

1. ISSUED BY/ADDRESS OFFER TO: DISTRICT OF COLUMBIA DEPARTMENT OF MENTAL HEALTH (DMH) CONTRACTS AND PROCUREMENT ADMINISTRATION 64 NEW YORK AVENUE NE, 4th FLOOR WASHINGTON, DC 20002		2. PAGE OF PAGES: 1 of 79	
		3. CONTRACT NUMBER:	
		4. SOLICITATION NUMBER: RM-08-RFP-034-BY4-CPA	
		5. DATE ISSUED: AUGUST 4, 2008	
		6. OPENING/CLOSING TIME: AUGUST 4, 2008/SEPTEMBER 8, 2008	
7. TYPE OF SOLICITATION: N/A [X] REQUEST FOR PROPOSAL		8. DISCOUNT FOR PROMPT PAYMENT:	
10. INFORMATION CALL	NAME: Samuel J Feinberg, CPPO, CPPB Director, Contracts and Procurement Agency Chief Contracting Officer	TELEPHONE NUMBER: (202) 671-3188	B. E-MAIL ADDRESS: Samuel.Feinberg@dc.gov

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OFFER (TO BE COMPLETED BY THE CONTRACTOR)

12. In compliance with the above, the undersigned agrees, if the offer is accepted within **90** calendar days (unless a different period is inserted by the Contractor) from the date for receipt of offers specified above, that with respect to all terms and conditions by the DMH under "AWARD" below, this offer and the provisions of the RFP shall constitute a Formal Contract. All offers are subject to the terms and conditions contained in the solicitation.

13. ACKNOWLEDGEMENT OF AMENDMENTS (The Contractor acknowledge receipt of amendments to the SOLICITATION for The Contractors and related documents numbered and dated):			AMENDMENT NO:	DATE:
14. NAME AND ADDRESS OF THE CONTRACTOR:			15. NAME AND TITLE OF PERSONAL AUTHORIZED TO SIGN OFFER: (Type or Print)	
14A. TELEPHONE NUMBER:			15A. SIGNATURE:	15B. OFFER DATE:
AREA CODE:	NUMBER:	EXT:		

AWARD (To be completed by the DMH)

16. ACCEPTED AS TO THE FOLLOWING ITEMS:		17. AWARD AMOUNT:	
18. NAME OF CONTRACTING OFFICER: (TYPE OR PRINT) Samuel J. Feinberg, CPPO, CPPB Director, Contracts and Procurement Agency Chief Contracting Officer		19. CONTRACTING OFFICER SIGNATURE:	20. AWARD DATE:
IMPORTANT NOTICE: AWARD SHALL BE MADE ON THIS FORM, OR ON DMH FORM 26, OR BY OTHER AUTHORIZED OFFICIAL WRITTEN NOTICE			

SECTION B

SUPPLIES OR SERVICES AND PRICE

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SECTION B: SUPPLIES OR SERVICES AND PRICE

B.1 PURPOSE OF SOLICITATION

District of Columbia Government, Department of Mental Health (DMH) seeks a qualified Vendor to provide a comprehensive Medical Program consisting of direct Medical Care, Care Coordination, Continuity of Routine and Specialty Care, along with Wellness Care Services for approximately four hundred-thirty (430) Mental Health Inpatients at Saint Elizabeth Hospital (“Hospital” or “SEH”).

B.2 CONTRACT TYPE

The District is contemplating executing a Firm Fixed Price Contract with Four One Year Option Periods.

B.3 ORDERING PROCEDURES

Delivery or performance shall be made only as authorized by orders issued in accordance with ordering instructions from the District. The Contractor shall furnish to the District, when and if ordered, the supplies or services specified in the Schedule C as agreed upon in the Contract. There is no limit on the number of orders that may be issued. The District may issue orders requiring delivery to multiple destinations or performance at multiple locations. Any order issued during the effective period of this Contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The Contract shall govern the Contractor's and District's rights and obligations with respect to that order to the same extent as if the order were completed during the Contract's effective period; provided that the Contractor shall not be required to make any deliveries under this Contract after the Contract expiration date.

B.4 **SCHEDULE B - PRICING SCHEDULE**
B.1 BASE YEAR

Contract Line Item No. (CLIN)	Item Description	Quantity	Unit	Unit Price	Total Price
0001 (Section C.3.1)	DMH Health System – Saint Elizabeths Hospital	12	Month	\$ _____	\$ _____
0002 (Section C.3.2)	DMH Health System – Comprehensive Psychiatric Emergency Program (CPEP)	12	Month	\$ _____	\$ _____
0003 (Section C.3.3)	DMH Health System – Employee Health Unit	12	Month	\$ _____	\$ _____
Grand Total for B.1					\$ _____

 Print Name of Offeror

 Print Name of Authorized Person

 Signature of Authorized Person

 Title

 Date

B.2 OPTION YEAR ONE

Contract Line Item No. (CLIN)	Item Description	Quantity	Unit	Unit Price	Total Price
0001 (Section C.3.1)	DMH Health System – Saint Elizabeths Hospital	12	Month	\$ _____	\$ _____
0002 (Section C.3.2)	DMH Health System – Comprehensive Psychiatric Emergency Program (CPEP)	12	Month	\$ _____	\$ _____
0003 (Section C.3.3)	DMH Health System – Employee Health Unit	12	Month	\$ _____	\$ _____
Grand Total for B.2					\$ _____

 Print Name of Offeror

 Print Name of Authorized Person

 Signature of Authorized Person

 Title Date

B.3 OPTION YEAR TWO

Contract Line Item No. (CLIN)	Item Description	Quantity	Unit	Unit Price	Total Price
0001 (Section C.3.1)	DMH Health System – Saint Elizabeths Hospital	12	Month	\$ _____	\$ _____
0002 (Section C.3.2)	DMH Health System – Comprehensive Psychiatric Emergency Program (CPEP)	12	Month	\$ _____	\$ _____
0003 (Section C.3.3)	DMH Health System – Employee Health Unit	12	Month	\$ _____	\$ _____
Grand Total for B.3					\$ _____

 Print Name of Offeror

 Print Name of Authorized Person

 Signature of Authorized Person

 Title

 Date

B.4 OPTION YEAR THREE

Contract Line Item No. (CLIN)	Item Description	Quantity	Unit	Unit Price	Total Price
0001 (Section C.3.1)	DMH Health System – Saint Elizabeths Hospital	12	Month	\$ _____	\$ _____
0002 (Section C.3.2)	DMH Health System – Comprehensive Psychiatric Emergency Program (CPEP)	12	Month	\$ _____	\$ _____
0003 (Section C.3.3)	DMH Health System – Employee Health Unit	12	Month	\$ _____	\$ _____
Grand Total for B.4					\$ _____

 Print Name of Offeror

 Print Name of Authorized Person

 Signature of Authorized Person

 Title

 Date

B.5 OPTION YEAR FOUR

Contract Line Item No. (CLIN)	Item Description	Quantity	Unit	Unit Price	Total Price
0001 (Section C.3.1)	DMH Health System – Saint Elizabeths Hospital	12	Month	\$ _____	\$ _____
0002 (Section C.3.2)	DMH Health System – Comprehensive Psychiatric Emergency Program (CPEP)	12	Month	\$ _____	\$ _____
0003 (Section C.3.3)	DMH Health System – Employee Health Unit	12	Month	\$ _____	\$ _____
Grand Total for B.5					\$ _____

 Print Name of Offeror

 Print Name of Authorized Person

 Signature of Authorized Person

 Title

 Date

*** END OF SECTION B ***

SECTION C

DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

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SECTION C: DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

C.1 GENERAL REQUIREMENT

C.1.1 District of Columbia Government, Department of Mental Health (DMH) seeks a qualified Vendor to provide a comprehensive Medical Program consisting of direct Medical Care, Care Coordination, Continuity of Routine and Specialty Care, along with Wellness Care Services for approximately four hundred-thirty (430) Mental Health Inpatients at Saint Elizabeth Hospital (“Hospital” or “SEH”). In addition, the Vendor would provide several other services, including medical screening and coordination of specialty care services for patients seen at DMH’s Comprehensive Psychiatric Emergency Program (CPEP), located on the campus of the former DC General Hospital; all laboratory services for patients of both the Hospital and CPEP; and serve as the employee health provider. The Vendor shall hire all currently employed General Medical Officers, consistent with their needs. In addition, the Vendor shall be involved in Quality Assurance/Performance Improvement Projects under the review of the Performance Improvement Department.

C.1.2. The Vendor shall provide a three prong, comprehensive Healthcare Delivery System. The three prongs of this system shall be Saint Elizabeth Hospital, CPEP and the DMH Employee Health Unit. The Vendor shall appoint a Board Certified Physician to direct the system outlined in this solicitation. The Contractor shall provide resources sufficient to meet, **at a minimum**, the following annual service targets, attributable to the appropriate service prong:

- 1) 840 Admission Assessments
- 2) 400 Re-admission Assessments
- 3) 400 Annual Physical Examinations
- 4) 1040 Unit Rounds
- 5) 120,000 Lab requests
- 6) 400 Diagnostic Imaging requests
- 7) Respond to 1000 Sick calls
- 8) 240 Respiratory Therapy requests
- 9) 500 Electrocardiograms
- 10) 240 Physical Therapy requests

The system, upon approval by the Contracting Officer Technical Representative (COTR), shall meet the following requirements:

C.1.3 SAINT ELIZABETHS HOSPITAL

C.1.3.1 The Vendor shall develop a healthcare delivery model for, at a minimum, 430 Saint Elizabeths Mental Health Patients at any one time ensuring positive health outcomes and continuity of medical care. The model shall include on-site direct primary care services; timely access to specialty and diagnostic care services, either on-site or at another care site operated by the Vendor; laboratory services, along with wellness and health education. These services shall be provided to patients in both the Civil and Forensics program and to patients with differing acuity levels. The Vendor must ensure that any referrals for services comply with all Federal

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and District Laws. In addition, the Vendor shall, in a timely manner, update SEH medical records, consistent with HIPAA and best standards.

The Vendor must provide a full time site based lead Physician who is Board Certified. The Physician shall be responsible for coordinating services with Hospital Clinical Leaders, Psychiatrists and other clinicians, monitor quality of care, lead improvement projects and liaison with Hospital Administration. The Vendor's Quality Improvement Project (QIP) must be coordinated with the Hospital's QIP. The lead Physician shall direct communications with Internal Customers regarding use of the services and utilization of the Wellness Program.

The Wellness Program shall include programs addressing healthy exercise, diet and weight reduction.

C.1.4 COMPREHENSIVE PSYCHIATRIC EMERGENCY PROGRAM (CPEP)

C.1.4.1 The Vendor shall provide medical services at the CPEP for approximately 80 patients per month, as most of the 300 patients per month seen at this service do not need medical clearance or assessment. In addition to on-site medical screening, clearance and assessment services for patients scheduled for admission to SEH, CPEP shall require routine physical and laboratory assessment of persons admitted to the eight (8) extended observation beds planned to be in operation in Fall 2008.

C.1.5 DMH EMPLOYEE HEALTH SERVICES

C.1.5.1 The Vendor shall develop a service delivery model for providing on-site Employee Health Services to approximately 1700 DMH employees.

C.1.5.2 Services provided shall include but not be limited to:

- (a) New employment physical examinations; including pre-employment labs, urine drug screens, all federally certified, and purified protein derivatives in initial and annual screenings;
- (b) Ongoing availability to evaluate and treat work-related injuries; and
- (c) Readiness-for-duty evaluations

C.1.5.3. The Vendor's care delivery model shall include a staffing plan consisting of various primary and supportive clinicians, to include, but not be limited to:

- (a) A flexible combination of physicians and physician extenders, consistent with current community practices. The plan may also include residents who are participating in a family practice rotation as part of a teaching hospital's accredited residency program, with on-site supervision by a licensed physician at the level of a second year resident or higher;

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- (b) Sufficient staff to maintain a primary care clinician to patient ratio, for patients already admitted to SEH, which is supported by best practice evidence for this patient population, but no less than one primary clinician for every one hundred patients (1:100);
- (c) Access to qualified physicians twenty four (24) hours per day, seven (7) days a week who can provide a comprehensive physical on-demand for patients newly admitted to SEH as well as patients in CPEP as described in C.1.3 above. Those admitted for observation shall need comprehensive physicals within 24 hours, including blood drawing and specimen collection services. Physicals shall be provided within two (2) hours of admission to Saint Elizabeths Hospital;
- (d) A sufficient number of staff, which can include physician extenders, to participate in regular rounds at least weekly on regular wards and at least twice weekly on geriatric or medical-psychiatric units; provide phlebotomy and specimen collection services; and operate on-site wellness and preventive education programs for SEH patients.
- (e) One physician shall be available on-site at SEH twenty four (24) hours per day, seven days per week and shall have credentials equivalent to a second year resident or greater;
- (f) Staff sufficient to coordinate care provided by all medical personnel at SEH and CPEP
- (g) Staff sufficient to operate an on-site employee health service for approximately one thousand seven hundred (1700) DMH employees. Hours of operation shall be 1pm to 4 pm daily. A primary care provider shall be available to employees at all times to evaluate injuries or emergencies;

C.1.5.4

The Vendor's delivery model shall also include the following for SEH patients:

- (a) Protocols - The Vendor shall develop and establish protocols for assessment, diagnosis and treatment consistent with best practice protocols such as American Association of Family Practice Recommendations for Clinical Preventive Services Tool which describes clinical preventive services to meet the U.S. Preventive Services Task Force guidelines. These protocols must be approved, in advance, by the COTR.
- (b) Care Coordination and Continuity - The Vendor shall assure coordination of care including but not limited to specialty and diagnostic services and shall assure seamless continuity of routine, specialty and diagnostic care.
- (c) Wellness and Health Education Programs - The Vendor shall establish and operate wellness and preventative medicine programs for SEH patients. These programs shall be developed in concert with the COTR and shall collectively

address the needs of all inpatient Patients.

- (d) Laboratory Services – The Vendor shall provide a full complement of laboratory testing services with a twenty-four (24) hour turnaround time from collection to results for normal labs (except specialized tests) and four (4) hour turnaround for “STAT” tests. The Vendor shall ensure electronic transmittal of results in a format that is acceptable to the COTR.
- (e) Multidisciplinary Treatment Planning – The Vendor shall ensure that its staff consults with attending psychiatrists and other unit staff as necessary to formulate and track compliance with treatment plans.
- (f). Participation in Performance Improvement – The Vendor shall actively participate and be guided by the Performance Improvement Division in tasks associated with Quality Assurance/Quality Improvement

C.1.5.5 The Vendor shall comply with all District laws and regulations governing confidentiality of patient records for the mentally ill.

C.1.5.6 The Vendor shall establish treatment protocols that are culturally sensitive and tailored to the special needs of the target population to include but not be limited to patients who are elderly, severely mentally ill, diabetic, hypertensive, obese and suffer from seizure disorders.

C.1.6 **DELIVERABLES**

C.1.6.1. The Vendor shall submit a Monthly Report to the COTR on its activities. The report shall be provided by the 10th of the following month in a format approved by the COTR. Specifically, the report shall provide monthly and year-to-date, statistics consisting of:

- 1) Number of patients served in each of the three programs;
- 2) Number of laboratory tests and average completion time;
- 3) Number of employee health visits;
- 4) Number of Unusual Incidents;
- 5) Number of Admission assessments and tabulated time from admission to completion;
- 6) Number of Re-Admission assessments and tabulated time from admission to completion;
- 7). Number of Annual Physical examinations and tabulated time from admission to completion;
- 8). Number of Unit Rounds and average duration;
- 9). Number of Lab work requests and tabulated time from orders to report;
- 10).Number of ECG requests completed
- 11).Number of Diagnostic Imaging requests
- 12).Number of sick calls

- 13).Number of Respiratory Therapy requests and average from orders to first therapy;
- 14).Number of Physical Therapy requests and average from orders to first therapy;

C.2 MISSION AND PHILOSOPHY

The purpose/mission of this solicitation is to seek a qualified Vendor to provide a Comprehensive Medical Program consisting of direct Medical Care, Care Coordination, Continuity of Routine and Specialty Care, along with Wellness Care Services for approximately four hundred-thirty (430) Mental Health Inpatients at Saint Elizabeth Hospital (“Hospital” or “SEH”). In addition, the Vendor would provide several other services, including medical screening and coordination of specialty care services for patients seen at DMH’s Comprehensive Psychiatric Emergency Program (CPEP), located on the campus of the former DC General Hospital

C.3 DEFINITIONS

- 1.. Physician Extenders – District of Columbia licensed Nurse Practitioners (NP) or Physician's Assistants (PA) whose role is to augment the patient care management team by providing clinical and specialty care and wellness education and awareness services.
2. General Medical Officers (GMOs) – full time Staff Physicians licensed in the District of Columbia tasked with addressing the medical care of psychiatric patients.
3. Comprehensive Psychiatric Emergency Program (CPEP) – a twenty-four hour/seven day a week operation that provides psychiatric evaluation, treatment and stabilization, along with observation for individuals 18 years of age and older who are experiencing a psychiatric crisis. Services can be accessed by telephone or in person. CPEP is located on the grounds of DC General Hospital.
4. Coordination of Care - ability of a provider to coordinate all of the medical needs of a patient across disciplines and with the patient’s best interest in mind.

C.4 LOCATION OF SERVICES

All services shall be located in the District of Columbia

C.5 BACKGROUND

- C.5.1** Saint Elizabeths Hospital is the District of Columbia’s public Mental Health Hospital operated by DMH. The Hospital provides intensive, inpatient care for more than 430 individuals with serious and persistent mental illness who need the security and structure of the inpatient setting to assist in their recovery. Saint Elizabeths also provides mental health evaluations and care to patients as ordered by the courts. In addition, DMH operates a Comprehensive Psychiatric Emergency Program (CPEP), a twenty-four hour/seven day a week service providing

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psychiatric evaluation, treatment and stabilization, and observation for individuals 18 years of age and older who are experiencing psychiatric crisis. Services can be accessed by telephone or in person.

- C.5.2** Basic medical care at Saint Elizabeths needs to be improved.
- C.5.3** There is agreement that there is an urgent need to improve the organization, structure and quality of medical care at the hospital.
- C.5.4** The current model to provide medical services in the public Psychiatric Hospital uses full time staff physicians (General Medical Officers or GMOs) each providing care for approximately 24 patients, including performing evaluations upon admission, as well as annual physicals and routine medical assessments. The Physicians are not a part of a comprehensive health delivery system offering seamless access to specialty services and diagnostic procedures. In addition, Saint Elizabeths maintains a clinical laboratory providing about 125,000 tests per year. These lab tests encompass a numerous range of tests and disciplines.
- C.5.5** Currently, Saint Elizabeths Hospital provides 24 hour-a-day, seven day a week care for over 430 patients, who are served in the Civil or Forensics programs. The Civil Program at Saint Elizabeths Hospital is responsible for providing comprehensive multidisciplinary hospital based treatment that includes patient assessment, patient education, and discharge planning. These services are provided for adult patients, who are either voluntarily admitted or involuntarily committed through the civil legal process.
- C.5.6** The Civil Program requires 24 hour coverage and the three shifts are 7:00 A.M. – 3:30 P.M., 3:00 P.M. – 11:30 P.M. and 11:15 P.M. – 7:15 A.M.
- C.5.7** The Forensics Program is responsible for providing treatment for patients accused of crimes who are undergoing psychiatric examination prior to trial, found mentally incompetent to stand trial and adjudicated not guilty by reason of insanity. The Forensics Program requires 24 hour coverage and the three shifts are 7:00 A.M. – 3:30 P.M., 3:00 P.M. – 11:30 P.M. and 11:15 P.M. – 7:15 A.M.
- C.5.8** Currently, on average, 70 new patients are admitted monthly. Of the patients admitted, 45 enter the civil program and 25 enter the Forensic program. The current daily census is about 420 patients. Many patients remain in the hospital for more than fifteen (15) years.
- C.5.9** The current medical treatment model is led by GMOs who are responsible for routine physical examinations and care for patients who have both acute and chronic medical illnesses. If specialty care is required, the GMO arranges the care in various community hospitals. There is no standard protocol to obtain specialty care and several community hospitals and community physicians are utilized to meet this need. Emergency care is also provided in community hospitals, by calling 911. There is a GMO on site 24 hours a day, seven days a week.
- C.5.10** The Hospital Employee Health Unit provides employment physicals and employee health for 1,016 hospital employees and nearly 700 other employees in DMH.

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C.5.11 The plan for improving medical services is to change the model from a self-contained, hospital-employed general medical officer staff, to a model of a single Contracted Vendor that shall incorporate medical care for SEH and CPEP patients as part of a comprehensive health care system. The new model of care delivery is expected to enhance continuity of general medical and specialty care, and improve access to specialty care, specialty diagnostics, and other specialty services. This structure shall ensure strong communication with the patient’s treatment team. Under the new model, the provider is expected to provide routine physical and laboratory services to all inpatients as well as a range of specialty services.

C.5.12 Since a patient’s service at CPEP is based on an acute episode and many of the patients are transported by law enforcement, acute medical assessments may be needed. It is expected the new service model shall incorporate medical services for these CPEP patients, including routine physical and laboratory assessment of persons admitted for extended observation. Over 3,000 individuals are seen annually at CPEP, with about 300 patients seen per month. Eight (8) extended observation beds shall open in Fall 2008. Additionally, some patients seen for emergency services shall require medical clearance before admission to a psychiatric hospital.

C.6 APPLICABLE DOCUMENTS

Item No.	Document Type	Title
1	District Regulations	District of Columbia Municipal Regulations Health Occupations General Rules and Administrative Regulations Chapters 40 and 41 http://hpla.doh.dc.gov/hpla/frames.asp?doc=/hpla/lib/hpla/pdf/updated_chapter_40-website-a.pdf
2	District Regulations	District of Columbia Municipal Regulations Medicine http://hpla.doh.dc.gov/hpla/frames.asp?doc=/hpla/lib/hpla/pdf/medicine_regupdatedfinaloctober.pdf
3	District Regulations	District of Columbia Municipal Regulations Health Occupations Dentistry Chapter 42 http://hpla.doh.dc.gov/hpla/frames.asp?doc=/hpla/lib/hpla/prof_license/services/pdf/dental/chapter_dentistry42.06.16.06.pdf
4	District Regulations	District of Columbia Municipal Regulations Health Occupations Dental Hygienist Chapter 43 http://hpla.doh.dc.gov/hpla/frames.asp?doc=/hpla/lib/hpla/prof_license/services/pdf/dentalhygiene/chapter_43.dental_hygiene.pdf
5	District Regulations	District of Columbia Municipal Regulations Registered Nursing http://hpla.doh.dc.gov/hpla/frames.asp?doc=/hpla/lib/hpla/prof_license/services/pdf/nursing/registered_nursing_chap_54_regs_8-10-05.pdf
6	District Regulations	District of Columbia Municipal Regulations Nursing http://hpla.doh.dc.gov/hpla/frames.asp?doc=/hpla/lib/hpla/prof_license/services/pdf/nursing/registered_nursing_chap_54_regs_8-10-05.pdf

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		<u>8-10-05.pdf</u>
7	District Regulations	District of Columbia Municipal Regulations Clinical Nurse Specialist http://hpla.doh.dc.gov/hpla/frames.asp?doc=/hpla/lib/hpla/prof_license/services/pdf/nursing/clinical_nurse_specialist_chap_60_regs_8-10-05.pdf
8	District Regulations	District of Columbia Municipal Regulations Nurse Practitioners http://hpla.doh.dc.gov/hpla/frames.asp?doc=/hpla/lib/hpla/prof_license/services/pdf/nursing/nurse_practitioner_chap_59_regs_8-10-05.pdf

C.7 THIS SECTION IS RESERVED FOR FUTURE USE

C.8 ELIGIBILITY CRITERIA

C.8.1 Patients shall be admitted through normal administrative assessment/admission processes at CPEP, SEH and the Employee Health Unit

C.9 CONTRACTORS REQUIREMENT

C.9.1 The Contractor shall, at a minimum, have the following qualifications:

- 1) Experience providing medical services to a chronically ill population.
- 2) Demonstrate sufficient resources, financial and human, to meet the requirements of the solicitation;
- 3) Key personnel with experience in Hospitals providing care to chronically ill persons;
- 4) Satisfactory past performance in prior government Contracts;
- 5) Vendor has an established health care system in an established facility

SECTION D

PACKAGING AND MARKING

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SECTION D: PACKAGING AND MARKING

D.1 PACKAGING AND MARKING

The packaging and marking requirements for the resultant Contract shall be governed by clause number (2), Shipping Instructions-Consignment, of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March 2007, Attachment J.1.1

D.2 POSTAGE AND MAILING FEES

Contractor shall be responsible for all posting and mailing fees incurred in connection with performance under this Contract.

***** END OF SECTION D *****

SECTION E

INSPECTION AND ACCEPTANCE

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SECTION E: INSPECTION AND ACCEPTANCE

E.1 GENERAL PROVISIONS

The inspection and acceptance requirements for the Contract shall be governed by clause number six (6), Inspection of Services, of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March 2007, Attachment J.1.

**E.2 CONSEQUENCES OF CONTRACTOR'S FAILURE TO PERFORM
REQUIRED SERVICES**

E.2.1 The Contractor shall be held to the full performance of the Contract. The District shall deduct from the Contractor's invoice or otherwise withhold payment for any non-conforming service as specified below.

E.2.2 A service task may be composed of several sub-items. A service task may be determined to be partially complete if the Contractor satisfactorily completes some, but not all, of the sub-items. In those cases, partial deductions may be taken from the Contractor's invoice.

E.2.3 The District shall give the Contractor written notice of deductions by providing copies of reports, which summarize the deficiencies for which the determination was made to assess the deduction in payment for unsatisfactory work.

E.2.4 Therefore, in the case of non-performed work, the District:

E.2.4.1 Shall deduct from the Contractor's invoice all amounts associated with such non-performed work at the rate set out in Section B or provided by other provisions of the Contract;

E.2.4.2 May, at its option, afford the Contractor an opportunity to perform the non-performed work within a reasonable period subject to the discretion of the Director/ACCO and at no additional cost to the District;

E.2.4.3 May, at its option, perform the services by District personnel or other means.

E.2.5 In the case of unsatisfactory work, the District:

E.2.5.1 Shall deduct from the Contractor's invoice all amounts associated with such unsatisfactory work at the rates set out in Section B or provided by other provisions of the Contract, unless the Contractor is afforded an opportunity to re-perform and satisfactory completes the work;

E.2.5.2 May, at its option, afford the Contractor an opportunity to re-perform the unsatisfactory work within a reasonable period subject to the discretion of the Director/ACCO and at no additional cost to the District.

***** END OF SECTION E *****

SECTION F

DELIVERIES OR PERFORMANCE

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SECTION F: DELIVERABLES

F.1 PERIOD OF PERFORMANCE (POP)/TERM OF CONTRACT

The Period of Performance of the Contract shall be from October 1, 2008 through September 30, 2009.

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.2.1 The District may extend the term of this Contract for a period of Four (4) One-Year Option Periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the Contract; provided that the District shall give the Contractor a preliminary written notice of its intent to extend at least thirty (30) days before the Contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is at the sole and absolute discretion of DMH, along with being subject to the availability of funds at the time of the exercise of this option and satisfactorily performance on this Contract. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Director/ACCO prior to expiration of the Contract.

F.2.2 If the District exercises this option, the extended Contract shall be considered to include this option provision.

F.2.3 The price for the option period shall be as specified in the Contract.

F.2.4 The total duration of this Contract, including the exercise of any options under this clause, shall not exceed five (5) years.

F.3 DELIVERABLES

F.3.1 Deliverable Chart

Deliverable	Quantity	Format/Method of Delivery	Due Date	To Whom
Monthly Status Report (see Section C.3.8)	1	To be provided by the COTR after Contract Award	No later than the 10th day of each Month	COTR

F.3.2 The Monthly Status Report shall include the following information:

- 1.) Number of patients served in each of the three programs;
- 2.) Number of laboratory visits and average completion time;
- 3.) Number of employee health visits;
- 4.) Number of Unusual Incidents;
- 5.) Number of Admission assessments and average completion times;
- 6.) Number of Re-Admission assessments and average completion time;
- 7.) Number of Annual Physical examinations and average completion time;
- 8.) Number of Unit Rounds and average completion time;
- 9.) Number of Lab work requests and average completion time;
- 10.) Number of ECG requests;
- 11.) Number of Diagnostic Imaging requests;
- 12.) Number of sick calls;
- 13.) Number of Respiratory Therapy requests and average completion time;
- 14.) Number of Physical Therapy requests and average completion time and
- 15.) Any additional information requested by the COTR.

F.3.3 In addition to any other deliverable outlined in this Contract, DMH staff shall from time to time request information concerning a Patients care and/or treatment. Contractor shall provide such information within 48 hours of the request (or a negotiated agreed-upon timeframe), in a manner requested by DMH, provided that Contractor shall provide such information no later than the end of the next business day following the date of the request if necessary for DMH to meet a court deadline or other legal requirement.

F.3.4 The Contractor shall submit to the District, as a deliverable, the report described in section I.6 of this Contract that is required by First Source Employment Agreement. If the Contractor does not submit the report as part of the deliverables, final payment to the Contractor may not be paid.

F.4 **CONTRACTOR NOTICE REGARDING LATE PERFORMANCE**

In the event the Contractor anticipates or encounters difficulty in complying with the terms and conditions as stated in this Contract, or in meeting any other requirements set forth in this Contract, the Contractor shall immediately notify the Director/ACCO in writing giving full detail as to the rationale for the late delivery and why the Contractor should be granted an extension of time, if any. Receipt of the Contractor's notification shall in no way be construed as an acceptance or waiver by the District.

***** END OF SECTION F *****

SECTION G

CONTRACT ADMINISTRATION DATA

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SECTION G: CONTRACT ADMINISTRATION DATA

G.1 BILLING AND PAYMENT

- G.1.1** The District shall make payments to the Contractor at the prices stipulated in this Contract, for supplies delivered and accepted and/or services performed and accepted, less any discounts, allowances or adjustments provided for in this Contract.
- G.1.2** Contractor shall submit its invoices in the eCura system. The District shall provide a code set to Contractor to use in its invoice submissions. Contractor shall complete a mandatory training session on the code set and billing process prior to rendering services under the Contract. The District shall provide access to eCura at no cost to the Contractor. Transactions of encounters entered into the eCura system shall be reimbursed up to the spending limits of the Purchase Order issued to support the Contract. Encounters entered into the eCura system shall be batched weekly and submitted for payment to ensure compliance with the Quick Payment Act (see Section G.8, below). Contractor shall receive a billing code for this service upon receipt of an award. Local dollars shall be used to support this contracted service.
- G.1.3** The District shall pay the amount due the Contractor under this Contract after completion and acceptance of all work, and submission of proper billing information through eCura.
- G.1.4** The District shall make monthly payments to the Contractor that are each 1/12 of the amount of Extended Price as set forth in the Pricing Schedule B of this Firm Fixed Price of this Contract.

G.2 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT

For Contracts subject to the First Source Employment Agreement requirement, final request for payment must be accompanied by the report or a waiver of compliance. No final payment shall be made to the Contractor until the CFO has received the Director/ACCO's final determination or approval of waiver of the Contractor's compliance with the First Source Employment Agreement requirements.

G.3 ASSIGNMENTS

- G.3.1** In accordance with 27 DCMR § 3250, unless otherwise prohibited by this Contract, the Contractor may assign funds due or to become due as a result of the performance of this Contract to a bank, trust company, or other financing institution
- G.3.2** Any assignment shall cover all unpaid amounts payable under this Contract, and shall not be made to more than one party.

G.3.3 Notwithstanding an assignment of money claims pursuant to authority contained in the Contract, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

Pursuant to the instrument of assignment dated _____, make payment of this invoice to: (name and address of assignee).

G.4 THIS SECTION IS RESERVED FOR FUTURE USE

**G.5 DIRECTOR, CONTRACTS AND PROCUREMENT/AGENCY CHIEF
CONTRACTING OFFICER (DIRECTOR/ACCO)**

Contracts may be entered into and signed on behalf of the District Government only by Contracting Officers. The address and telephone number of the Contracting Officer is:

Samuel J. Feinberg, CPPO, CPPB
Director, Contracts and Procurement
Agency Chief Contracting Officer
Department of Mental Health
Contracts and Procurement Administration
64 New York Avenue, NE, 4th Floor
Washington, DC 20002
Telephone: 202-671-3188 Fax: 202-671-3395

G.6 AUTHORIZED CHANGES BY THE DIRECTOR/ACCO

G.6.1 The Director/ACCO is the only person authorized to approve changes in any of the requirements of this Contract.

G.6.2 The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this Contract, unless issued in writing and signed by the Director/ACCO.

G.6.3 In the event the Contractor effects any change at the instruction or request of any person other than the Director/ACCO, the change shall be considered to have been made without authority and no adjustment shall be made in the Contract price to cover any cost increase incurred as a result thereof.

G.7 **CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)**

G.7.1 The COTR is responsible for general administration of the Contract, is appointed by the Director/ACCO and advising the Director/ACCO as to the Contractor's compliance or noncompliance with the Contract. In addition, the COTR is responsible for the day-to-day monitoring and supervision of the Contract, of ensuring that the work conforms to the requirements of this Contract and such other responsibilities and authorities as may be specified in the Contract. The COTR for this Contract shall be:

Mr. Jimmy Moye
Chief, CIA Compliance Program
Saint Elizabeth Hospital, Department of Mental Health
2700 Martin Luther King Avenue, SE
Washington, DC 20032
Telephone: 202-645-8906

G.7.2 It is understood and agreed that the COTR shall not have authority to make any changes in the specifications/scope of work or terms and conditions of the Contract.

G.7.3 Contractor may be held fully responsible for any changes not authorized in advance, in writing, by the Director/ACCO, may be denied compensation or other relief for any additional work performed that is not so authorized, and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

G.8 **THE QUICK PAYMENT CLAUSE**

G.8.1 **Interest Penalties to Contractors**

G.8.1.1 The District shall pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code §2-221.01 et seq., for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before:

- a) the 3rd day after the required payment date for meat or a meat product;
- b) the 5th day after the required payment date for an agricultural commodity; or
- c) the 15th day after the required payment date for any other item.

G.8.1.2 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

G.8.2 Payments to Subcontractors

- G.8.2.1** The Contractor must take one of the following actions within 7 days of receipt of any amount paid to the Contractor by the District for work performed by any subcontractor under a Contract:
- (a) Pay the subContractor for the proportionate share of the total payment received from the District that is attributable to the subcontractor for work performed under the Contract; or
 - (b) Notify the District and the subcontractor, in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.
- G.8.2.2** The Contractor must pay any lower-tier subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before:
- (a) the 3rd day after the required payment date for meat or a meat product;
 - (b) the 5th day after the required payment date for an agricultural commodity; or
 - (c) the 15th day after the required payment date for any other item.
- G.8.2.3** Any amount of an interest penalty which remains unpaid by the Contractor at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.
- G.8.2.4** A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District of Columbia is a party. The District of Columbia may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

***** END OF SECTION G *****

SECTION H

SPECIAL CONTRACT REQUIREMENTS

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SECTION H: SPECIAL CONTRACT REQUIREMENTS

H.1 LIQUIDATED DAMAGES

H.1.1 When the Contractor fails to perform the tasks required under this Contract, DMH shall notify the Contractor in writing of the specific task deficiencies with a Notice to Cure notification with a cure period of Not To Exceed ten (10) Business Days. The assessment of Liquidated Damages as determined by the Director, Contracts and Procurement/Agency Chief Contracting Officer shall be in an amount of \$500.00 per day per unavailable slot where there has been a failure to provide required services as depicted in the Scope of Services. This assessment of Liquidated Damages against the Contractor shall be implemented after the expiration of the cure period and until such time that the Contractor has cured its deficiencies and is able to satisfactorily perform the tasks required under this Contract for a maximum of thirty (30) Business Days.

H.1.2 When the Contractor is unable to cure its deficiencies in a timely manner and DMH requires a replacement Contractor to perform the required services, the Contractor shall be liable for Liquidated Damages accruing until the time DMH is able to award said Contract to a qualified responsive and responsible Contractor. Additionally, if the Contractor is found to be in default of said Contract under the Default Clause of the Standard Contract Provisions, the original Contractor is completely liable for any and all total cost differences between their Contract and the new Contract awarded by DMH to the replacement Contractor.

H.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS

The Contractor shall be bound by the Wage Determination No. 2005-2103 Revision No. 4, dated 07/05/07, issued by the U.S. Department of Labor in accordance with and incorporated herein as Attachment J.1.2 of this solicitation. The Contractor shall be bound by the wage rates for the term of the Contract. If an option is exercised, the Contractor shall be bound by the applicable wage rate at the time of the option. If the option is exercised and the Contracting Officer for the option obtains a revised wage determination, that determination is applicable for the option periods; the Contractor may be entitled to an equitable adjustment.

H.3 AUDITS, RECORDS, AND RECORD RETENTION

H.3.1 At any time or times before final payment and three (3) years thereafter, the Director/ACCO may have the Contractor's invoices or vouchers and statements of cost audited. For cost reimbursement Contracts, any payment may be reduced by amounts found by the Director/ACCO not to constitute allowable costs as adjusted for prior overpayment or underpayment. In the event that all payments have been made to the Contractor by the District Government and an overpayment is found, the Contractor shall reimburse the District for said overpayment within thirty (30) days after written notification.

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- H.3.2** The Contractor shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the District under the Contract that results from this solicitation.
- H.3.3** The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the Contract for a period of five (5) years after termination of the Contract, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the Contract.
- H.3.4** The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the Director/ACCO.
- H.3.5** Persons duly authorized by the Director/ACCO shall have full access to and the right to examine any of the Contractor's Contract and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.
- H.3.6** The Contractor shall include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.

H.4 **PUBLICITY**

The Contractor shall at all times obtain the prior written approval from the Director/ACCO before it, any of its officers, agents, employees or subcontractor either during or after expiration or termination of the Contract make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.

H.5 **CONFLICT OF INTEREST**

No official or employee of the District of Columbia or the Federal Government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Contract shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the Contract or proposed Contract. (DC Procurement Practices Act of 1985, D.C. Law 6-85, D.C. Code section 1-1190.1(a) and Chapter 18 of the DC Personnel Regulations).

- H.5.2** The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants not to employ any person having such known interests in the performance of the Contract.

H.6 PRIVACY COMPLIANCE

(1) Definitions

- (a) *Business Associate*. "Business Associate" shall mean the Contractor.
- (b) *Covered Entity*. "Covered Entity" shall mean Department of Mental Health
- (c) *Designated Record Set* means:
 - 1. A group of records maintained by or for Covered Entity that is:
 - (i) The medical records and billing records about individuals maintained by or for a covered health care provider;
 - (ii) The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
 - (iii) Used, in whole or in part, by or for Covered Entity to make decisions about individuals.
 - 2. For purposes of this paragraph, the term *record* means any items, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for Covered Entity.
- (d) *Individual* shall mean a person who qualifies as a personal representative
- (e) *Privacy Rules*. "Privacy Rules" shall mean the requirements and restrictions contained in Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E, as modified by any District of Columbia laws, including the Mental Health Information Act of 1978, that may have preemptive effect by operation of 45 CFR part 160, subpart B.
- (f) *Protected Health Information*. "Protected Health Information" shall mean limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (g) *Required By Law*. "Required By Law" shall have the same meaning as the term "required by law", except to the extent District of Columbia laws, including the Mental Health Information Act of 1978, have preemptive effect by operation of 45 CFR part 160, subpart B.
- (h) *Secretary*. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

(2) Obligations and Activities of Business Associate

- (a) Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this Privacy Compliance Clause (this Clause) or as Required By Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Clause.

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(c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Clause.

(d) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Clause of which it becomes aware.

(e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

(f) Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner [Insert negotiated terms for access], to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.

(g) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual, and in the time and manner [Insert negotiated terms for amendment].

(h) Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, available to the Covered Entity, or to the Secretary, in a time and manner [Insert negotiated terms for access] or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rules.

(i) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

(j) Business Associate agrees to provide to Covered Entity or an Individual, in time and manner [Insert negotiated terms for access], information collected in accordance with Section (i) above, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

(3) Permitted Uses and Disclosures by Business Associate

(a) Refer to underlying services agreement:

Except as otherwise limited in this Clause, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in [Insert Name of this Contract], provided that

such use or disclosure would not violate the Privacy Rules if done by Covered Entity or the minimum necessary policies and procedures of Covered Entity.

(b) Except as otherwise limited in this Clause, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

(c) Except as otherwise limited in this Clause, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it shall remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(d) Except as otherwise limited in this Clause, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).

(e) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).

(4) Obligations of Covered Entity

(a) Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.

(b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

(5) Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rules if done by Covered Entity.

(6) Term and Termination

(a) *Term.* The requirements of this Privacy Compliance Clause shall be effective as of the date of Contract award, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received

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by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) *Termination for Cause.* Upon Covered Entity's knowledge of a material breach of this Clause by Business Associate, Covered Entity shall either:

(1) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;

(2) Immediately terminate the Contract if Business Associate has breached a material term of this Privacy Compliance Clause and cure is not possible; or

(3) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(c) *Effect of Termination.*

(1) Except as provided in paragraph (2) of this section, upon termination of the Contract, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(2) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon determination by the Contracting Officer that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

(7) Miscellaneous

(a) *Regulatory References.* A reference in this Clause to a section in the Privacy Rules means the section as in effect or as amended.

(b) *Amendment.* The Parties agree to take such action as is necessary to amend this Clause from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rules.

(c) *Survival.* The respective rights and obligations of Business Associate under Section (6) of this Clause and Sections 8 (Default) and 16 (Termination for Convenience of the District) of the Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts, effective March 2007, shall survive termination of the Contract.

(d) *Interpretation.* Any ambiguity in this Clause shall be resolved to permit Covered Entity to comply with the Privacy Rules.

H.7 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

During the performance of the Contract, the Contractor and any of its subcontractors shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. §12101 *et seq.*

H.8 SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

During the performance of the Contract, the Contractor and any of its subcontractors shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded program and activities. See 29 U.S.C. § 794 *et seq.*

H.9 WAY TO WORK AMENDMENT ACT OF 2006

H.9.1 Except as described in H.9.8 below, the Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“Living Wage Act of 2006”), for Contracts for services in the amount of \$100,000 or more in a 12-month period.

H.9.2 The Contractor shall pay its employees and subcontractors who perform services under the Contract no less than the current living wage rate.

H.9.3 The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate.

H.9.4 The Department of Employment Services may adjust the living wage annually and the District’s Office of Contracting and Procurement shall publish the current living wage rate on its website at www.ocp.dc.gov. If the living wage is adjusted during the term of the Contract, the Contractor shall be bound by the applicable wage rate as of the effective date of the adjustment, and the Contractor may be entitled to an equitable adjustment.

H.9.5 The Contractor shall provide a copy of the Fact Sheet attached as J.9 to each employee and subcontractor who performs services under the Contract. The Contractor shall also post the Notice attached as J.9 in a conspicuous place in its place of business. The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.

H.9.6 The Contractor shall maintain its payroll records under the Contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the Contract.

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- H.9.7** The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*
- H.9.8** The requirements of the Living Wage Act of 2006 do not apply to:
- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
 - (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
 - (3) Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
 - (4) Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;
 - (5) Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
 - (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or SEH does not replace employees subject to the Living Wage Act of 2006;
 - (7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;
 - (8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));
 - (9) Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and
 - (10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

H.9.9 The Mayor may exempt a Contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

H.10 **CONTRACTOR LICENSE/CLEARANCES**

Contractor shall maintain documentation that all staff possesses adequate training, qualifications and competence to perform the duties to which they are assigned and hold current licenses or certification as appropriate.

H.11 **COST OF OPERATION**

Contractor shall be responsible for all costs of operation under this Contract, including but not limited to taxes, surcharges, licenses, insurance, transportation, salaries and bonuses.

H.12 **HIPPA PRIVACY COMPLIANCE CLAUSES**

The Department of Mental Health is a “Covered Entity” as that term is defined in the Privacy Rule and Offeror awarded the Contract, as a recipient of Protected Health Information from the Offeror, is a “Business Associate” as that term is defined in the Privacy Rule.

1. Definitions

- a. Business Associate means a person or entity, who performs, or assists in the performance of a function or activity on behalf of a covered entity or an organized health care organization in which the covered entity participates, involving the use or disclosure of individually identifiable health information, other than in the capacity of a workforce member of such covered entity or organization. A business associate is also any person or organization that provides, other than in the capacity of a workforce member of such covered entity, legal, actuarial, accounting, consulting, data aggregation, management, administration, accreditation, or financial services to or for the covered entity and receives individually identifiable health information from a covered entity or another business associate on behalf of a covered entity. In some instances, a covered entity may be a business associate of another covered entity.
- b. Covered Entity means a health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form in connection with a transaction covered by 45 C.F.R. Parts 160 and 164 of the Privacy Rule. With respect to this HIPAA Compliance Clause, Covered Entity shall also include the designated health care components of a hybrid entity.
- c. Data Aggregation means, with respect to Protected Health Information created or received by a business associate in its capacity as the business associate of a covered entity, the combining of such Protected Health Information by the business associate with the

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Protected Health Information received by the business associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.

- d. Designated Record Set means a group of records maintained by or for the Covered Entity that is:
 - i. The medical records and billing records about individuals maintained by or for a covered health care provider;
 - ii. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
 - iii. Used, in whole or in part, by or for the Covered Entity to make decisions about individuals.
- e. Health Care means care services, or services, or supplies related to the health of an individual. Health care includes, but is not limited to, the following:
 - i. Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and
 - ii. Sale or dispensing of a drug, device, equipment, or other item in accordance with the prescription.
- f. Health Care Components means a component or a combination of components of a hybrid entity designated by a hybrid entity in accordance with 45 C.F.R. § 164.105(a)(2)(iii)(C). Health Care Components must include non-covered functions that provide services to the covered functions for the purpose of facilitating the sharing of Protected Health Information with such functions of the hybrid entity without business associate agreements or individual authorizations.
- g. Health Care Operations shall have the same meaning as the term “health care operations” in 45 C.F.R. § 164.501.
- h. Hybrid Entity means a single legal entity that is a covered entity and whose business activities include both covered and non-covered functions, and that designates health care components in accordance with 45 C.F.R. § 164.105(a)(2)(iii)(C). A Hybrid Entity is required to designate as a health care component, any other components of the entity that provide services to the covered functions for the purpose of facilitating the sharing of Protected Health Information with such functions of the hybrid entity without business associate agreements or individual authorizations.
- i. Record shall mean any item, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for the Covered Entity.

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- j. Individual shall have the same meaning as the term "individual" in 45 C.F.R. § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- k. Individually Identifiable Health Information is information that is a subset of health information, including demographic information collected from an individual, and;
 - i. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
 - ii. Relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - iii. That identifies the individual; or
 - iv. With respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- l. Privacy Official. The person designated by the District of Columbia, a Hybrid Entity, who is responsible for developing, maintaining, implementing and enforcing the District-wide Privacy Policies and Procedures, and for overseeing full compliance with this Manual, the Privacy Rules, and other applicable federal and state privacy law.
- m. Privacy Officer. The person designated by the Privacy Official or one of the District of Columbia's designated health care components, who is responsible for enforcing the provisions of this Manual as well as overseeing full compliance with the Covered Agency's Privacy Policies and Procedures, the Privacy Rules, and other applicable federal and state privacy law(s). The Covered Agency's privacy officer shall follow the guidance of the District's Privacy Official, and shall be responsive to and report to the District's Privacy Official.
- n. Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
- o. Protected Health Information. "Protected Health Information" means individually identifiable health information that is:
 - i. Transmitted by electronic media;
 - ii. Maintained in electronic media; or
 - iii. Transmitted or maintained in any other form or medium;
 - iv. Limited to the information created or received by the Business Associate from or on behalf of the Covered Entity; and
 - v. Excluding information in the records listed in subsection (2) of the definition in 45 C.F.R. §160.103.
- p. Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.

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- q. Secretary. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- r. Workforce. "Workforce" shall mean employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity or business associate, is under the direct control of such entity, whether or not they are paid by the covered entity or business associate.

2. Obligations and Activities of Business Associate

- a. The Business Associate agrees not to use or disclose Protected Health Information other than as permitted or required by this HIPAA Compliance Clause or as Required By Law.
- b. The Business Associate agrees to use commercially reasonable efforts and appropriate safeguards to maintain the security of the Protected Health Information and to prevent use or disclosure of such Protected Health Information other than as provided for by this Clause.
- c. The Business Associate agrees to establish procedures for mitigating, and to mitigate to the extent practicable, any deleterious effect that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate in violation of the requirements of this Clause.
- d. The Business Associate agrees to report to Covered Entity, in writing, any use or disclosure of the Protected Health Information not permitted or required by this HIPAA Compliance Clause to the District Privacy Official or agency Privacy Officer within ten (10) days from the time the Business Associate becomes aware of such unauthorized use or disclosure.
- e. The Business Associate agrees to ensure that any workforce member or any agent, including a subcontractor, agrees to the same restrictions and conditions that apply through this Clause with respect to Protected Health Information received from the Business Associate, Protected Health Information created by the Business Associate, or Protected Health Information received by the Business Associate on behalf of the Covered Entity.
- f. The Business Associate agrees to provide access, at the request of the Covered Entity or an Individual, at a mutually agreed upon location, during normal business hours, and in a format [delete bolded material and insert negotiated terms if applicable] as directed by the District Privacy Official or agency Privacy Officer, or as otherwise mandated by the Privacy Rule or applicable District of Columbia laws, rules and regulations, to Protected Health Information in a Designated Record Set, to the Covered Entity or an Individual, in compliance with applicable portions of [Insert Applicable Agency Access Policy], attached hereto as Exhibit A and incorporated by reference, and within five (5) business days of the request to facilitate the District's compliance with the requirements under 45 C.F.R. §164.524.
- g. The Business Associate agrees to make any amendment(s) to the Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 in a format [agency should insert appropriate terms for amendment if applicable] or as directed by the District Privacy Official or agency Privacy Officer, or as otherwise mandated by the Privacy Rule or applicable District of Columbia laws, in compliance with applicable portions of [Insert Applicable Agency Amendment

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Policy], attached hereto as Exhibit B and incorporated by reference, and within five (5) business days of the directive in order to facilitate the District's compliance with the requirements under 45 C.F.R. §164.526.

- h. The Business Associate agrees to use the standard practices of the Covered Entity to verify the identification and authority of an Individual who requests the Protected Health Information in a Designated Record Set of a recipient of services from or through the Covered Entity. The Business Associate agrees to comply with the applicable portions of the [Insert Applicable Agency Identity And Procedure Verification Policy], attached hereto as Exhibit C and incorporated by reference.
- i. The Business Associate agrees to record authorizations and log such disclosures of Protected Health Information and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528 and applicable District of Columbia laws, rules and regulations. The Business Associate agrees to comply with the applicable portions of the [Insert Applicable Agency Logging Disclosures for Accounting Policy] attached hereto as Exhibit D and incorporated by reference.
- j. The Business Associate agrees to provide to the Covered Entity or an Individual, within five (5) business days of a request at a mutually agreed upon location, during normal business hours, and in a format designated [delete bolded material and insert agency appropriate terms if applicable] by the District Privacy Official or agency Privacy Officer and the duly authorized Business Associate workforce member, information collected in accordance with Paragraph (i) of this Section above, to permit the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528, and applicable District of Columbia laws, rules and regulations. The Business Associate agrees to comply with the applicable portions of the [Insert Applicable Agency Disclosure Accounting Policy] attached hereto as Exhibit E and incorporated by reference.
- k. The Business Associate agrees to make internal practices, books, and records, including policies and procedures, and Protected Health Information, relating to the use and disclosure of Protected Health Information received from the Business Associate, or created, or received by the Business Associate on behalf of the Covered Entity, available to the Covered Entity, or to the Secretary, within five (5) business days of their request and at a mutually agreed upon location, during normal business hours, and in a format designated [delete bolded material and insert negotiated terms if applicable] by the District Privacy Official or agency Privacy Officer and the duly authorized Business Associate workforce member, or in a time and manner designated by the Secretary, for purposes of the Secretary in determining compliance of the Covered Entity with the Privacy Rule.
- l. The Business Associate may aggregate Protected Health Information in its possession with the Protected Health Information of other Covered Entities that Business Associate has in its possession through its capacity as a Business Associate to said other Covered Entities provided that the purpose of such aggregation is to provide the Covered Entity with data analyses to the Health Care Operations of the Covered Entity. Under no circumstances may the Business Associate disclose Protected Health Information of one Covered Entity to another Covered Entity absent the explicit written authorization and consent of the Privacy Officer or a duly authorized workforce member of the Covered Entity.

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m. Business Associate may de-identify any and all Protected Health Information provided that the de-identification conforms to the requirements of 45 C.F.R. § 164.514(b). Pursuant to 45 C.F.R. § 164.502(d)(2), de-identified information does not constitute Protected Health Information and is not subject to the terms of this HIPAA Compliance Clause.

3. Permitted Uses and Disclosures by the Business Associate

- a. Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in the Contract, provided that such use or disclosure would not violate the Privacy Rule if same activity were performed by the Covered Entity or would not violate the minimum necessary policies and procedures of the Covered Entity.
- b. Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- c. Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that the disclosures are Required By Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it shall remain confidential and used, or further disclosed, only as Required By Law, or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it has knowledge that the confidentiality of the information has been breached.
- d. Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may use Protected Health Information to provide Data Aggregation services to the Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- e. Business Associate may use Protected Health Information to report violations of the Law to the appropriate federal and District of Columbia authorities, consistent with 45 C.F.R. § 164.502(j)(1).

4. Additional Obligations of the Business Associate

- a. Business Associate shall submit a written report to the Covered Entity that identifies the files and reports that constitute the Designated Record Set of the Covered Entity. Business Associate shall submit said written report to the Privacy Officer no later than thirty (30) days after the commencement of the HIPAA Compliance Clause. In the event that Business Associate utilizes new files or reports which constitute the Designated Record Set, Business Associate shall notify the Covered Entity of said event within thirty (30) days of the commencement of the file's or report's usage. The Designated Record Set file shall include, but not be limited to the identity of the following:
 - i. Name of the Business Associate of the Covered Entity;
 - ii. Title of the Report/File;
 - iii. Confirmation that the Report/File contains Protected Health Information (Yes or No);

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- iv. Description of the basic content of the Report/File;
- v. Format of the Report/File (Electronic or Paper);
- vi. Physical location of Report/File;
- vii. Name and telephone number of current member(s) of the workforce of the Covered Entity or other District of Columbia Government agency responsible for receiving and processing requests for Protected Health Information; and
- viii. Supporting documents if the recipient/personal representative has access to the Report/File.

5. Sanctions

Business Associate agrees that its workforce members, agents and subcontractors who violate the provisions of the Privacy Rules or other applicable federal or state privacy law shall be subject to discipline in accordance with Business Associate's District Personnel Manual and applicable collective bargaining agreements. Business Associate agrees to impose sanctions consistent with Business Associate's personnel policies and procedures and applicable collective bargaining agreements with respect to persons employed by it. Members of the Business Associate Workforce who are not employed by Business Associate are subject to the policies and applicable sanctions for violation of this Manual as set forth in business associate agreements. In the event Business Associate imposes sanctions against any member of its workforce, agents and subcontractors for violation of the provisions of the Privacy Rules or other applicable federal or state privacy laws, the Business Associate shall inform the District Privacy Official or the agency Privacy Officer of the imposition of sanctions.

6. Obligations of the Covered Entity

- a. The Covered Entity shall notify the Business Associate of any limitation(s) in its Notice of Privacy Practices of the Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect the use or disclosure of Protected Health Information by the Business Associate.
- b. The Covered Entity shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to the use or disclosure of Protected Health Information, to the extent that such changes may affect the use or disclosure of Protected Health Information by the Business Associate.
- c. The Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect the use or disclosure of Protected Health Information by the Business Associate.

7. Permissible Requests by Covered Entity

Covered Entity shall not request the Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity.

8. Representations and Warranties.

The Business Associate represents and warrants to the Covered Entity:

- a. That it is duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is organized or licensed, it has the full power to enter into this HIPAA Compliance Clause and it, its employees, agents, subcontractors, representatives and members of its workforce are licensed and in good standing with the applicable agency, board, or governing body to perform its obligations hereunder, and that the performance by it of its obligations under this HIPAA Compliance Clause has been duly authorized by all necessary corporate or other actions and shall not violate any provision of any license, corporate charter or bylaws;
- b. That it, its employees, agents, subcontractors, representatives and members of its workforce are in good standing with the District of Columbia, that it, its employees, agents, subcontractors, representatives and members of its workforce shall submit a letter of good standing from the District of Columbia, and that it, its employees, agents, subcontractors, representatives and members of its workforce have not been de-barred from being employed as a Contractor by the federal government or District of Columbia;
- c. That neither the execution of this HIPAA Compliance Clause, nor its performance hereunder, shall directly or indirectly violate or interfere with the terms of another agreement to which it is a party, or give any governmental entity the right to suspend, terminate, or modify any of its governmental authorizations or assets required for its performance hereunder. The Business Associate represents and warrants to the Covered Entity that it shall not enter into any agreement the execution or performance of which would violate or interfere with this HIPAA Compliance Clause;
- d. That it is not currently the subject of a voluntary or involuntary petition in bankruptcy, does not currently contemplate filing any such voluntary petition, and is not aware of any claim for the filing of an involuntary petition;
- e. That all of its employees, agents, subcontractors, representatives and members of its workforce, whose services may be used to fulfill obligations under this HIPAA Compliance Clause are or shall be appropriately informed of the terms of this HIPAA Compliance Clause and are under legal obligation to the Business Associate, by Contract or otherwise, sufficient to enable the Business Associate to fully comply with all provisions of this HIPAA Compliance Clause; provided that modifications or limitations that the Covered Entity has agreed to adhere to with regard to the use and disclosure of Protected Health Information of any individual that materially affects or limits the uses and disclosures that are otherwise permitted under the Privacy Rule shall be communicated to the Business Associate, in writing, and in a timely fashion;
- f. That it shall reasonably cooperate with the Covered Entity in the performance of the mutual obligations under this Agreement;
- g. That neither the Business Associate, nor its shareholders, members, directors, officers, agents, subcontractors, employees or members of its workforce have been excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have committed any acts which are cause for exclusion, from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or District healthcare program, including but not limited to Medicare or Medicaid, or have been convicted, under federal or District law (including without limitation following a plea of nolo contendere or

participation in a first offender deferred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (a) the neglect or abuse of a patient, (b) the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under a federal or District healthcare program, (c) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program operated by or financed in whole or in part by any federal, District or local government agency, (d) the unlawful, manufacture, distribution, prescription or dispensing of a controlled substance, or (e) interference with or obstruction of any investigation into any criminal offense described in (a) through (d) above. The Business Associate further agrees to notify the Covered Entity immediately after the Business Associate becomes aware that any of the foregoing representations and warranties may be inaccurate or may become incorrect.

9. Term and Termination

- a. Term. The requirements of this HIPAA Compliance Clause shall be effective as of the date of the Contract award, and shall terminate when all of the Protected Health Information provided by the Covered Entity to the Business Associate, or created or received by the Business Associate on behalf of the Covered Entity, is confidentially destroyed or returned to the Covered Entity within five (5) business days of its request, with the Protected Health Information returned in a format mutually agreed upon by and between the Privacy Official and/or Privacy Officer or his or her designee and the appropriate and duly authorized workforce member of the Business Associate; or, if it is infeasible to return or confidentially destroy the Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section and communicated to the Privacy Official or Privacy Officer or his or her designee.
- b. Termination for Cause. Upon the Covered Entity's knowledge of a material breach of this HIPAA Compliance Clause by the Business Associate, the Covered Entity shall either:
 - i. Provide an opportunity for the Business Associate to cure the breach or end the violation and terminate the Contract if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity;
 - ii. Immediately terminate the Contract if the Business Associate breaches a material term of this HIPAA Compliance Clause and a cure is not possible; or
 - iii. If neither termination nor cure is feasible, the Covered Entity shall report the violation to the Secretary.
- c. Effect of Termination.
 - i. Except as provided in paragraph (ii) of this section, upon termination of the Contract, for any reason, the Business Associate shall return in a mutually agreed upon format or confidentially destroy [delete bolded material and insert negotiated terms and conditions if applicable] all Protected Health Information received from the Covered Entity, or created or received by the Business Associate on behalf of

the Covered Entity within five (5) business days of termination. This provision shall apply to Protected Health Information that is in the possession of ALL subcontractors, agents or workforce members of the Business Associate. The Business Associate shall retain no copies of Protected Health Information in any media form.

- ii. In the event that the Business Associate determines that returning or destroying the Protected Health Information is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make the return or confidential destruction infeasible. Upon determination by the agency Privacy Officer that the return or confidential destruction of the Protected Health Information is infeasible, the Business Associate shall extend the protections of this HIPAA Compliance Clause to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or confidential destruction infeasible, for so long as the Business Associate maintains such Protected Health Information. The obligations outlined in Section 2. Obligations and Activities of Business Associate shall remain in force to the extent applicable.

10. Miscellaneous

- a. Regulatory References. A reference in this HIPAA Compliance Clause to a section in the Privacy Rule means the section as in effect or as amended.
- b. Amendment. The Parties agree to take such action as is necessary to amend this HIPAA Compliance Clause from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule and HIPAA. Except for provisions required by law as defined herein, no provision hereof shall be deemed waived unless in writing and signed by duly authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any other right or remedy under this HIPAA Compliance Clause.
- c. Survival. The respective rights and obligations of the Business Associate under Section 9. Term and Termination of this HIPAA Compliance Clause and Sections 8 and 16 of the Standard Contract Provisions for use with the District of Columbia Government Supply and Services Contracts, effective November 2004, shall survive termination of the Contract.
- d. Interpretation. Any ambiguity in this HIPAA Compliance Clause shall be resolved to permit the Covered Entity to comply with applicable federal and District of Columbia laws, rules and regulations, and the Privacy Rule, and any requirements, rulings, interpretations, procedures, or other actions related thereto that are promulgated, issued or taken by or on behalf of the Secretary; provided that applicable federal and District of Columbia laws, rules and regulations shall supersede the Privacy Rule if, and to the extent that they impose additional requirements, have requirements that are more stringent than or provide greater protection of patient privacy or the security or safeguarding of Protected Health Information than those of HIPAA and its Privacy Rule.

The terms of this HIPAA Compliance Clause amend and supplement the terms of the Contract, and whenever possible, all terms and conditions in this HIPAA Compliance Clause are to be harmonized. In the event of a conflict between the terms of the HIPAA

Compliance Clause and the terms of the Contract, the terms of this HIPAA Compliance Clause shall control; provided, however, that this HIPAA Compliance Clause shall not supersede any other federal or District of Columbia law or regulation governing the legal relationship of the Parties, or the confidentiality of records or information, except to the extent that the Privacy Rule preempts those laws or regulations. In the event of any conflict between the provisions of the Contract (as amended by this HIPAA Compliance Clause) and the Privacy Rule, the Privacy Rule shall control.

- e. No Third-Party Beneficiaries. The Covered Entity and the Business Associate are the only parties to this HIPAA Compliance Clause and are the only parties entitled to enforce its terms. Except for the rights of Individuals, as defined herein, to access to and amendment of their Protected Health Information, and to an accounting of the uses and disclosures thereof, in accordance with Paragraphs (2)(f), (g) and (j), nothing in the HIPAA Compliance Clause gives, is intended to give, or shall be construed to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this HIPAA Compliance Clause.
- f. Compliance with Applicable Law. The Business Associate shall comply with all federal, District of Columbia laws, regulations, executive orders and ordinances, as they may be amended from time to time during the term of this HIPAA Compliance Clause and the Contract, to the extent they are applicable to this HIPAA Compliance Clause and the Contract.
- g. Governing Law and Forum Selection. This Contract shall be construed broadly to implement and comply with the requirements relating to the Privacy Rule, and other applicable laws and regulations. All other aspects of this Contract shall be governed under the laws of the District of Columbia. The Covered Entity and the Business Associate agree that all disputes which cannot be amicably resolved by the Covered Entity and the Business Associate regarding this HIPAA Compliance Clause shall be litigated by and before the District of Columbia Contract Appeals Board, the District of Columbia Court of Appeals, or the United States District Court for the District of Columbia having jurisdiction, as the case may be. The Covered Entity and the Business Associate expressly waive any and all rights to initiate litigation, arbitration, mediation, negotiations and/or similar proceedings outside the physical boundaries of the District of Columbia and expressly consent to the jurisdiction of the above tribunals.
- h. Indemnification. The Business Associate shall indemnify, hold harmless and defend the Covered Entity from and against any and all claims, losses, liabilities, costs, and other expenses incurred as a result or arising directly or indirectly out of or in connection with (a) any misrepresentation, breach of warranty or non-fulfillment of any undertaking of the Business Associate under this HIPAA Compliance Clause; and (b) any claims, demands, awards, judgments, actions and proceedings made by any person or organization, arising out of or in any way connected with the performance of the Business Associate under this HIPAA Compliance Clause.
- i. Injunctive Relief. Notwithstanding any rights or remedies under this HIPAA Compliance Clause or provided by law, the Covered Entity retains all rights to seek injunctive relief to prevent or stop the unauthorized use or disclosure of Protected Health Information by the

- Business Associate, its workforce, any of its subcontractors, agents, or any third party who has received Protected Health Information from the Business Associate.
- j. Assistance in litigation or administrative proceedings. The Business Associate shall make itself and any agents, affiliates, subsidiaries, subcontractors or its workforce assisting the Business Associate in the fulfillment of its obligations under this HIPAA Compliance Clause and the Contract, available to the Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Covered Entity, its directors, officers or employees based upon claimed violation of HIPAA, the Privacy Rule or other laws relating to security and privacy, except where the Business Associate or its agents, affiliates, subsidiaries, subcontractors or its workforce are a named adverse party.
 - k. Notices. Any notices between the Parties or notices to be given under this HIPAA Compliance Clause shall be given in writing and delivered by personal courier delivery or overnight courier delivery, or by certified mail with return receipt requested, to the Business Associate or to the Covered Entity, to the addresses given for each Party below or to the address either Party hereafter gives to the other Party. Any notice, being addressed and mailed in the foregoing manner, shall be deemed given five (5) business days after mailing. Any notice delivered by personal courier delivery or overnight courier delivery shall be deemed given upon notice upon receipt.
 - l. Headings. Headings are for convenience only and form no part of this HIPAA Compliance Clause and shall not affect its interpretation.
 - m. Counterparts; Facsimiles. This HIPAA Compliance Clause may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.
 - n. Successors and Assigns. The provisions of this HIPAA Compliance Clause shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns, if any.
 - o. Severance. In the event that any provision of this HIPAA Compliance Clause is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this HIPAA Compliance Clause shall remain in full force and effect. In addition, in the event a Party believes in good faith that any provision of this HIPAA Compliance Clause fails to comply with the then-current requirements of the Privacy Rule, such party shall notify the other Party in writing, in the manner set forth in Section 10. Miscellaneous, Paragraph k. Notices. Within ten (10) business days from receipt of notice, the Parties shall address in good faith such concern and amend the terms of this HIPAA Compliance Clause, if necessary to bring it into compliance. If, after thirty (30) days, the HIPAA Compliance Clause fails to comply with the Privacy Rule, then either Party has the right to terminate this HIPAA Compliance Clause upon written notice to the other Party.
 - p. Independent Contractor. The Business Associate shall function as an independent contractor and shall not be considered an employee of the Covered Entity for any purpose. Nothing in this HIPAA Compliance Clause shall be interpreted as authorizing the Business Associate workforce, its subcontractor(s) or its agent(s) or employee(s) to act as an agent or representative for or on behalf of the Covered Entity.
 - q. Entire Agreement. This HIPAA Compliance Clause, as may be amended from time to time pursuant to Section 10. Miscellaneous, Paragraph b. Amendment, which incorporates by reference the Contract, and specific procedures from the District of Columbia Department

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of Health Privacy Policy Operations Manual, constitutes the entire agreement and understanding between the Parties and supersedes all prior oral and written agreements and understandings between them with respect to applicable District of Columbia and federal laws, rules and regulations, HIPAA and the Privacy Rule, and any rules, regulations, requirements, rulings, interpretations, procedures, or other actions related thereto that are promulgated, issued or taken by or on behalf of the Secretary.

**** END OF SECTION H *****

SECTION I
CONTRACT CLAUSES
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SECTION I: CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The Standard Contract Provisions for Use with District of Columbia Government Supplies and Services Contracts dated March 2007 (Attachment J.1.1), the District of Columbia Procurement Practices Act of 1985, as amended and Title 27 of the District of Columbia Municipal Regulations, as amended, are incorporated as part of the Contract(s) resulting from this solicitation.

I.2 CONTRACTS THAT CROSS FISCAL YEARS

Continuation of this Contract beyond the fiscal year is contingent upon future fiscal appropriations.

I.3 CONFIDENTIALITY OF INFORMATION

All information obtained by the Contractor relating to any employee of the District or customer of the District shall be kept in absolute confidence and shall not be used by the Contractor in connection with any other matters, nor shall any such information be disclosed to any other person, firm, or corporation, in accordance with the District and Federal laws governing the confidentiality of records.

I.4 TIME

Time, if stated in a number of days, shall include Saturdays, Sundays, and holidays, unless otherwise stated herein.

I.5 OTHER CONTRACTORS

The Contractor shall not commit or permit any act that shall interfere with the performance of work by another District Contractor or by any District employee.

I.6 FIRST SOURCE EMPLOYMENT AGREEMENT

The Contractor shall maintain compliance with the terms and conditions of the First Source Employment Agreement executed between the District of Columbia and the Contractor throughout the entire duration of the Contract, including option periods if any.

I.7 SUBCONTRACTS

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior, written consent of the Contracting Officer. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District shall have the right to review and approve prior to its

execution to the Contractor. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this Contract. Notwithstanding any such subcontractor approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder.

I.8 CONTRACTS IN EXCESS OF \$1 MILLION

Any Contract in excess of \$1,000,000.00 shall not be binding or give rise or any claim or demand against the District until approved by the Council of the District of Columbia, and signed by the Contracting Officer.

I.9 THIS SECTION IS RESERVED FOR FUTURE USE

I.10 CONTINUITY OF SERVICES

I.10.1 The Contractor recognizes that the services provided under this Contract are vital to the District of Columbia and must be continued without interruption and that, upon Contract expiration or termination, a successor, either the District Government or another Contractor, at the District's option, may continue to provide these services. To that end, the Contractor agrees to:

I.10.1.1 Furnish phase-out, phase-in (transition) training; and

I.10.1.2 Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

I.11 INSURANCE

I.11.1 The Contractor shall obtain the minimum insurance coverage set forth below prior to award of the Contract and within ten (10) calendar days after being called upon by the District to do so and keep such insurance in force throughout the Contract period.

I.11.2 Bodily Injury: The Contractor shall carry bodily injury insurance coverage written in the comprehensive form of policy of at least \$500,000 per occurrence.

I.11.3 Property Damage: The Contractor shall carry property damage insurance of a least (\$20,000) per occurrence.

I.11.4 Workers' Compensation: The Contractor shall carry workers' compensation insurance covering all of its employees employed upon the premises and in connection with its other operations pertaining to this Contract, and the Contractor agrees to comply at all times with the provisions of the workers' compensation laws of the District.

I.11.5 Employer's Liability: The Contractor shall carry employer's liability coverage of at least one hundred thousand dollars (\$100,000) per employee.

I.11.6 Automobile Liability: The Contractor shall maintain automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the Contract. Policies shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage.

I.11.7 Professional Liability: The Contractor shall carry and maintain professional liability insurance coverage of at least \$1 Million Dollars.

I.11.8 All insurance provided by the Contractor as required by this section, except comprehensive automobile liability insurance, shall set forth the District as an additional named insured. All insurance shall be written with responsible companies licensed by the District of Columbia's Department of Insurance and Securities Regulation with a certificate of insurance to be delivered to the District's Contracting Officer within ten (10) days of request by the District. The policies of insurance shall provide for at least thirty (30) days written notice to the District prior to their termination or material alteration.

I.12 **EQUAL EMPLOYMENT OPPORTUNITY**

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, an award cannot be made to any Contractor who has not satisfied the equal employment requirements as set forth by the Office of Human Rights and the Department of Small and Local Business Development.

I.13 **CONTRACT MERGER CLAUSE**

This Contract, including incorporated documents, constitutes the entire agreement between the parties. All previous discussions, writings and agreements are merged herein and shall not provide a basis for modifying or changing this written Contract.

I.14 **THIS SECTION IS RESERVED FOR FUTURE USE**

I.15 **ORDER OF PRECEDENCE**

A conflict in language or any inconsistencies in this Contract shall be resolved by giving precedence to the document in the highest order of priority which contains language addressing the issue in question. The following sets forth in descending order of precedence priority the documents that are incorporated into this Contract by reference and made a part of the Contract:

1. Contract Sections A through M of this Contract
2. Standard Contract Provisions for the Use with District of Columbia Government Supply and Services Contracts, March, 2007 (Attachment J.1)

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3. Wage Determination No. 2005-2103 (Revision No. 4, June 05, 2007)
(Attachment J.2).
4. Best and Final Offer
5. Request for Proposal submission
6. Request for Proposal Number

This Contract, including incorporated documents, constitutes the entire agreement between the parties. All previous discussions, writings and agreements are merged herein and shall not provide a basis for modifying or changing this written contract.

***** END OF SECTION I *****

SECTION J: LIST OF ATTACHMENTS

- J.1** Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts, March 2007
- J.2** Wage Determination No. 05-2103, Rev. 4, dated June 5, 2007
- J.3** Healthcare Insurance Portability and Accountability Act
- J.4** EEO information and Mayor Orders 85-85
- J.5** Budget Package
- J.5** Tax Certification Affidavit
- J.6** Cost/Price Data Package
- J.7** Contractor's Affidavit of Responsibility
- J.8** First Source Agreement

***** END OF SECTION J *****

**ATTACHMENT J. 5
 BUDGET PACKAGE
 Page 1 of 2**

Contractor: _____

**PRICE PROPOSAL
 BUDGET SUMMARY**

	Cost	Total Costs
Personnel		
Total Salaries		
Total Fringe Benefits		
Supplies		

Equipment (Please Itemize)		
Other (Please Specify)		
	Total	

ATTACHMENT J. 5
BUDGET PACKAGE
 Page 2 of 2

BUDGET NARRATIVE

Please write a brief narrative to support the proposed budget in the space provided. Please use additional Sheets if necessary.

1. Personnel:

Position Title	Functions	Certification/ Licensure (if any)	% of Time/FTES

2. Supplies:

3. Equipment:

4. Other

Chief Executive Officer:

Telephone Number:

E-mail Address

Chief Financial Officer:

Telephone Number:

E-mail Address

SECTION K

REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

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SECTION K: REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

K.1 AUTHORIZED NEGOTIATORS

The Offeror represents that the following persons are authorized to negotiate on its behalf with the District in connection with the request for proposals. (list names, titles, and telephone numbers of the authorized negotiators).

K.2 TYPE OF BUSINESS ORGANIZATION

K.2.1 The Offeror, by checking the applicable box, represents that

(a) It operates as:

a corporation incorporated under the laws of the State of

an individual,

a partnership

a nonprofit organization, or

a joint venture; or

(b) If the Offeror is a foreign entity, it operates as:

an individual

a joint venture, or

a corporation registered for business in _____

(Country)

K.3 CERTIFICATION AS TO COMPLIANCE WITH EQUAL OPPORTUNITY OBLIGATIONS

Mayor's Order 85-85, "Compliance with Equal Opportunity Obligations in Contracts", dated June 10, 1985 and the Office of Human Rights' regulations, Chapter 11, "Equal Employment Opportunity Requirements in Contracts", promulgated August 15, 1986 (4 DCMR Chapter 11, 33 DCR 4952) are included as a part of this solicitation and require the following certification for Contracts subject to the order. Failure to complete the certification may result in rejection of the Offeror for a Contract subject to the order.

I hereby certify that I am fully aware of the content of the Mayor's Order 85-85 and the Office of Human Rights' regulations, Chapter 11, and agree to comply with them in performance of this Contract.

Offeror _____ Date _____

Name _____ Title _____

Signature _____

Offeror ____ has ____ has not participated in a previous Contract or subcontract subject to the Mayor's Order 85-85. Offeror ____ has ____ has not filed all required compliance reports, and representations indicating submission of required reports signed by proposed subcontractor. (The above representations need not be submitted in connection with Contracts or subcontracts, which are exempt from the Mayor's Order.)

K.4 BUY AMERICAN CERTIFICATION

The Offeror hereby certifies that each end product, except the end products listed below, is a domestic end product (as defined in Clause 23 of the Standard Contract Provisions, "Buy American Act"), and that components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

_____ EXCLUDED END PRODUCTS

_____ COUNTRY OF ORIGIN

K.5 DISTRICT EMPLOYEES NOT TO BENEFIT CERTIFICATION

Each Offeror shall check one of the following:

_____ No person listed in Clause 13 of the Standard Contract Provisions shall benefit from this Contract.

_____ The following person(s) listed in Clause 13 may benefit from this contract. For each person listed, attach the affidavit required by Clause 13 of the Standard Contract Provisions.

K.6 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

(a) Each signature of the Offeror is considered to be a certification by the signatory that:

**Comprehensive Medical Services
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- (1) The prices in the Offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any Contractor or competitor relating to:
 - (i) those prices
 - (ii) the intention to submit an Offer, or
 - (iii) the methods or factors used to calculate the prices in the Offer;
 - (2) The prices in the Offer have not been and shall not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before award unless otherwise required by law; and
 - (3) No attempt has been made or shall be made by the Offeror to induce any other concern to submit or not to submit an Offer for the purpose of restricting competition.
- (b) Each signature on the Offer is considered to be a certification by the signatory that the signatory:
- (1) Is the person in the Offeror's organization responsible for determining the prices being offered in this Offer, and that the signatory has not participated and shall not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
 - (2) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and shall not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above:
-
- (Please insert full name and title of the person(s) in the organization responsible for determining the prices offered in this Offer)**
- (i) As an authorized agent, does certify that the principals named in subdivision (b)(2) above have not participated, and shall not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and
 - (ii) As an agent, has not participated, and shall not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.
- (c) If the Offeror deletes or modifies subparagraph (a)(2) above, the Offeror shall furnish with its Offer a signed statement setting forth in detail the circumstances of the disclosure.

K.7 ACKNOWLEDGMENT OF AMENDMENTS

The Offeror acknowledges receipt of the following Amendments to the solicitation and related documents numbered and dated as follows:

Amendment No.	Date	Name of Authorized Representative	Title of Authorized Representative	Signature of Authorized Representative

*****END OF SECTION K*****

SECTION L

INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

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SECTION L

INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

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SECTION L: INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

L.1 CONTRACT AWARD

L.1.1 Most Advantageous to the District

The District intends to award multiple Contracts resulting from this solicitation to the responsive and responsible Offeror(s) whose Offer(s) conforming to the solicitation shall be most advantageous to the District, cost or price, technical and other factors, specified elsewhere in this solicitation considered.

L.1.2 Initial Offers

The District may award Contracts on the basis of initial Offers received, without discussion. Therefore, each initial Offer should contain the Contractor best terms from a standpoint of cost or price, technical and other factors. **The Offeror shall submit a Technical and Cost Proposal for each CPEP, SEH and DMH Employees Unit pursuant to Schedule B**

L.2 PROPOSAL FORM, ORGANIZATION AND CONTENT

L.2.1 One original and four (4) copies of the written proposals shall be submitted in two parts, titled "Technical Proposal" and "Price Proposal". Proposals shall be typewritten in 12 point Times New Roman font on 8.5" by 11" bond paper. Telephonic, and facsimile proposals shall not be accepted. Each proposal shall be submitted in a sealed envelope conspicuously marked "**Proposal in Response to Solicitation No. (insert solicitation number, title and name of Offeror)**".

L.2.2 Offerors are directed to the specific proposal evaluation criteria found in Section M of this solicitation, Evaluation Factors. Offerors shall respond to each factor in a way that shall allow the District to evaluate the Offeror's response. Offerors shall submit information in a clear, concise, factual and logical manner, providing a comprehensive description of program supplies and services delivery thereof. The information requested below for the technical proposal shall facilitate evaluation and best value source selection for all proposals. The technical proposal must contain sufficient detail to provide a clear and concise representation of the requirements in Section C.

L.2.3 Technical Proposal

L.2.3.1 The Technical Proposal shall be no more than 25 single-spaced pages, one side only. The District shall not consider any pages in excess of 25 pages to be a part of the Technical Proposal and shall not review or evaluate such pages. Contractor shall address all of the requirements depicted in Section C – Description/ Specifications/Statement of Work and in Section F – Delivery of Deliverables

L.2.3.2 Offeror shall also complete the following documents and submit them along with its Technical Proposal:

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Department of Mental Health
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- L.2.3.2.1 Solicitation, Offer and Award form (See Section L.9, below);
- L.2.3.2.2 Attachment J.7 of this solicitation, Tax Certification Affidavit
- L.2.3.2.3 Attachment J.8 of this solicitation, First Source Employment Agreement
- L.2.3.2.4 Section K of this solicitation, Representations, Certifications and Other Statements of Offeror
- L.2.3.2.4 The names, address, phone numbers and e-mail addresses of at least but no more than three (3) government agencies/points of contact for whom Offeror has provided the same or similar services in the last three (3) years. The District shall contact these agencies as part of conducting its Past Performance Evaluation (See Section M.4, below.)
- L.2.3.2.6 Any document required by Section C.8 or Section L.19 of this solicitation.

L.2.4 Price Proposal

- L.2.4.1 Offerors shall complete Section B.4, Pricing Schedule and Attachment J.5, Budget Package. All costs reimbursable under GMO shall be excluded from the Contractor's daily rate calculation.

L.3 PROPOSAL SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, WITHDRAWAL OR MODIFICATION OF PROPOSALS AND LATE PROPOSALS

L.3.1 Proposal Submission

Proposal must be submitted no later than 2:00 P.M. local time on Monday, September 8, 2008 to the following address AND CLEARLY MARKED THAT IT IS A REQUEST FOR PROPOSAL SUBMISSION WITH THE SOLICITATION NUMBER:

Government of the District of Columbia
Department of Mental Health
Contracting and Procurement Administration
64 New York Avenue, N.E. - 4th floor
Washington, DC 20002
Attn: Samuel J. Feinberg, CPPO, CPPB
Director, Contracts and Procurement
Agency Chief Contracting Officer

Proposals, modifications to proposals, or requests for withdrawals that are received in the designated District office after the exact local time specified above, are "late" and

shall be considered only if they are received before the award is made and one (1) or more of the following circumstances apply:

- (a) The proposal or modification was sent by registered or certified mail not later than the fifth (5th) day before the date specified for receipt of offers;
- (b) The proposal or modification was sent by mail and it is determined by the Contracting Officer that the late receipt at the location specified in the solicitation was caused by mishandling by the District, or
- (c) The proposal is the only proposal received.

L.3.2 Withdrawal or Modification of Proposals

An Offeror may modify or withdraw its proposal upon written, telegraphic notice, or facsimile transmission if received at the location designated in the solicitation for submission of proposals, but not later than the closing date for receipt of proposals.

L.3.3 Postmarks

The only acceptable evidence to establish the date of a late proposal, late modification or late withdrawal sent either by registered or certified mail shall be a U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt from the U.S. or Canadian Postal Service. If neither postmark shows a legible date, the proposal, modification or request for withdrawal shall be deemed to have been mailed late. When the postmark shows the date but not the hour, the time is presumed to be the last minute of the date shown. If no date is shown on the postmark, the proposal shall be considered late unless the Contractor can furnish evidence from the postal authorities of timely mailing.

L.3.4 Late Modifications

A late modification of a successful proposal, which makes its terms more favorable to the District, shall be considered at any time it is received and may be accepted.

L.3.5 Late Proposals

A late proposal, late modification or late request for withdrawal of an offer that is not considered shall be held unopened, unless opened for identification, until after award and then retained with unsuccessful offers resulting from this solicitation.

L.4 EXPLANATION TO PROSPECTIVE OFFERORS

If a prospective Offeror has any questions relative to this solicitation, the prospective Offeror shall submit the question in writing to the **Contact Person identified in Section A, Page One of this solicitation**. The prospective Offeror shall submit questions no later than Five (5) Calendar Days after the Optional Pre-Proposal

Conference is held on the date and time indicated for this solicitation in Section L.22 . The District shall not consider any questions received after Five (5) Calendar Days after the Optional Pre-Proposal Conference is held on the date and time indicated for this solicitation in Section L.22 . The District shall furnish responses promptly to all prospective Offerors. The District shall issue an Amendment to the solicitation if that information is necessary in submitting Offers, or if the lack of it would be prejudicial to any other prospective Offeror. Oral explanations or instructions given before the award of the contract shall not be binding.

L.5 FAILURE TO SUBMIT OFFERS

Recipients of this solicitation not responding with an Offer should not return this solicitation. Instead, they should advise the Director/ACCO, Department of Mental Health, 64 New York Avenue, N.E., 4th Floor, Washington, DC 20002, Telephone (202) 671-3171 by letter or postcard whether they want to receive future solicitations for similar requirements. It is also requested that such recipients advise the Director/ACCO of the reason for not submitting a proposal in response to this solicitation. If a recipient does not submit an offer and does not notify the Director, ACCO that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

L.6 RESTRICTION ON DISCLOSURE AND USE OF DATA

L.6.1 Offerors who include in their proposals data that they do not want disclosed to the public or used by the District except for use in the procurement process shall mark the title page with the following legend:

“This proposal includes data that shall not be disclosed outside the District and shall not be duplicated, used or disclosed in whole or in part for any purpose except for use in the procurement process.

If, however, a Contract is awarded to this Offeror as a result of or in connection with the submission of this data, the District shall have the right to duplicate, use, or disclose the data to the extent consistent with the District’s needs in the procurement process. This restriction does not limit the District’s rights to use, without restriction, information contained in this proposal if it is obtained from another source. The data subject to this restriction are contained in Sheets (insert page numbers or other identification of Sheets).”

L.6.2 Mark each Sheets of data it wishes to restrict with the following legend:

”Use or disclosure of data contained on the Sheet is subject to the restriction on the title page of this proposal.”

L.7 PROPOSALS WITH OPTIONS YEARS

The Offeror shall include option year prices in its Price proposal. An Offer may be determined to be unacceptable if it fails to include option year pricing.

L.8 PROPOSAL PROTESTS

Any actual or prospective Offeror or Contractor who is aggrieved in connection with the solicitation or award of a Contract, must file with the D.C. Contract Appeals Board (Board) a protest no later than 10 business days after the basis of protest is known or should have been known, whichever is earlier. A protest based on alleged improprieties in a solicitation which are apparent prior to the time set for receipt of initial proposals shall be filed with the Board prior to bid opening or the time set for receipt of initial proposals. In procurements in which proposals are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into this solicitation, must be protested no later than the next closing time for receipt of proposals following the incorporation. The protest shall be filed in writing, with the Contract Appeals Board, 717 14th Street, N.W., Suite 430, Washington, D.C. 20004. The aggrieved person shall also mail a copy of the protest to the Contracting officer for the solicitation.

L.9 SIGNING OF OFFERS

The Offeror shall sign the Offer in **Blue Ink** and print or type the name of the Offeror and the name and title of the person authorized to sign the Offer in blocks 14, 14A, 15 and 15A of Section A, Solicitation, Offer and Award form, page one of this solicitation. The Offeror's solicitation submission must be **signed in Blue Ink** by an authorized negotiator as identified in Section K.1 of your submission. DMH shall not under any circumstances accept a submission signed by someone other than an authorized negotiator, nor submitted with either an electronic signature, a signature stamp, a color copy of a signature, or anything other than an original signature in **Blue Ink** by an authorized negotiator. Furthermore, wherever any other part of the solicitation requires you to submit a document with a signature (*e.g.* Section K.3-Certification as to Compliance with Equal Opportunity Obligations, Tax Certification Affidavit, First Source Employment Agreement), only an original signature by an authorized negotiator, in **Blue Ink** will be accepted by DMH. Erasures or other changes must be initialed by the person signing the Offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the Director/ACCO.

L.10 UNNECESSARILY ELABORATE PROPOSALS

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are not desired and may be construed as an indication of the Contractor's lack of cost consciousness. Elaborate

artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor desired

L.11 RETENTION OF PROPOSALS

All proposal documents shall be the property of the District and retained by the District, and therefore shall not be returned to the Offeror.

L.12 PROPOSAL COSTS

The District is not liable for any costs incurred by the Offeror in submitting proposals in response to this solicitation.

L.13 ELECTRONIC COPY OF PROPOSALS FOR FREEDOM OF INFORMATION ACT REQUESTS

In addition to other proposal submission requirements, the Contractor must submit an electronic copy of its proposal, redacted in accordance with any applicable exemptions from disclosure in D.C. Official Code section 2-534, in order for the District to comply with Section 2-536(b) that requires the District to make available electronically copies of records that must be made public. The District's policy is to release documents relating to District proposals following award of the Contract, subject to applicable FOIA exemption under Section 2-534(a)(1).

L.14 CERTIFICATES OF INSURANCE

The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in Section I.10 prior to commencing work. Evidence of insurance shall be submitted within ten (10) days of request by the District to:

Samuel J. Feinberg, CPPO, CPPB
Director, Contracts and Procurement
Agency Chief Contracting Officer
Government of the District of Columbia
Department of Mental Health
Contract and Procurement Administration
64 New York Avenue, N.E., 4th Floor
Washington, DC 20002
(202) 671-3188 – Office
(202) 671-3395 - Fax

L.15 ACKNOWLEDGMENT OF AMENDMENTS

Offerors shall acknowledge receipt of any amendment to this solicitation by (a) signing and returning the amendment; (b) by identifying the amendment number and date in the

space provided for this purpose in Section K of the solicitation; or (c) by letter or telegram including mailgrams. The District must receive the acknowledgment by the date and time specified for receipt of Offers. An Offeror's failure to acknowledge an amendment may result in rejection of the Offer.

L.16 **BEST AND FINAL OFFERS**

If, subsequent to receiving original proposals, negotiations are conducted, all Offerors within the competitive range shall be so notified and shall be provided an opportunity to submit written Best And Final Offers (BAFOs) at the designated date and time. Best and Final Offers shall be subject to Late Submissions, Late Modifications and Late Withdrawals of Proposals provision of the solicitation. After receipt of best and final offers, no discussions shall be reopened unless the Contracting Officer determines that it is clearly in the Government's best interest to do so, *e.g.*, it is clear that information available at that time is inadequate to reasonably justify selection and award based on the best and final offers received. If discussions are reopened, the Contracting Officer shall issue an additional request for BAFOs to all Offerors still within the competitive range.

L.17 **KEY PERSONNEL**

The Offeror shall identify proposed key personnel for each discipline required and outline their relevant experience, indicating the percentage of their total time to be dedicated to this project, and shall identify the Project Manager who shall lead the day-to-day activities of the project and outline his/her relevant experience (introductory narrative plus 1 page (maximum) resumes of key personnel only are encouraged).

L.18 **ACCEPTANCE PERIOD**

The Offeror agrees that its Offer remains valid for a period of 120 days from the solicitation's closing date

L.19 **LEGAL STATUS OF CONTRACTOR**

L.19.1 Offeror must provide as part of its proposal its Name, Address, Telephone Number, Federal tax identification number and DUNS Number.

L.19.2 Offeror must provide a copy with its proposal a copy of each District of Columbia license, registration or certification that the Offeror is required by law to obtain. This mandate also requires the Offeror to provide a copy of the executed "Clean Hands Certification" that is referenced in D.C. Official Code section 47-2862 (2001), if the Offeror is required by law to make such certification. If the Offeror is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the offer shall certify its intent to obtain the necessary license, registration or certification prior to Contract award or its exemption from such requirements; and

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L.19.3 If the Offeror is a partnership or joint venture, Offeror must provide the names of general partners or joint ventures, and copies of any joint venture or teaming agreements.

L.20 **FAMILIARIZATION WITH CONDITIONS**

Offerors shall thoroughly familiarize themselves with the terms and conditions of this solicitation, acquainting themselves with all available information regarding difficulties that may be encountered, and the conditions under which work is to be accomplished. Offerors shall not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required herein due to their failure to investigate the conditions or to become acquainted with all information, schedules and liability concerning the services to be performed.

L.21 **STANDARDS OF RESPONSIBILITY**

The Offeror shall demonstrate to the satisfaction of the District the capability in all respects to perform fully the Contract requirements, therefore, the Offeror shall submit the documentation listed below, within five (5) days of the request by the District.

L.21.1 Furnish evidence of adequate financial resources, credit or the ability to obtain such resources as required during the performance of the Contract.

L.21.2 Furnish evidence of the ability to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.

L.21.3 Furnish evidence of the necessary organization, experience, accounting and operational control, technical skills or the ability to obtain them.

L.21.4 Furnish evidence of compliance with the applicable District licensing, tax laws and regulations.

L.21.5 Furnish evidence of a satisfactory performance record, record of integrity and business ethics.

L.21.6 Furnish evidence of the necessary production, construction and technical equipment and facilities or the ability to obtain them.

L.21.7 Evidence of other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations.

L.21.8 If the Offeror fails to supply the information requested, the Contracting Officer shall make the determination of responsibility or non-responsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the Contracting Officer shall determine the Offeror to be non-responsible.

L.21.9 In preparing the budget please present the cost for SEH, CPEP and Employee Health as separate cost centers, consistent with Schedule B of this solicitation. DMH is aware there may be cost sharing among some entities, if so , the budget should be organized as to easily identify positions, annual, and fringe benefit cost, line items of non-personnel and administrative cost.

L.22 **OPTIONAL PRE-PROPOSAL CONFERENCE**

L.22.1 The District shall conduct an Optional Pre-Proposal Conference on August 20, 2008 at 11:00 A.M.at the Department of Mental Health, 64 New York Avenue, N.E., Room (To Be Determined), Washington, D.C. 20002. Prospective Offerors shall be given an opportunity to ask questions regarding this solicitation at the conference. The purpose of the conference is to provide a structured and formal opportunity for the District to accept questions from Offerors on the solicitation document as well as to clarify the contents of the solicitation. Attendees must complete the Pre-Proposal conference Attendance Roster at the conference so that their attendance can be properly recorded. This conference is to be held no more than 10 days after the release of the solicitation.

L.23.2 Impromptu questions shall be permitted and spontaneous answers shall be provided at the District's discretion. Verbal answers given at the pre-proposal conference are only intended for general discussion and do not represent the District's formal position. All questions must be submitted in writing to the Director/ACCO following the close of the Pre-Proposal conference in order to generate a formal answer, but in any even no fewer than five (7) days prior to the date set for receipt of proposals. Answers shall be provided in writing to all prospective Offerors who are listed on the official Offerors' list as having received a copy of the solicitation, and shall be issued as an Amendment to the solicitation.

*****END OF SECTION L*****

SECTION M

EVALUATION FACTORS FOR AWARD

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SECTION M: EVALUATION FACTORS FOR AWARD

M.1 EVALUATION FOR AWARD

The Contract(s) shall be awarded to the responsible Offeror(s) whose Offer(s) conforming to the solicitation shall be most advantageous to the District, based upon the Evaluation Criteria specified below. While the points in the Evaluation Criteria indicate their relative importance, the total scores shall not necessarily be determinative of the award. Rather the total scores shall guide the District in making an intelligent award decision based upon the Evaluation Criteria.

M.2 TECHNICAL RATING

The Technical Rating Scale is as follows:

Numeric Rating	Adjective	Description
1	Unacceptable	Fails to meet minimum requirements; major deficiencies which are not correctable
2	Poor	Marginally meets minimum requirements; major deficiencies which may be correctable
3	Acceptable	Meets requirements; only minor deficiencies which are correctable
4	Good	Meets requirements; no deficiencies
5	Excellent	Exceeds most, if not all requirements; no deficiencies

For example, if a subfactor has a point evaluation of 0 to 6 points, and (using the Technical Rating Scale) the District evaluates as “Good” the part of the proposal applicable to the subfactor, the score for the subfactor is 4.8 (4/5 of 6). The subfactor scores shall be added together to determine the score for the factor level.

M.3 TECHNICAL EVALUATION

M.3.1 The Technical Evaluation Criteria set forth below have been developed by agency technical personnel and has been tailored to the requirements of this particular solicitation. The criteria serve as the standard against which all proposals shall be evaluated and serve to identify the significant matters which the Offeror should specifically address in complying with the requirements of this solicitation.

M.3.2 Offeror’s Technical Proposal and Price Proposal shall be evaluated separately.

M.3.3 TECHNICAL EVALUATION FACTORS

M.3.3.1 Technical Understanding and Technical Approach Total 55 Points

M.3.3.1.1 Offeror shall demonstrate necessary organizational skill and experience to carry out the objectives outlined in Section C . **10 Points**

M.3.3.1.2 Offeror shall demonstrate its organizational proposed model enhances Medical Care for patients at SEH, CPEP and promote a high level of medical care **25 points**

M.3.3.1.3 Offeror demonstrates in its proposal a high level plan for health promotion

10 points

M.3.3.1.4 Offeror shall demonstrate the integration of the medical care with psychiatric care SEH and CPEP. **10 Points**

M.4 PAST PERFORMANCE EVALUATION Total 30 Points

Offeror demonstrates satisfactory past performances as evidenced in the proposal submission.

M.5 PRICE EVALUATION Total 15 Points

M.5.1. The Price Evaluation shall be objective. The Offeror with the lowest total price, including the base year and all option years, shall receive the maximum price points. All other proposals shall receive a proportionately lower score. The following formula shall be used to determine each Offeror’s evaluated price score:

$$\frac{\text{Lowest price proposal}}{\text{Price of proposal being evaluated}} \times 15 = \text{Evaluated price score}$$

M.6 CLAUSES APPLICABLE TO ALL OPEN MARKET SOLICITATIONS

M.6.1 Preference for Subcontracting to Open Market solicitations with No LBE, DEB, RBO Subcontracting Set Aside

- 1). If the prime Contractor is not a certified LBE, certified DBE, certified RBO or a business located in the enterprise in an enterprise zone, the District shall award the above stated preferences by reducing the bid price or by increasing the points proportionally based on the total dollar value of the bid or proposal that is designated by the Prime Contractor for subcontracting with a certified LBE, DBE, RBO or business located in an enterprise zone.

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- 2) If the prime Contractor is a joint venture that is not a certified LBE, certified DBE or certified RBO joint venture, or if the Prime Contractor is a joint venture that includes a business in an enterprise zone but such business located in an enterprise zone does not own and control at least fifty-one percent (51%) of the joint venture, the District shall award the above-stated preferences by reducing the bid price or by increasing the points proportionally in the proposal based on the total dollar value of the bid or proposal that is designated by the prime Contractor for certified LBE, DBE, RBO, or business located in an enterprise zone, for participation in the joint venture.

Vendors interested in becoming certified under the different programs should contact the following for a certification package.

Department of Small and Local Business
Development
ATTN: Certification Program
441-4th Street, N.W, Suite 970N
Washington, D.C. 20001

*****END OF SECTION M*****