



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.<sup>1</sup>

**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.

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<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> NetSpend was cited for engaging in deceptive marketing and other

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<sup>2</sup> 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.

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

<sup>4</sup> See, CPD *Municipal ID Toolkit*, at [https://populardemocracy.org/sites/default/files/Municipal-ID-Report\\_WEB\\_Nov2015\\_0.pdf](https://populardemocracy.org/sites/default/files/Municipal-ID-Report_WEB_Nov2015_0.pdf)

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

practices, and the list goes on.<sup>6</sup> 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.<sup>7</sup> 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.”<sup>8</sup>

Under the Trump administration, federal regulators are seeking to exempt fintech companies from key consumer protection rules.<sup>9</sup> 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.<sup>10</sup> 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

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

<sup>7</sup> 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](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)

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

<sup>9</sup> <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>

<sup>10</sup> See [https://www.dfs.ny.gov/reportpub/online\\_lending\\_survey\\_rpt\\_07112018.pdf](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.<sup>11</sup> 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

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<sup>11</sup> 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.<sup>12</sup>
- 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.<sup>13</sup> 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

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

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

<sup>13</sup> 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](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.<sup>14</sup> Local advocates strongly opposed a similar proposal when IDNYC was created in 2014.<sup>15</sup>

**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

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<sup>14</sup> <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>

<sup>15</sup> 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](https://populardemocracy.org/sites/default/files/Municipal-ID-Report_WEB_Nov2015_0.pdf)

to guard against identity theft and other risks.<sup>16</sup> 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.<sup>17</sup>

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.<sup>18</sup> Under the Trump administration, federal regulators are actively seeking to exempt fintech companies from key consumer protection rules.<sup>19</sup>
- 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

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<sup>16</sup> 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

<sup>17</sup> 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](http://www.responsiblelending.org/student-loans/research-policy/overdraft_u_final.pdf).

<sup>18</sup> [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;](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;)

<sup>19</sup> <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](mailto:maizeki@immigrantdefenseproject.org)); Theo Oshiro, Deputy Director, Make the Road New York ([theo.oshiro@maketheroadny.org](mailto:theo.oshiro@maketheroadny.org)); Deyanira Del Rio, Co-Director, New Economy Project ([dey@neweconomynyc.org](mailto:dey@neweconomynyc.org)); or Betsy Plum, Vice President of Policy, New York Immigration Coalition ([eplum@nyic.org](mailto: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