

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF MENTAL HEALTH
CONTRACTS AND PROCUREMENT ADMINISTRATION**

**REQUEST FOR QUOTATION
RM-09-RFQ-BY0-080-DJC for Document Management Services**

The Government of the District of Columbia Department of Mental Health (DMH) is issuing this Competitive Request for Quotation to solicit prices from qualified Vendors to provide Document Management Services according to the attached specifications. Please submit the attached Schedule B Pricing Sheet.

Opening Date: June 2, 2009
Closing Date: June 5, 2009
Closing Time: 12:00 P. M. EST

To obtain a copy of the Request for Quotation please contact Denise J. Carter, Contract Specialist, at:

**D.C. Department of Mental Health | Contracts and Procurement
Administration**
64 New York Avenue NE - 4th Floor Washington DC 20002
Tel: 202.671-3174 | Fax: 202.671-3395
denise.carter2@dc.gov

Please return the completed Quote Sheet (Schedule B Pricing Sheet) to Ms. Denise J. Carter via e-mail Denise.carter2@dc.gov or facsimile at (202) 671-3395 by the date and time shown above.

Any and all questions pertaining to this solicitation must be submitted in writing to:

**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**

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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**

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 34	
		3. CONTRACT NUMBER:	
		4. SOLICITATION NUMBER: RM-09-RFQ-BY0-080-DJC	
		5. DATE ISSUED:	
		6. OPENING/CLOSING TIME: JUNE 2, 2009/JUNE 5, 2009 12:00 P.M. EST	
7. TYPE OF SOLICITATION: N/A <input checked="" type="checkbox"/> SEALED BID <input type="checkbox"/> NEGOTIATION (RFP)		8. DISCOUNT FOR PROMPT PAYMENT:	
NOTE: IN SEALED BID SOLICITATION "OFFER AND CONTRACTOR" MEANS "BID AND BIDDER"			
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

11. TABLE OF CONTENTS

(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
<i>PART I – The Schedule</i>				<i>PART II – Contract Clauses</i>			
x	A	Solicitation/Contract Form	1	x	I	Contract Clauses	27-33
x	B	Supplies/Services and Price/Costs	2	<i>PART III – List of Documents, Exhibits and Other Attach</i>			
x	C	Description/Specs/Work Statement	5-6	x	J	List of Attachments	34
x	D	Packaging and Marking	8	<i>PART IV – Representations and Instructions</i>			
x	E	Inspection and Acceptance	10-13		K	Representations, Certifications and other Statements of Contractors	N/A
x	F	Deliveries or Performance	15		L	Instrs. Conds., & Notices to Contractors	N/A
x	G	Contract Administration	17-18		M	Evaluation Factors for Award	N/A
x	H	Special Contract Requirements	21-25				

OFFER (TO BE COMPLETED BY CONTRACTOR)

12. In compliance with the above, the undersigned agrees, if the offer is accepted within **180** calendar days (unless a different period is inserted by 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 RFQ/IFB shall constitute a Formal Contract. All offers are subject to the terms and conditions contained in the solicitation.

13. ACKNOWLEDGEMENT OF AMENDMENTS (Contractor acknowledge receipt of amendments to the SOLICITATION for Contractors and related documents numbered and dated):			AMENDMENT NO:	DATE:
14. NAME AND ADDRESS OF 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

B.1 PURPOSE OF SOLICITATION

B.1.1 The Government of the District of Columbia Department of Mental Health (DMH), Office of the Chief Financial Officer (OCFO) is seeking a Contractor to provide document management products and services.

B.2 CONTRACT TYPE

B.2.1 This is a Fixed Price Contract with payments based on fixed unit rates as outlined in the Pricing Schedule in Section B of this contract.

B.3 PERIOD OF PERFORMANCE

B.3.1 The Period of Performance (POP) under this Contract shall be One Year from Date of Award.

B.5 SCHEDULE B PRICING SHEET

CLIN	SUPPLIES/SERVICES ITEM DESCRIPTION	MAXIMUM QUANTITY	UNIT PRICE	TOTAL AMOUNT
0001	<p>Scan to CD (including preparation, indexing)</p> <p>Which includes document preparation; scanning; indexing application, conversion of documents on CD; making documents accessible through the District's FileNet Enterprise Content Management System or other equivalent system; and storage of hardcopy records (with option to retrieve upon requests).</p> <p>TOTAL</p> <hr/> <p>Print Name of Offeror</p> <hr/> <p>Print Name of Authorized Person</p> <hr/> <p>Title</p> <hr/> <p>Signature of Authorized Person</p> <hr/> <p>Date</p>	55 (15"x 20") Boxes of Accounts Payable Documents	\$ _____	\$ _____

PART I - THE SCHEDULE

SECTION C

BACKGROUND/SCOPE OF SERVICES/ REQUIREMENTS

TABLE OF CONTENTS

CLAUSE NO.	CLAUSE TITLE	PAGE NO.
C-1	BACKGROUND	5
C-2	SCOPE OF SERVICES	5
C-3	GENERAL REQUIREMENTS	5-6

SECTION C: BACKGROUND, SCOPE OF SERVICES AND REQUIREMENTS**C.1 BACKGROUND**

- C.1.1 The Department of Mental Health provides comprehensive mental health services to adults, children, youths and their families. Inpatient services are provided at Saint Elizabeth's Hospital. Saint Elizabeth's Hospital (SEH) was created in 1855 and serves as the District of Columbia's government-run psychiatric hospital.

The Department of Mental Health (DMH) Office of the Chief financial Officer (OCFO) for the purpose of this solicitation, each managing its own document management functions in its own separate building locations. OCFO has a document file room and, in some instances staff to manage the function. However, OCFO must adhere to document retention standards that require that files be kept either in onsite or offsite storage for a number of years to be retrieved upon request by internal and external auditors. The turnaround time for document retrieval for an audit may be from an hour to a week depending on the volume of records being requested. The records being retained by OCFO in their onsite and offsite storage are related to its Accounts Payable functions, where the record retention is about seven (7) years.

C.2 SCOPE OF SERVICES

- C.2.1 The Department of Mental Health (DMH), Office of the Chief Financial Officer (OCFO) handles the Accounting, Budget and Accounts Payable functions for DMH programs. OFCO has a need for a Contractor to provide document management products and services; including document preparation; scanning; indexing application, conversion of documents on CD; making documents accessible through the District's FileNet Enterprise Content Management System or other equivalent system; and storage of hardcopy records (with option to retrieve upon requests).
- C.2.2 The Contractor shall be selected to perform Document Preparation and Scanning and possibly other tasks from C.2.1. OCFO staff shall make the selection(s) based on capability, familiarity with the work to be done, schedule availability and turnaround time. Contractors should provide verifiable references of similar work done. The Contractor shall be working under various deadlines to complete the assigned tasks. However, the District is not obligated to assign any tasks under this contract.
- C.2.3 The Contractor that is awarded a contract must be able to provide the equipment and manpower to execute the chosen functions. Due to security and accessibility considerations, files must be handled on-site unless the OFCO gives permission for offsite handling.

- C.2.4 The Contractor shall delegate a lead task coordinator/manager to work directly with the Agency Fiscal Officer, who is in charge of the task. The ensure that all job tickets are signed by the authorized Government Employee at the Accounts Payable Manager shall have oversight of all tasks performed under this Contract. Contractor's lead task coordinator/manager shall direct the Contractor's personnel on the assigned task(s).
- C.2.5 Contractors shall offer the following possible solution sets:
- a) Document preparation with Scan to CD
 - b) Document preparation with Scan to CD with in-house indexing and indexing software
 - c) Document preparation with Scan and Capture for loading into an electronic Content Management System (optional)
 - d) Storage of hardcopy records (with option to retrieve upon request)
- C.2.6 The Contractors personnel working on tasks shall report to DMH OCFO office assigned by the OCFO located in Washington, D.C. The Government of the District Columbia cannot provide parking for Contractor personnel.
- C.3.6 The Contractor shall be experienced in performing its document management services and it must coordinate its efforts with the District's Office of the Chief Technology Officer towards the eventual implementation of an Electronic Content indexing/training application(s) for the OCFO.

***** END OF SECTION C *****

SECTION D**PACKAGING AND MARKING****TABLE OF CONTENTS**

CLAUSE NO.	CLAUSE TITLE	PAGE NO.
D.1	PACKAGING AND MARKING	8
D.2	POSTAGE AND MAILING FEES	8

SECTION D: PACKAGING AND MARKING

D.1 PACKAGING AND MARKING

D.1.1 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.

D.2 POSTAGE AND MAILING FEES

D.2.1 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****TABLE OF CONTENTS**

CLAUSE NO.	CLAUSE TITLE	PAGE NO.
E.1	GENERAL PROVISIONS	10
E.2	CONSESEQUENCES OF CONTRACTOR'S FAILURE TO PERFORM REQUIRED SERVICES	11
E.3	TERMINATION FOR CONVENIENCE	11
E.4	TERMINATION FOR DEFAULT	12-13

SECTION E: INSPECTION AND ACCEPTANCE**E.1 GENERAL PROVISIONS**

E.1.1 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.

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 summarizes 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 completed 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.

E-3 TERMINATION FOR CONVENIENCE

1. The DMH may terminate performance of work under this Solicitation for the convenience of the Government, in whole or, from time to time, in part, if the Director, Contracts and Procurement/Agency Chief Contracting Officer determine that a termination is in the Government's best interest.
2. The Director, Contracts and Procurement/Agency Chief Contracting Officer shall terminate by delivering to Contractor a Notice of Termination specifying the extent of termination and the effective date. After receipt of a Notice of Termination and, except as directed by the Director, Contracts and Procurement/Agency Chief Contracting Officer, Contractor shall immediately proceed with the following obligations:
 - (a.) Stop work as specified in the notice.
 - (b.) Place no further subContracts or orders except as necessary to complete the continued portion of the Contract.
 - (c.) Terminate all applicable subContracts and cancel or divert applicable commitments covering personal services that extend beyond the effective date of termination.
 - (d.) Assign to DMH, as directed by the Director, Contracts and Procurement/Agency Chief Contracting Officer, all rights, titles, and interests of Contractor under the subContracts terminated, in which case DMH shall have the right to settle or pay any termination settlement Quotation arising out of those terminations.
 - (e.) With approval or ratification to the extent required by the Director, Contracts and Procurement/Agency Chief Contracting Officer, settle all outstanding liabilities and termination settlement Quotations arising from the termination of subContracts; approval or ratification shall be final for purposes of this clause.
 - (f.) Transfer title, if not already transferred, and, as directed by the Director, Contracts and Procurement/Agency Chief Contracting Officer, deliver to DMH any information and items that, if the Contract had been completed, would have been required to be furnished, including (i) materials or equipment produced, in process, or acquired for the work terminated, and (ii) completed or partially completed plans, drawings, and information.
 - (g.) Complete performance of the work not terminated.
 - (h.) Take any action that may be necessary for the protection and preservation of property related to this Solicitation.

E-4 TERMINATION FOR DEFAULT

1. DMH may, subject to the conditions stated below, by written notice of default to the Contractor, terminate this Solicitation in whole or in part if Contractor fails to:
 - (a) Perform the services within the time specified in this Solicitation or any extension; or
 - (b) Make progress so as to endanger performance of this Solicitation; or
 - (c) Perform any of the other material provisions of this Solicitation.
2. DMH's right to terminate this Solicitation may be exercised if Contractor does not cure such failure within 10 days (or such longer period as authorized in writing by the Contracting Officer) after receipt of the notice to cure from the Contracting Officer specifying the failure.
3. If DMH terminates this Solicitation in whole or in part, it may acquire, under the terms and in the manner the Director, Contracts and Procurement/Agency Chief Contracting Officer considers appropriate, supplies and services similar to those terminated, and Contractor shall be liable to DMH for any excess costs for those supplies and services. However, Contractor shall continue the work not terminated.
4. Except for default by subcontractors' at any tier, Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of Contractor. Examples of such causes include (1) acts of God, (2) fires or floods, (3) strikes, and (4) unusually severe weather. In each instance the failure to perform shall be beyond the control and without the fault or negligence of Contractor.
5. If the failure to perform is caused by the fault of a subcontractors at any tier, and if the cause of the default is beyond the control of both Contractor and the subcontractors, and without the fault or negligence of either, Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for Contractor to meet the required schedule.
6. If the Contract is terminated for default, DMH may require Contractor to transfer title and deliver to DMH, as directed by the Director, Contracts and Procurement/Agency Chief Contracting Officer, any completed and partially completed supplies and materials that Contractor has specifically produced or acquired for the terminated portion of this Solicitation. Upon direction of the Director, Contracts and Procurement/Agency Chief Contracting Officer, Contractor shall also protect and preserve property in its possession in which CFSA has an interest.

7. Shall pay the Contract price or a portion thereof, for fully or partially completed or delivered supplies and services that are accepted by DMH.
8. If, after termination, it is determined that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of DMH.
9. The rights and remedies of DMH in this clause are in addition to any other rights and remedies provided by law or under this agreement.

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

SECTION F**PERFORMANCE AND DELIVERABLES****TABLE OF CONTENTS**

CLAUSE NO.	CLAUSE TITLE	PAGE NO.
F.1	PERIOD OF PERFORMANCE	15
F.2	DELIVERABLES	15
F.3	CONTRACTOR NOTICE REGARDING LATE PERFORMANCE	15

SECTION F: PERFORMANCE AND DELIVERABLES**F.1 PERIOD OF PERFORMANCE**

F.1.1 The Period of Performance (POP) for this Contract shall be One (1) Year from Date of Award..

F.2 DELIVERABLES**PROJECT TIMELINE**

F.2.1 Project executed in FY 2009 (completion by 9/30/09)

- a) Scan files from 2005 through 2007 onto CDs that have not been previously scanned
- b) Convert CDs from earlier archiving efforts to formats compatible with the chosen Electronic Content Management System (ECM) for files from 2005 through 2007
- c) Create the ECM application repository
- d) Index and capture into ECM files from 2005 through 2007
- e) Scan, index and capture into ECM for Document Managers to facilitate audit retrieval.

The Contractor shall ensure that all job tickets are signed by the authorized Government Employee at the completion of their work.

F-3 CONTRACTOR NOTICE REGARDING LATE PERFORMANCE

F3.1 In the event 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, Contractor shall immediately notify the Director, Contracts and Procurement/Agency Chief Contracting Officer in writing giving full detail as to the rationale for the late delivery and why Contractor should be granted an extension of time, if any. Receipt of Contractor's notification shall in no way be construed as an acceptance or waiver by the DMH.

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

SECTION G**CONTRACT ADMINISTRATION DATA**

TABLE OF CONTENTS

CLAUSE NO.	CLAUSE TITLE	PAGE NO.
G.1	CONTRACT ADMINISTRATION	18
G.2	TYPE OF CONTRACT	18
G.3	MODIFICATIONS	19
G.4	AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR	19
G.5	DESIGNATION OF THE CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE	19
G.6	SUBMISSION OF INVOICES	19-20
G.7	CERTIFICATION OF INVOICES	20
G.8	PAYMENT	20
G.9	RESPONSIBILITY FOR AGENCY PROPERTY	20

SECTION G: CONTRACT ADMINISTRATION DATA**G.1 CONTRACT ADMINISTRATION**

Correspondence or inquiries related to this Solicitation or any modifications shall be addressed to:

Samuel J. Feinberg, CPPO, CPPB
Director, Contracts and Procurement
Agency Chief Contracting Officer
Department of Mental Health
64 New York Avenue – 4th Floor
Washington, DC 20002
Office - (202) 671-3188 – Fax (202-671-3395
Email: Samuel.feinberg@dc.gov

G.2 TYPE OF CONTRACT

G.2.1 This shall be a Fixed Price Contract with fixed unit prices. Contractor shall be remunerated at a fixed unit rate indicated in Section B for service performed. In the event of termination under this Solicitation, the DMH shall only be liable for the payment of all services accepted during the hours of work actually performed.

G.2.2 This Solicitation shall be a “non-personal services Contract”. It is therefore, understood and agreed that Contractor and/or Contractor’s employees: (1) shall perform the services specified herein as independent Contractors, not as employees of the government; (2) shall be responsible for their own management and administration of the work required to bear sole responsibility for complying with any and all technical, schedule, financial requirements or constraints attendant to the performance of this Solicitation; (3) shall be free from supervision or control by any government employee with respect to the manner or method of performance of the service specified; but (4) shall, pursuant to the Government’s right and obligation to inspect, accept or reject work, comply with such general direction of the Director, Contracts and Procurement/Agency Chief Contracting Officer, or the duly authorized representative as the Contracting Officer’s Technical Representative (COTR) as is necessary to ensure accomplishment of the Contract objectives.

G.2.3 By accepting this order or Contract Contractor agrees that the District, at its discretion, after completion of order or Contract period, may hire an individual who is performing services as a result of this order or Contract, with restriction, penalties or fees.

G.3 MODIFICATIONS

G.3.1 Any changes, additions or deletions to this Solicitation shall be made in writing by a formal Modification to this Solicitation and shall be signed by the Director, Contracts and Procurement/Agency Chief Contracting Officer only.

G.4 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR

G.4.1 DMH's obligation for performance of this Solicitation beyond that date is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of the DMH for any payment may arise for performance under this Solicitation beyond September 30, 2009, until funds are made available to the Director, Contracts and Procurement/Agency Chief Contracting Officer for performance and until Contractor receives notice of availability of funds, to be confirmed in writing by the Agency's Chief Financial Officer.

G.5 DESIGNATION OF THE CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE

G.5.1 The Director, Contracts and Procurement/Agency Chief Contracting Officer shall designate a Contracting Officer's Technical Representative (COTR) who shall, among other duties relating to this Solicitation, have direct responsibility to assign work to Contractor, review Contractor's performance during the term of this Solicitation and make recommendations to the Director, Contracts and Procurement/Agency Chief Contracting Officer. The COTR shall also review, approve and sign all invoices prior to payment by DMH. The COTR for this procurement is:

Joyce Jeter shall serve as the Contracting Officer's Technical Representative (COTR) for this Contract.

Joyce Jeter
Department of Mental Health Fiscal Officer
District of Columbia Government
Office of the Chief Financial Officer
64 New York Avenue, NE 4th Floor
Washington, DC 20002
(202) 671-3211
joyce.jeter@dc.gov

G.6 SUBMISSION OF INVOICE

G.6.1 Contractor shall submit an original and three copies of the invoice on a monthly basis to the Contracting Officer's Technical Representative (COTR). The invoices shall include Contractor's name and address, invoice date, Contract number, Contract line items numbers (CLINS), description of the services, quantity, unit price and extended prices, terms of any prompt payment discounts offered, name and address of the official to whom payment is to be sent and the name, title and

phone number of the person to be notified in the event of a defective invoice. Payment shall be made within forty-five (45) days after the COTR receives a proper and certified invoice from Contractor, unless a discount for prompt payment is offered and payment is made within the discount periods. Any invoices deemed improper for payment shall be returned, **UNPAID** and shall be resubmitted as indicated in this clause.

G.7 CERTIFICATION OF INVOICE

G.7.1 Contracting Officer's Technical Representative shall perform certification of Contractor's invoice. The invoices shall be certified for payment and forwarded to the Chief Financial Officer within five (5) working days after receipt of a satisfactory invoice.

G.8 PAYMENT

G.8.1 In accordance with the Quick Payment Act, D.C. Official Code § 2-221.02, payment shall be made within forty five (45) days from the date of receipt of a properly submitted invoice, after all approvals are completed as required by the PASS system. DMH shall only pay Contractor for performing the services under this Solicitation at the prices stated in Section B.

G.9 RESPONSIBILITY FOR AGENCY PROPERTY

G.9.1 Contractor shall assume full responsibility for and shall indemnify the DMH for any and all loss or damage of whatsoever kind and nature to any and all Agency property, including any equipment, supplies, accessories, or part furnished, while in Contractor's custody during the performance of services under this Solicitation, or while in Contractor's custody for storage or repair, resulting from the negligent acts or omissions of Contractor or any employee, agent, or representative of Contractor or Subcontractors'. Contractor shall do nothing to prejudice the DMH's right to recover against third parties for any loss, destruction of, or damage to DMH property and upon the request of the Director, Contracts and Procurement/Agency Chief Contracting Officer shall, at the DMH's expense, furnish to the DMH all reasonable assistance and cooperation, including assistance in the protection of suit and the execution of instruments of assignment in favor of the DMH recovery.

*** END OF SECTION G ***

SECTION H**SPECIAL CONTRACT REQUIREMENTS**

TABLE OF CONTENTS

<u>CLAUSE NO.</u>	<u>CLAUSE TITLE</u>	<u>PAGE NO.</u>
H.1	CONTRACTOR LICENSE/ CLEARANCES	22
H.2	PRIVACY AND CONFIDENTIALITY COMPLIANCE	22-26
H.3	COST OF OPERATION	26
H.4	LIQUIDATED DAMAGES	26

SECTION H: SPECIAL CONTRACT REQUIREMENTS**H.1 CONTRACTOR LICENSE/CLEARENES**

Contractor shall maintain documentation that he/she possesses adequate training, qualifications and competence to perform the duties to which he/she is assigned and hold current licenses or certification as appropriate.

H.2 PRIVACY AND CONFIDENTIALITY COMPLIANCE**H.2.1 Definitions**

- (a) "Business Associate" shall mean Contractor.
- (b) "DMH" shall mean the District of Columbia, Department of Mental Health
- (c) "Confidentiality law" shall mean the requirements and restrictions contained in Federal and District law concerning access to child welfare information, including D.C. Official Code §§ 4-1302.03, 1302.08, 1303.06 and 130-3.07.
- (d) "Designated Record Set" means:
 - 1. A group of records maintained by or for DMH 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 DMH 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 DMH.
- (e) Individual shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- (f) Privacy Rule. "Privacy Rule" shall mean the requirements and restrictions contained in 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.
- (g) "Protected information" shall include "protected health information" as defined in 45 CFR 164.501, limited to the protected health information created or received by Business Associate from or on behalf of DMH, information required to be kept confidential pursuant to the confidentiality law and confidential information concerning DMH or its employees.

- (h) "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 164.501, limited to the information created or received by the Business Associate from or on behalf of DMH.
- (i) "Required by law" shall have the same meaning as the term "required by law" in 45 CFR 164.501, except to the extent District of Columbia laws have preemptive effective by operation of 45 CFR part 160, subpart B, or, regarding other protected information, required by District or federal law .
- (j) "Secretary" shall mean the Secretary of the Department of Health and Human Services or designee.

H.2.2 Obligations and Activities of Business Associate

- (a) The Business Associate agrees to not use or disclose protected information other than as permitted or required by this Section H.2 or as required by law.
- (b) The Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the protected information other than as provided for by this Section H.2.
- (c) The Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of protected information by the Business Associate in violation of the requirements of this Section H.2.
- (d) The Business Associate agrees to report to DMH any use or disclosure of the protected information not provided for by this Section H.2 of which it becomes aware.
- (e) The Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides protected information received from, or created or received by the Business Associate on behalf of DMH, agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information.
- (f) The Business Associate agrees to provide access, at the request of DMH and in the time and manner prescribed by the Director, Contracts and Procurement/Agency Chief Contracting Officer, to protected information in a Designated Record Set, to DMH or, as directed by DMH, to an individual in order to meet the requirements under 45 CFR 164.524.
- (g) The Business Associate agrees to make any amendment(s) to protected information in a Designated Record Set that DMH directs or agrees to pursuant to 45 CFR 164.526 at the request of CFSA or an Individual and in the time and manner prescribed by the Director, Contracts and Procurement/Agency Chief Contracting Officer.
- (h) The Business Associate agrees to make internal practices, books and records, including policies and procedures and protected information, relating to the use and disclosure of protected information received from, or created or received by the Business Associate on behalf of DMH, available to the DMH, in a time and manner prescribed by the Director, Contracts and Procurement/Agency Chief Contracting Officer, for purposes of the determining DMH's compliance with the Privacy Rule.

- (i) The Business Associate agrees to document such disclosures of protected health information and information related to such disclosures as would be required for DMH 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) The Business Associate agrees to provide to DMH or an Individual, in time and manner prescribed by the Director, Contracts and Procurement/Agency Chief Contracting Officer, information collected in accordance with Section (i) above, to permit DMH to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

H.2.3 Permitted Uses and Disclosures by Business Associate

- (a) Refer to underlying services agreement. Except as otherwise limited in this Section H.2, the Business Associate may use or disclose protected information to perform functions, activities, or services for, or on behalf of, DMH as specified in this Solicitation, provided that such use or disclosure would not violate the confidentiality law or privacy rule if done by DMH or the minimum necessary policies and procedures of DMH.
- (b) Except as otherwise limited in this Section H.2, the Business Associate may use protected 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 Section H.2, the Business Associate may disclose protected information for the proper management and administration of the Business Associate, provided that 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 is aware in which the confidentiality of the information has been breached.
- (d) Except as otherwise limited in this Section H.2, the Business Associate may use protected information to provide Data Aggregation services to DMH as permitted by 42 CFR 164.504(e)(2)(i)(B).
- (e) The Business Associate may use protected information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j) (1).

H.2.4 Obligations of DMH

- (a) DMH shall notify the Business Associate of any limitation(s) in its notice of privacy practices of DMH in accordance with 45 CFR 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of protected information.

(b) DMH shall notify the Business Associate of any changes in, or revocation of, permission by Individual to use or disclose protected information, to the extent that such changes may affect the Business Associate's use or disclosure of protected information.

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

H.2.5 Permissible Requests by DMH

(a) DMH shall not request the Business Associate to use or disclose protected information in any manner that would not be permissible under the confidentiality law or privacy rule if done by DMH.

H.2.6 Term and Termination

(a) Term. The requirements of this HIPAA Privacy Compliance Clause shall be effective as of the date of Contract award and shall terminate when all of the protected information provided by DMH to the Business Associate, or created or received by the Business Associate on behalf of DMH, is destroyed or returned to DMH, or, if it is infeasible to return or destroy Protected information, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) Termination for Cause. Upon DMH's knowledge of a material breach of this Section H.2 by the Business Associate, DMH shall either:

- (1) 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 DMH;
- (2) Immediately terminate the Contract if the Business Associate has breached a material term of this HIPAA Privacy Compliance Clause and cure is not possible; or
- (3) If neither termination nor cure is feasible and the breach involves protected health information, DMH shall report the violation to the Secretary.

(c) Effect of Termination.

- (1) Except as provided in Section H.2.6(c)(2), upon termination of the Contract, for any reason, the Business Associate shall return or destroy all protected information received from DMH, or created or received by the Business Associate on behalf of DMH. This provision shall apply to protected information that is in the possession of Subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the protected information.
- (2) In the event that the Business Associate determines that returning or destroying the protected information is infeasible, the Business

Associate shall provide to DMH notification of the conditions that make return or destruction infeasible. Upon determination by the Director, Contracts and Procurement/Agency Chief Contracting Officer that return or destruction of protected information is infeasible, the Business Associate shall extend the protections of this Agreement to such protected information and limit further uses and disclosures of such protected information to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such protected information.

H.2.7 Miscellaneous

- (a) Regulatory References. A reference in this Section H.2 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 Section H.2 from time to time as is necessary for CFSA to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191.
- (c) Survival. The respective rights and obligations of the Business Associate under Section H.2.6 of this Clause and Sections 9 and 20 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 Section H.2 shall be resolved to permit DMH to comply with the Privacy Rule.

H.3 COST OF OPERATION

All costs of operation under this Solicitation shall be borne by Contractor. This includes but is not limited to taxes, surcharges, licenses, insurance, transportation, salaries and bonuses.

H.4 LIQUIDATED DAMAGES

- H.4.1 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 scheduled meeting and a Notice to Cure document with a cure period of Not to Exceed Ten (10) Business Days. Upon receiving the Notice to Cure document, the Contractor shall provide DMH with their assessment of the identified deficiencies in order to reach an agreement on a proactive plan to resolve the matter. The assessment of Liquidated Damages as determined by the Director, Contracts and Procurement/Agency Chief Contracting Officer shall be in an amount of \$150.00 per day against the Contractor until such time that the Contractor has cured its deficiencies and is able to satisfactorily perform the tasks required under this Contract.
- H.4.2 When Contractor is unable to cure its deficiencies in a timely manner and DMH requires a replacement Contractor to perform the required services, 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 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.

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

SECTION I**CONTRACT CLAUSES****TABLE OF CONTENTS**

CLAUSE NO.	CLAUSE TITLE	PAGE NO.
I.1	GOVERNING LAW	28
I.2	APPLICABILITY OF STANDARD CONTRACT PROVISIONS AND WAGE DETERMINATION	28
I.3	RESERVED	28
I.4	TIME	28
I.5	SUSPENSION OF WORK	29
I.6	STOP WORK ORDER	29
I.7	RESERVED	29
I.8	RESERVED	30-31
I.9	ANTI-KICKBACK PROCEDURES	31-32
I.10	INSURANCE	31-32
I.11	ORDER OF PRECEDENCE	32
I.12	CONFIDENTIALITY OF INFORMATION	32
I.13	RIGHTS IN DATA	32-35

SECTION I: CONTRACT CLAUSES**I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS**

- I.1.1 The Standard Contract Provisions for use with District of Columbia Government Supply and Services Contracts dated March 2007, 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 resulting from this solicitation.

I.2 CONTRACTS THAT CROSS FISCAL YEARS

- I.2.1 Continuation of this Contract beyond the Fiscal Year is contingent upon future fiscal appropriations.

I.3 CONFIDENTIALITY OF INFORMATION

- I.3.1 All information obtained by the Contractor relating to any employee of the District or Consumer 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

- I.4.1 Time, if stated in a number of days, shall include Saturdays, Sundays, and Holidays, unless otherwise stated herein.

I.5 RESTRICTION ON DISCLOSURE AND USE OF DATA

- I.5.1 Contractors who include in their Bid data that they do not want disclosed to the public or used by the District Government except for use in the procurement process shall:

- I.5.1 Mark the title page with the following legend:

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

- I.5.2 If however, a Contract is awarded to this Vendor as a result of or in connection with the submission of this data, the District Government 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 data if it is obtained from another source. The data subject to this restriction are contained in sheets (insert numbers or other identification of sheets)."

I.5.3 Mark each sheet of data it wishes to restrict with the following legend:

“Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this Bid.”

I.6 RIGHTS IN DATA

I.6.1 “Data,” as used herein, means recorded information, regardless of form or the media on which it shall be recorded. The term includes technical data and computer software. The term does not include information incidental to Contract administration, such as financial, administrative, cost or pricing, or management information.

I.6.2 The term “Technical Data”, as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It shall, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data shall be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to Contract administration.

I.6.3 The term “Computer Software”, as used herein means computer programs and computer databases. “Computer Programs”, as used herein means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. "Computer Programs" include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort merge programs, and automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs. Computer programs shall be either machine-dependent or machine-independent, and shall be general purpose in nature or designed to satisfy the requirements of a particular user.

I.6.4 The term "computer databases", as used herein, means a collection of data in a form capable of being processed and operated on by a computer.

I.6.5 Any data derived from the performance of this Contract shall be the sole property of the District. The Contractor hereby acknowledges that all data, including, without limitation, computer program codes, produced by Contractor for the District under this Contract, are works made for hire and are the sole property of the District; but, to the extent any such data

shall not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the District the ownership of copyright in such works, whether published or unpublished. The Contractor agrees to give the District all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District shall have released such data to the public.

- I.6.6 The District shall have restricted rights in data, including computer software and all accompanying documentation, manuals and instructional materials, listed or described in a license or agreement made a part of this Contract, which the parties have agreed shall be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:
- I.6.7 Use the computer software and all accompanying documentation and manuals or instructional materials with the computer for which or with which it was acquired, including use at any District installation to which the computer shall be transferred by the District;
- I.6.8 Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;
- I.6.9 Copy computer programs for safekeeping (archives) or backup purposes; and,
- I.6.10 Modify the computer software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provision that the modified portions shall remain subject to these restrictions.
- I.6.11 The restricted rights set forth in section I.6.6 are of no effect unless
 - (i) the data is marked by the Contractor with the following legend:

RESTRICTED RIGHTS LEGEND

Use, duplication, or disclosure is subject to restrictions stated in Contract No. _____
 With _____ (Contractor's Name) and

- (ii) If the data is computer software, the related computer software documentation includes a prominent statement of the restrictions

applicable to the computer software. The Contractor shall not place any legend on the computer software indicating restrictions on the District's rights in such software unless the restrictions are set forth in a license or agreement made a part of the Contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the District of liability with respect to such unmarked software.

- I.6.12 In addition to the rights granted in Section I.6.9 below, the Contractor hereby grants to the District a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section I.6.9 below, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the District under this Contract. Unless written approval of the Agency Chief Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the District under this Contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the District any rights necessary to perfect a copyright license of the scope specified in the first sentence of this paragraph.
- I.6.13 Whenever any data, including computer software, are to be obtained from a subcontractor under this Contract, the Contractor shall use Section I.6 in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that subcontractor data or computer software which is required for the District.
- I.6.14 For all computer software furnished to the District with the rights specified in Section I.6.5, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope specified in Section I.6.5. For all computer software furnished to the District with the restricted rights specified in Section I.6.6, the District, if the Contractor, either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under this Contract or any paid-up maintenance agreement, or if Contractor should be declared bankrupt or insolvent by the court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under this Contract, and a single copy of the documentation associated herewith, upon payment to the person in control of the source code the reasonable cost of making each copy.
- I.6.15 The Contractor shall indemnify and save and hold harmless the District, its Officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this Contract, or (ii) based upon any data furnished under this Contract, or based upon libelous or other unlawful matter contained in such data.

I.6.16 Nothing contained in this clause shall imply a license to the District under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.

I.6.17 Paragraphs I.6.6, I.6.7, I.6.8, I.6.11 and I.6.12 above are not applicable to material furnished to the Contractor by the District and incorporated in the work furnished under Contract, provided that such incorporated material is identified by the Contractor at the time of delivery of such work.

I.7 OTHER CONTRACTORS

I.7.1 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.8 SUBCONTRACTS

I.8.1 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 subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder.

I.9 CONTINUITY OF SERVICES

I.9.1 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, shall continue to provide these services. To that end, the Contractor agrees to:

Furnish phase-out, phase-in (transition) training; and exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

I.10 INSURANCE

I.10.1 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.10.2 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.10.3 Property Damage: The Contractor shall carry property damage insurance of a least (\$20,000) per occurrence.
- I.10.4 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.10.5 Employer's Liability: The Contractor shall carry employer's liability coverage of at least one hundred thousand dollars (\$100,000) per employee.
- I.10.6 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.10.7 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 fourteen (14) days of Contract award. 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.11 EQUAL EMPLOYMENT OPPORTUNITY

- I.11.1 In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein. An award cannot be made to any Vendor who has not satisfied the equal employment requirements as set forth by equal employment requirements.

I.12 CONTRACTS IN EXCESS OF ONE MILLION DOLLARS

- I.12.1 Any Contract in excess of \$1,000,000 shall not be binding or give rise to any claim or demand against the District until approved by the Council of the District of Columbia and signed by the Agency Chief Contracting Officer.

I.13 **ORDER OF PRECEDENCE**

I.13.1 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. Consent Order dated December 12, 2003 in *Dixon, et al. v Fenty, et al.*, CA 74-285 (TFH) (Dixon Consent Order)
2. Contract Sections A through J of this Contract
3. Standard Contract Provisions for the Use with District of Columbia Government Supply and Services Contracts, March, 2007
4. Wage Determination No. 2005-2103 (Revision No. 6, May 29, 2008)
5. Invitation for Bid Number RM-09-RFQ-080-BY0-DJC

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 *****

PART III: SECTION J**LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS****WEBSITES ADDRESSES FOR COMPLIANCE DOCUMENTS:**

- J.1 STANDARD CONTRACT PROVISIONS (MARCH 2007)**
http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/standard_contract_provisions_0307.pdf&open=|34644|
- J.2 TAX CERTIFICATION AFFIDAVIT**
http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/tax_certification_affidavit.pdf&open=|34644|
- J.3 FIRST SOURCE EMPLOYMENT AGREEMENT**
http://www.dconvention.com/pdfs/First_Source_Employment.PDF
- J.4 EQUAL EMPLOYMENT OPPORTUNITY DOCUMENT**
http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/eo_compliance.pdf&open=|34644|
- J.5 WAGE DETERMINATION**
[Wage Determination - May 29, 2008.PDF\(568KB\)](#)

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