS) agencies -- not to mention the long list of data breaches in the financial services arena -- there is clearly a tremendous amount at stake for New Yorkers with this proposal. The incorporation of the smart chip, and the City’s intention to enable multiple uses for the IDNYC, has the potential to expose New Yorkers to a wide range of privacy and surveillance risks. The City’s interest in including a small dollar loan feature in the card raises additional red flags, as this could make IDNYC cardholders vulnerable to high-cost loans and other abuses. These are threshold concerns that call for careful scrutiny; the process should not be rushed or allowed to bypass meaningful public input.

Our organizations include key members of the city-wide coalition that was instrumental in shaping and building support for the IDNYC program, in 2014, as well as community development credit unions that readily accept IDNYC to open accounts and provide loans and other vital financial services to New Yorkers. Collectively, we represent hundreds of thousands of immigrant, senior, homeless, and other New Yorkers who have benefited tremendously from the IDNYC program. We are grateful to you and to New York City for initiating IDNYC, which has grown to become the largest municipal ID program in the country. We are pleased that since the program’s inception, the City has made changes to IDNYC to strengthen privacy protections and expand access to the ID. We trust that we share the overarching goal of advancing New Yorkers’ security and access to the City. We appreciate also the administration’s interest in increasing financial options for underserved New Yorkers. The current proposal, however, presents risks that far outweigh any potential benefits.

Collectively, our organizations have decades of expertise in a range of privacy, financial inclusion, regulatory, consumer protection, immigration, DHS and ICE surveillance and deportation practices, and other relevant matters, which form the basis of our concerns regarding the current proposal. We are troubled also by the lack of transparency and meaningful public engagement that such a large-scale and far-reaching proposal warrants. The participatory process in which the City engaged when designing IDNYC was critical to ensuring that the program met New Yorkers’ needs, and to building widespread trust and buy-in for the program. A similar process must be instituted now.

Our organizations learned that the City was seeking a financial services partner after it issued a Request for Expressions of Interest (RFEI), on May 30, 2018, regarding an “IDNYC Dual Interface Card Payments Initiative.” Several of our groups immediately contacted the Mayor’s Office of Immigrant Affairs, Human Resources Administration, and the office of the Deputy Mayor for Strategic Initiatives to express our concerns.

After consistently telling groups for months that the RFEI was merely exploratory, and that there would be ample time and a process for our organizations to provide input, the City recently indicated that it is on a fast track to implementing the chip-embedded cards. A single meeting was convened with groups, in August, to address this proposal. The City has not yet followed through on commitments to provide greater details and to bring other stakeholders into the conversation. Just last week, the City released a Negotiated Acquisition solicitation, directed at financial services providers, with responses due by January 8, 2019. (We must note that the timeline for the solicitation coincides with the end-of-year holidays -- another indication of flawed process.)

We look forward to discussing in greater detail our organizations' serious concerns relating to cardholder privacy, data collection and sharing, surveillance, consumer protection, financial technology, fair lending, and equity issues associated with the smart chip proposal. We remain eager to work with the City to address financial access barriers that immigrant, senior, and other low-income New Yorkers face, and to develop solutions that ensure equity and fairness.

For further information, please feel free to contact Mizue Aizeki, Deputy Director, Immigrant Defense Project (maizeki@immigrantdefenseproject.org); Theo Oshiro, Deputy Director, Make the Road New York (theo.oshiro@maketheroadny.org); Deyanira Del Rio, Co-Director, New Economy Project (dey@neweconomynyc.org); or Betsy Plum, Vice President of Policy, New York Immigration Coalition (eplum@nyic.org).

Sincerely,

Arab American Association of New York
Asian American Federation
Brooklyn Cooperative Federal Credit Union
Center for Popular Democracy
Families for Freedom
Immigrant Defense Project
Inclusiv (formerly National Federation of Community Development Credit Unions)
Lower East Side People's Federal Credit Union
Make the Road NY
MinKwon Center for Community Action
Neighborhood Trust Federal Credit Union
New Economy Project
New Sanctuary Coalition
New York Civil Liberties Union (NYCLU)
New York Immigration Coalition
Northern Manhattan Coalition for Immigrant Rights

Cc:

NYC Council Speaker Corey Johnson
NYC Council Member Daniel Dromm
NYC Council Member Carlos Menchaca

Commissioner Steven Banks, Human Resources Administration (HRA)
Commissioner Bitta Mostofi, Mayor's Office of Immigrant Affairs
Laura Negrón, Chief Privacy Officer for the City of New York
Nicole Perry, Deputy Commissioner for Office of Financial Empowerment, DCA
Commissioner Lorelei Salas, Department of Consumer Affairs (DCA)
Colette Samman, IDNYC Executive Director, HRA
J. Phillip Thompson, Deputy Mayor for Strategic Initiatives



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**Testimony of Jonathan Stribling-Uss on Behalf of the
New York Civil Liberties Union
Before the City Council Committee on Immigration
Hearing on Oversight of the New York City Identification (IDNYC) Program**

February 11, 2019

The New York Civil Liberties Union (“NYCLU”) respectfully submits the following testimony regarding the IDNYC card. The NYCLU, the New York affiliate of the American Civil Liberties Union, is a not-for-profit, non-partisan organization with eight offices throughout the state and more than 180,000 members and supporters. The NYCLU’s mission is to promote and protect the fundamental rights, principles, and values embodied in the Bill of Rights of the U.S. Constitution and the New York Constitution.

Background on NYCLU involvement in the IDNYC program

At NYCLU our priorities include advocating for the rights of immigrants across New York and protecting individuals’ privacy from unwarranted government intrusion. Because the City’s proposal to include contactless technology in its IDNYC cards poses risks both to immigrants who live in our city and to the general public’s privacy, we write today to express our concerns about the proposal to include invasive technology in this otherwise valuable resource.¹

When the IDNYC bill was first proposed in July 2014, the NYCLU objected to the initial requirement that the City store New Yorkers’ personal documentation in a manner that could be accessed by law enforcement without a demonstration of probable cause.² However, when the card was launched in 2015, the City responded to these concerns by ensuring that the IDNYC database does not retain individual documents.³ Because the City recognized the unique harm of creating a new database that would include immense amounts of personal data and the IDNYC

¹ City of New York, *Request for Expressions of Interest (RFEI) IDNYC Dual Interface Card Payments Initiative*, available at <https://tech.cityofnewyork.us/wp-content/uploads/2018/05/IDNYC-Smart-Chip-RFEI.pdf> (last accessed 2/11/2019)

² NYCLU, *Testimony in Opposition to Proposed Rules Governing The City Identification Card Program*, available at <https://www.nyclu.org/en/publications/testimony-opposition-proposed-rules-governing-city-identification-card-program> See also NYCLU, *Statement of the NYCLU Regarding the New York City Municipal ID Bill*, available at <https://www.nyclu.org/en/publications/statement-nyclu-regarding-new-york-city-municipal-id-bill> (last accessed 2/11/2019)

³ NYCLU, *City Can Reduce Risks that NYC IDs Pose for Undocumented New Yorkers*, available at <https://www.nyclu.org/en/press-releases/nyclu-city-can-reduce-risks-nyc-ids-pose-undocumented-new-yorkers> (last accessed 2/11/2019)

program was launched in a manner that protected the privacy of card-holders. Today, we are cheered by the fact that the IDNYC now has helped an estimated 1.2 million New Yorkers access basic services.⁴ And the City deserves credit for acknowledging the potential risks of harm to card-holders – particularly those without documentation or in a fluid citizenship status – and designing the IDNYC system to minimize those potential harms.

IDNYC has reached these 1.2 million card-holders under a system in which each person knowingly consented to the City holding their data. Indeed, IDNYC requires that people show up *in person* at an office within city limits with physical documents –eliminating the need for the city to maintain a vast database of personal documents that could be hacked or breached.⁵ This physical contact is a smart strategy and is an excellent proxy for informed consent – that is, every card-holder knows precisely which information they’ve given to the City and that these documents are not digitally retained. We are very concerned that the City’s recent proposal to utilize contactless RFID (Radio Frequency Identification) technology risks upending this cautious, consensual, and low-risk approach.

The Risks of Contactless Technology

The privacy and surveillance risks associated with contactless RFID technology are significant. The City has not informed us of the specific contactless technology or vendor they are considering for the new IDNYC card, but contactless technology opens up the very real possibility that location, usage patterns, and IDNYC ownership can be remotely “sniffed” by third parties, creating acute new privacy risks for card-holders. “Contactless” technology means that information stored on the IDNYC – and without question, the existence and use of the card itself – could be revealed from a distance without the card-holder’s knowledge or consent. And because the IDNYC was designed in large part to ensure that already vulnerable New Yorkers – including those without secured immigration status – could access basic services, even the fact that an individual holds an IDNYC could be information of interest to law enforcement agencies. Data related to the IDNYC could then be obtained by the NYPD, FBI, ICE, or Department of Homeland Security.

We urge the City to refocus its implementation of this program on the vulnerable communities it was intended to serve, rather than allowing IDNYC to become a tool for law enforcement. By adopting simple privacy protections, the City can take important steps in that direction. But the City’s statements and 2018 request to vendors (RFEI) indicates that the City has not fully understood the risks of contactless RFID technology.⁶ The RFEI uses the term “smart card” in ways that are confusing and unclear. A smart card can refer to a number of

⁴ City of New York, *New York City Identity Card Program Quarterly Report October 1, 2018 – December 31, 2018* available at <https://www1.nyc.gov/assets/idnyc/downloads/pdf/quarterly-report-20181231.pdf> (last accessed 2/11/2019)

⁵ City of New York, *New York City Identity Card Program Quarterly Report October 1, 2018 – December 31, 2018* available at <https://www1.nyc.gov/assets/idnyc/downloads/pdf/quarterly-report-20181231.pdf> (last accessed 2/11/2019)

⁶ City of New York, *Request for Expressions of Interest (RFEI) IDNYC Dual Interface Card Payments Initiative*, available at <https://tech.cityofnewyork.us/wp-content/uploads/2018/05/IDNYC-Smart-Chip-RFEI.pdf> (last accessed 2/11/2019)

distinct features: Broadly, the term can refer to a chipped card that either creates encryption for contact or contactless communications, or a contactless card, or a card with a full operating system that is able to do its own calculations and hold significant amounts of data on a powered chip. The City’s RFEI only requests vendor proposals on three clear technological standards: 1) ISO 7816 (contact), 2) 14443 A/B (contactless), and 3) 7813 (magnetic stripe). None of these by themselves implement security or privacy features.⁷

One form of “smart” chip technology is an EVM (Europay, Visa, Mastercard) contact card, which is the chip that most people now have in their ATM cards. These contact chip cards do not pose the tracking risks of the various RFID/NFC cards, because the user has to physically insert their card into a device in order to use it – thus requiring specific knowledge and consent to each use. However, EVM security to ensure those transactions cannot be hacked is still a critical priority. If contact EVM cards are used they need a robust encryption standards for all data transfers.⁸

Another form of “smart” chip technology is RFID. RFID is not a standard, but rather a term for a spectrum of different wireless identification technologies.⁹ Any “contactless” card that lacks its own power source is dependent on a RFID reader to transmit information across a distance. The security of RFID wireless transmission and encryption protocols depends on vendor and model. Some products are highly insecure and have been hacked or cloned in the past.¹⁰ This includes Near Field Communications (NFC) contactless chip cards, which have been hacked despite the promises of a closer “read” range.¹¹

Because RFID wireless implementation is passively powered by a secondary device (the device designed to read the card’s data), the ability to track it *cannot be turned off*. The person with the card *reader* controls the distance at which the card can be read – because the card is a tag that responds to radio waves.¹² This enables any prospective card-reader (including hackers, law enforcement, or anyone else with the equipment and motivation) to assess information from

⁷ City of New York, *Request for Expressions of Interest (RFEI) IDNYC Dual Interface Card Payments Initiative*, available at <https://tech.cityofnewyork.us/wp-content/uploads/2018/05/IDNYC-Smart-Chip-RFEI.pdf> (last accessed 2/11/2019)

⁸ Nir Valtman and Patrick Watson, *Breaking the Payment Points of Interaction (POI)* available at <https://www.blackhat.com/docs/us-16/materials/us-16-Valtman-Breaking-Payment-Points-of-Interaction.pdf> (last accessed 2/11/2019)

⁹ Gerhard Klostermeier, *RFID/NFC-Grundlagen - A Pentesters Perspective* available at <https://media.ccc.de/v/gpn18-79-rfid-nfc-grundlagen-a-pentesters-perspective#t=333> (last accessed 2/11/2019) See also *GPN18 - RFID/NFC-Grundlagen - A Pentesters Perspective* available at <https://www.youtube.com/watch?v=06nal8BuB2w> (last accessed 2/11/2019)

¹⁰ Gerhard Klostermeier, *RFID/NFC-Grundlagen - A Pentesters Perspective* available at <https://media.ccc.de/v/gpn18-79-rfid-nfc-grundlagen-a-pentesters-perspective#t=333> (last accessed 2/11/2019) See also *GPN18 - RFID/NFC-Grundlagen - A Pentesters Perspective* available at <https://www.youtube.com/watch?v=06nal8BuB2w> (last accessed 2/11/2019)

¹¹ Renaud Lifchitz, *Hacking the NFC credit cards for fun and debit* Hackto Ergo Sum 2012 available at [https://deepsec.net/docs/Slides/2012/DeepSec_2012_Renaud_Lifchitz_-_Hacking_the_NFC_Credit_Cards_for_Fun_and_Debit_%3b\).pdf](https://deepsec.net/docs/Slides/2012/DeepSec_2012_Renaud_Lifchitz_-_Hacking_the_NFC_Credit_Cards_for_Fun_and_Debit_%3b).pdf) (last accessed 2/11/2019) Gerhard Klostermeier *RFID/NFC-Grundlagen - A Pentesters Perspective* available at <https://media.ccc.de/v/gpn18-79-rfid-nfc-grundlagen-a-pentesters-perspective#t=333> (last accessed 2/11/2019)

¹² In an RFID system a reader includes a radio transmitter and receiver.

a card with contactless technology. In the IDNYC, that would mean that third parties could tune a card-reader to the proper frequency and discern—based on frequency, communication, or response—which transactions and individuals were using or carrying an IDNYC card.

Inserting contactless technology in a card designed for vulnerable New Yorkers could turn this ID from something that assists community members into a card that could create acute new privacy and tracking risks for them. Especially in our polarized political climate, vulnerable communities need the highest standards of security and privacy. Unfortunately, the City’s track record on location tracking is inconsistent and troubling. For example, in the roll out of RFID-enabled EZPass readers, the City claimed it would only use such readers at bridges and tunnels for toll purposes.¹³ However, in 2013 NYCLU proved that the City had actually created a grid of readers where they could track traffic movement of the EZPass RFID tags through all of downtown Manhattan and many outer boroughs, because they installed readers on most major intersections without notice to residents.¹⁴ This act wasn’t just poor public policy – the City is walking on constitutional thin ice by tracking its’ residents granular location data without notice or consent. The Supreme Court’s recent holding in *Carpenter v. U.S.* confirms that a person maintains a legitimate expectation of privacy, for Fourth Amendment purposes, in the record of their physical movements.

The information and inferences that could be drawn from the data leaked from a contactless IDNYC card are even more invasive than that from an EZpass reader – because they are used in a number of contexts, rather than just driving. And the consequences of this data leak from the IDNYC’s card use, whether from law enforcement, hacking, or simple database error, could paint a detailed target on the backs of those community members who hold one.

Hacking and Data Mining Risks

Significant vulnerabilities have been demonstrated in RFID cards over the past 10 years.¹⁵ Most critically some versions of RFID cards, including the types that are in enhanced licenses, can be activated without the knowledge of the card holder at a distance of more than 250 feet with technology that can be bought for less than \$1000.¹⁶ This includes the subset of RFID known as Near Field Communications (NFC) technology. This contactless chip technology is regularly marketed as only having a read range of 3 to 5 cm, but security professionals have been able to read it at up to 5 feet and passively sniff it at up to 50 feet.¹⁷

¹³ NYCLU, *E-ZPass Readers* available at <https://www.nyclu.org/en/e-zpass-readers> (last accessed 2/11/2019)

¹⁴ ACLU, *Newly Obtained Records Reveal Extensive Monitoring of E-ZPass Tags Throughout New York* available at <https://www.aclu.org/blog/privacy-technology/location-tracking/newly-obtained-records-reveal-extensive-monitoring-e-zpass> (last accessed 2/11/2019)

¹⁵ Márcio Almeida, *Hacking Mifare Classic Cards* available at <https://www.blackhat.com/docs/sp-14/materials/arsenal/sp-14-Almeida-Hacking-MIFARE-Classic-Cards-Slides.pdf> (last accessed 2/11/2019)

¹⁶ Chris Paget, *DEF CON 18 - Chris Paget - Extreme-Range RFID Tracking* available at <https://www.scribd.com/document/145653052/Extreme-range-RFID-hacking-by-Chris-now-Kristin-Paget> (last accessed 2/11/2019) See also *DEF CON 18 - Chris Paget - Extreme-Range RFID Tracking* available at https://www.youtube.com/watch?v=q9_8F_BKeto (last accessed 2/11/2019)

¹⁷ Renaud Lifchitz, *Hacking the NFC credit cards for fun and debit at Hackito Ergo Sum 2012* available at [https://deepsec.net/docs/Slides/2012/DeepSec_2012_Renaud_Lifchitz_-_Hacking_the_NFC_Credit_Cards_for_Fun_and_Debit_%3b\).pdf](https://deepsec.net/docs/Slides/2012/DeepSec_2012_Renaud_Lifchitz_-_Hacking_the_NFC_Credit_Cards_for_Fun_and_Debit_%3b).pdf) (last accessed 2/11/2019) See also Gerhard

These attacks are ongoing in 2019, utilizing an off-the-shelf antenna which costs a few thousand dollars and can fit in a backpack.¹⁸

Many models of the cards can also be cloned by a card reader, simply by being close to the card itself. For example, nearly 3.5 billion trademarked Mifare RFID cards have been produced.¹⁹ The vast majority of these are Mifare Classic Cards; the encryption on these cards was broken in 2008 and they are now completely vulnerable to cloning and sniffing of any personally-identifiable information on the card.²⁰ Given this history, the City has a duty to take any corporate representations about the security of contactless cards, including NFC cards, with a shaker of salt. Indeed, the City simply cannot truthfully promise its residents that any IDNYC card with contactless technology will keep their whereabouts secure.

Creating one ID for many functions increases data mining risks, especially for the vulnerable individuals whom the IDNYC was designed to serve. The data stored or recorded by an IDNYC could be overlaid with traffic or usage patterns to de-anonymize it (meaning a third party could use bits of ostensibly anonymous data to re-identify the person associated with the card's use). Academic studies have consistently shown that it only takes 3 pieces of known data to de-anonymize an individual in a whole data set.²¹ Even data that doesn't have any personal identifying information could still be correlated to connect a card or payment identifier. Just the time, place, sequence, or timing of IDNYC use would then allow an advertising company or government agency to undo the pseudonymous numerical identifier that the transit agency or payment company applied to each card. This would then allow them to go back in time, over all the travel or transaction data that they hold, and see details of all the transactions or travel that individual ever had in the system. The City has not given us enough information to understand what exact technology will be included in the proposed standards.

Conclusion

We want an effective IDNYC card, without the risk of litigation or the possibility of mass surveillance overreach into vulnerable communities. Let's make the IDNYC even more

Klostermeier *RFID/NFC-Grundlagen - A Pentesters Perspective* available at <https://media.ccc.de/v/gpn18-79-rfid-nfc-grundlagen-a-pentesters-perspective#t=333> (last accessed 2/11/2019)

¹⁸ Gerhard Klostermeier, *RFID/NFC-Grundlagen - A Pentesters Perspective* available at <https://media.ccc.de/v/gpn18-79-rfid-nfc-grundlagen-a-pentesters-perspective#t=333> (last accessed 2/11/2019) See also *GPN18 - RFID/NFC-Grundlagen - A Pentesters Perspective* available at <https://www.youtube.com/watch?v=06nal8BuB2w> (last accessed 2/11/2019)

¹⁹ Márcio Almeida, *Hacking Mifare Classic Cards* available at <https://www.blackhat.com/docs/sp-14/materials/arsenal/sp-14-Almeida-Hacking-MIFARE-Classic-Cards-Slides.pdf> (last accessed 2/11/2019)

²⁰ Flavio D. Garcia, et al. *Dismantling MIFARE Classic* available at <http://www.cs.ru.nl/~flaviog/publications/Dismantling.Mifare.pdf> (last accessed 2/11/2019) See also Geeta Dayal, *How they hacked it: The MiFare RFID crack explained* available at <https://www.computerworld.com/article/2537817/security0/how-they-hacked-it--the-mifare-rfid-crack-explained.html> (last accessed 2/11/2019)

²¹ Paul Ohm, *Broken Promises of Privacy: Responding to the Surprising Failure of Anonymization* *UCLA Law Review*, Vol. 57, p. 1701, (2010) available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1450006 (last accessed 2/11/2019) See also Philippe Golle, *Revisiting the Uniqueness of Simple Demographics in the US Population* available at <http://crypto.stanford.edu/~pgolle/papers/census.pdf> (last accessed 2/11/2019)

successful in the coming years and avoid risky contactless technology that could hurt individuals or undermine the City's original purpose and long term goal in creating the IDNYC.

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 2-11-19

(PLEASE PRINT)

Name: Stephanie Gomez, Director of Immigration

Address: 55 Exchange Place NY, NY. Initiatives

I represent: Hispanic Federation

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 2/11/2019

(PLEASE PRINT)

Name: Betsy Plum

Address: _____

I represent: New York Immigration Coalition

Address: 131 W. 33rd St. NY NY 10001

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: HARPREET S. TOOR

Address: 9735 120 St. R. Hall 11419

I represent: The Sikh Cultural Center

Address: 9630 118 St. R. Hall 11419

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Sonia Daly

Address: _____

I represent: DSS

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Bittu Mostofi

Address: _____

I represent: MOIA

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Sharon Levy

Address: 5 West 63rd Street

I represent: YMCA of Greater NY

Address: 5 West 63rd Street

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 2/11/2019

(PLEASE PRINT)

Name: SOPHIA Genovese

Address: _____

I represent: American Immigration Lawyers Assoc.

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 3740 Res. No. _____

in favor in opposition

Date: 2/11/2019

(PLEASE PRINT)

Name: Jonathan Stribling-Uss

Address: 125 Broad St. 19th Floor

I represent: The New York Civil Liberties Union

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: Feb. 11, 2019

(PLEASE PRINT)

Name: ELISABETH RHYNE

Address: 4896 OLD DOMINION DR ARLINGTON VA

I represent: CENTER FOR FINANCIAL INCLUSION

Address: 1101 15th St NW WASHINGTON DC

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 2/11/2019

(PLEASE PRINT)

Name: Alicia Borlada

Address: 37 Avenue B, New York, NY 10009

I represent: Inclusive and network of conditions

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 2/11/19

(PLEASE PRINT)

Name: Kinjal Patel

Address: 36 Richmond Terrace, Suite 205

I represent: STATEN ISLAND LSNYC

Address: _____

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: Feb 11, 2019

(PLEASE PRINT)

Name: Deyanira Del Rio

Address: c/o New Economy Project 121 W. 27th St

I represent: New Economy Project

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: 2/11/19

(PLEASE PRINT)

Name: MIZUE ALZEI9

Address: 40 W. 39th St 10018

I represent: Immigrant Defense Project

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Avi Greenstein - BPJCC

Address: 4912 - 14 Ave.

I represent: BPJCC

Address: 4912 - 14 Ave

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: Natalia Aristizabal

Address: 92-10 Roosevelt Ave

I represent: Make the Road NY

Address: _____

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. _____ Res. No. _____

in favor in opposition

Date: _____

(PLEASE PRINT)

Name: URGEN SHERPA NY11373

Address: 4070 HAMPTON ST. Apt. 5L, Elmhurst,

I represent: United Sherpa Association

Address: 41-01 75th Street, Elmhurst, NY11373

Please complete this card and return to the Sergeant-at-Arms