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

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
REQUEST FOR QUOTES  
SOFTWARE APPLICATIONS  
RM-09-RFQ-113-BY0-OF**

The District of Columbia, Department of Mental Health, (DMH) Mental Health Authority (MHA) Office of Fiscal and Administrative Services (OFAS) is seeking to acquire a Vendor that can supply Filemaker Pro, DeltaGraph, Reference Manager and Nvivo Software applications.

**Opening Date: Wednesday, June 17, 2009**

**Closing Date: Friday, June 26, 2009**

**Closing Time: 2:00 PM EST.**

Please contact DMH-MHA Contracts Specialist - O'Linda Fuller, MBA, at 202 671-3179, email: [Olinda.fuller@dc.gov](mailto:Olinda.fuller@dc.gov), to obtain a copy of the RFQ.

***All submissions in response to this request are due by closing date  
Friday, June 26, 2009 by 2:00 PM EST.***

|   |  |  |
|---|--|--|
| 1. ISSUED BY/ADDRESS OFFER TO:<br><b>DISTRICT OF COLUMBIA DEPARTMENT OF MENTAL HEALTH (DMH)<br/>CONTRACTS AND PROCUREMENT ADMINISTRATION<br/>64 NEW YORK AVENUE NE, 4<sup>TH</sup> FLOOR<br/>WASHINGTON, DC 20002</b> |  | 2. PAGE OF PAGES:<br><b>1 of 35</b>  |
|   |  | 3. CONTRACT NUMBER:  |
|   |  | 4. SOLICITATION NUMBER:<br><b>RM-09-RFQ-113-BY0-OF</b>                         |
|   |  | 5. DATE ISSUED:  |
|   |  | 6. OPENING/CLOSING TIME:<br><b>June 17, 2009/ June 26, 2009 @ 2:00 PM EST.</b> |
| 7. TYPE OF SOLICITATION: N/A<br><input type="checkbox"/> SEALED BID<br><input checked="" type="checkbox"/> REQUEST FOR QUOTE (RFQ)  | 8. DISCOUNT FOR PROMPT PAYMENT:<br>N/A |  |
| NOTE: IN SEALED BID SOLICITATION "OFFER AND OFFEROR" MEANS "BID AND BIDDER"   |  |  |

|                      |   |                                   |  |
|----------------------|---|-----------------------------------|--|
| 10. INFORMATION CALL | NAME:<br>Samuel J. Feinberg<br>Agency Chief Contracting Officer | TELEPHONE NUMBER:<br>202-671-3171 | B. E-MAIL ADDRESS:<br>Samuel.feinberg@dc.gov |
|----------------------|---|-----------------------------------|--|

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**OFFER (TO BE COMPLETED BY OFFEROR)**

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 Offeror) 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<br>(Offeror acknowledge receipt of amendments to the SOLICITATION for Offerors and related documents numbered and dated): |         |      | AMENDMENT NO:  | DATE:            |
|   |         |      |  |                  |
| 14. NAME AND ADDRESS OF QUOTER:   |         |      | 15. NAME AND TITLE OF PERSONAL AUTHORIZED TO SIGN QUOTE: (Type or Print) |                  |
| 14A. TELEPHONE NUMBER:  |         |      | 15A. SIGNATURE:  | 15B. OFFER DATE: |
| AREA CODE:  | NUMBER: | EXT: |  |                  |

**AWARD (To be completed by the DMH) IMPORTANT NOTICE: AWARD SHALL BE MADE ON THIS FORM, OR BY OTHER AUTHORIZED OFFICIAL WRITTEN NOTICE**

|  |  |                                    |  |
|--|--|------------------------------------|--|
| 16. ACCEPTED AS TO THE FOLLOWING ITEMS:  |  | 17. AWARD AMOUNT:                  |  |
|  |  |                                    |  |
| 18. NAME OF CONTRACTING OFFICER: (TYPE OR PRINT)<br>Samuel J. Feinberg, CPPO, CPPB<br>Agency Chief Contracting Officer |  | 19. CONTRACTING OFFICER SIGNATURE: |  |
|  |  | 20. AWARD DATE:                    |  |

**SECTION B**

**SUPPLIES OR SERVICES AND PRICE**

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## **SECTION B**

### **SUPPLIES OR SERVICES AND PRICE**

#### **B.1 PURPOSE OF SOLICITATION**

The purpose of this Request for Quote (RFQ) Statement of Work shall be to acquire a Vendor that can supply the following software applications listed below in Section B.

1. Filemaker Pro
2. DeltaGraph
3. Reference Manager
4. Nvivo

#### **B.2 CONTRACT TYPE**

The District of contemplating executing a Firm Fixed Price Contract for **the Period of Performance (POP)"DATE OF AWARD" through September 30, 2009**

#### **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 Vendor 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 performance of this Contract and not completed within that period of performance shall be completed by the Vendor within the time specified in the order. The Contract shall govern the Vendor's and District's rights and obligations with respect to that order to the some extent as if the order were completed during the Contract's effective period; provided that the Vendor shall not be required to make any deliveries under this contract after the Contract expiration date.

**SCHEDULE B – PRICING SCHEDULE**

**B.1 BASE YEAR**

| <b>CONTRACT<br/>LINE ITEM<br/>NO.: (CLIN)</b> | <b>ITEM<br/>DESCRIPTION</b> | <b>QUANTITY</b> | <b>UNIT</b> | <b>UNIT PRICE</b> | <b>TOTAL PRICE</b> |
|---|-----------------------------|-----------------|-------------|-------------------|--------------------|
| 0001  | Filemaker Pro<br>10         | 4               | EA.         | \$ _____          | \$ _____           |
| 0002  | DeltaGraph                  | 9               | EA.         | \$ _____          | \$ _____           |
| 0003  | Reference<br>Manager        | 10              | EA.         | \$ _____          | \$ _____           |
| 0004  | Nvivo                       | 2               | EA.         | \$ _____          | \$ _____           |
| <b>GRAND<br/>TOTAL</b>                        |                             |                 |             | \$ _____          | \$ _____           |

\_\_\_\_\_  
Print Name of Offeror

\_\_\_\_\_  
Print Name of Authorized Person

\_\_\_\_\_  
Signature of Authorized Principal

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**SECTION C**

**DESCRIPTION/SPECIFICATIONS/ STATEMENT OF WORK**

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## SECTION C

### SCOPE OF WORK

#### **C.1 SCOPE OF WORK:**

The District of Columbia, Department of Mental Health, (DMH) Mental Health Authority (MHA) Office of Fiscal and Administrative Services (OFAS) is seeking to acquire a Vendor that can supply Filemaker Pro, DeltaGraph, Reference Manager and Nvivo software applications.

#### **C.2 DEFINITIONS**

**C.2.1 Filemaker Pro** – Desktop Software Application Database that is capable of building reports. Filemaker integrates a database engine with a GUI-Based interface, allowing users to modify information.

**C.2.2 DeltaGraph** – Software package for the validation manipulation and statistical analysis of data.

**C.2.3 Reference Manager** – Management Software Package used to share databases information.

**C.2.4 Nvivo Qualitative Data Coding** – software package used to validate, manipulate and statistical analysis of data.

#### **C.3 BACKGROUND**

**C.3.1 Filemaker Pro** – In order to use Dixon CSR data as part of the data analyses and reporting for the CSR internal unit, we must use the same software that is used by Human Systems and Outcomes (HSO) to house, organize and summarize the data. They use Filemaker Pro for this purpose, and have developed a very complex coding and management schematic that our unit must mirror.

**C.3.2 DeltaGraph** – Delta Graph is an essential adjunct to Filemaker Pro, and it is also used by HSO for reporting purposes. Deltagraph serves as the resource for graphical representations of CSR data as used for Dixon and internal purposes.

**C.3.3 Reference Manager** – The provision of technical assistance (TA) is one of the core functions of the Research and Clinical Informatics (RCI) and Community Service Review (CSR) departments. Both departments are charged with researching and developing technical assistance resources and tools to populate a behavioral health services clearinghouse that will be used in the provision of consultation and TA to program leadership and community stakeholders. Reference manager will serve as the electronic cataloguing application for the clearinghouse, to be used in searching, organizing and formatting resources.

C.3.4 **Nvivo** – The CSR department is charged with conducting supplemental qualitative analyses for use in evaluation, reporting and dissemination. Nvivo is necessary to code and organize qualitative data.

**C.4 GENERAL REQUIREMENTS**

Software Application shall be compatibility with Word 2003

**C.5 SOFTWARE REQUIREMENTS**

Vendor shall identify the software components based on the minimum and recommended requirements.

**C.5.1 Filemaker Pro**

| <b>COMPONENT</b> | <b>MINIMUM</b> | <b>RECOMMENDED</b> |
|------------------|----------------|--------------------|
| Processor        |                |                    |
| Memory           |                |                    |
| Display          |                |                    |
| Operating System |                |                    |
| Hard Disk        |                |                    |
| Other            |                |                    |

**C.5.2 DeltaGraph**

| <b>COMPONENT</b> | <b>MINIMUM</b> | <b>RECOMMENDED</b> |
|------------------|----------------|--------------------|
| Processor        |                |                    |
| Memory           |                |                    |
| Display          |                |                    |
| Operating System |                |                    |
| Hard Disk        |                |                    |
| Other            |                |                    |

**C.5.3 Reference Manager**

| <b>COMPONENT</b> | <b>MINIMUM</b> | <b>RECOMMENDED</b> |
|------------------|----------------|--------------------|
| Processor        |                |                    |
| Memory           |                |                    |
| Display          |                |                    |
| Operating System |                |                    |
| Hard Disk        |                |                    |
| Other            |                |                    |



C.5.4 Nvivo minimum and recommended requirements

| <b>COMPONENT</b> | <b>MINIMUM</b> | <b>RECOMMENDED</b> |
|------------------|----------------|--------------------|
| Processor        |                |                    |
| Memory           |                |                    |
| Display          |                |                    |
| Operating System |                |                    |
| Hard Disk        |                |                    |
| Other            |                |                    |

**C.6. SOFTWARE OVERVIEW REQUIREMENTS**

C.6.1 Vendor shall provide an overview of the software compatibilities and capabilities.

C.6.2 Vendor shall provide information of individual licenses.

C.6.3 Vendor shall provide information on Software Maintenance Agreements.

C.6.4 Vendor shall provide information on Server package.

C.6.5 Vendor shall provide information on Software return policies.

C.6.6 Vendor shall provide information on Software upgrades.

C.6.7 Vendor shall provide information on Software warranty.

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

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**SECTION D: PACKAGING AND MARKING**

**D.1** This Section is not applicable

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

**SECTION E**  
**INSPECTION AND ACCEPTANCE**

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## SECTION E

### INSPECTION AND ACCEPTANCE

#### **E.1 CONSEQUENCES OF OFFEROR'S FAILURE TO PERFORM REQUIRED SERVICES**

- (a) Offeror shall be held to the full performance of the contract. The DMH shall deduct from Offeror's invoice or otherwise withhold payment for any non-conforming service as specified below.
  
- (b) A service task may be composed of several sub-items. A service task may be determined to be partially complete if Offeror satisfactorily completes some, but not all, of the sub-items. In those cases, partial deductions may be taken from Offeror's invoice.
  
- (c) The DMH shall give Offeror 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.1.2 Therefore:**

In the case of non-performed work, DMH:

- (a) Shall deduct from Offeror'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.
  
- (b) May, at its option, afford Offeror an opportunity to perform the non-performed work within a reasonable period subject to the discretion of the Director, Contracting and Procurement/Agency Chief Contracting Officer and at no additional cost to the DMH.
  
- (c) May, at its option, perform the services by the DMH personnel or other means.

#### **E.1.3 In the case of unsatisfactory work, DMH:**

- (a) Shall deduct from Offeror'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 Offeror is afforded an opportunity to re-perform and satisfactory completes the work;
  
- (b) May, at its option, afford Offeror an opportunity to re-perform the unsatisfactory work within a reasonable period subject to the discretion of Officer and at no additional cost to the DMH.

## **E.2 TERMINATION FOR CONVENIENCE**

1. The DMH may terminate performance of work under this Contract 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 Offeror 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, Offeror 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 Offeror under the subcontracts terminated, in which case DMH shall have the right to settle or pay any termination settlement QUOTES 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 QUOTES 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 Contract.

### **E.3 TERMINATION FOR DEFAULT**

1. DMH may, subject to the conditions stated below, by written notice of default to Offeror, terminate this Contract in whole or in part if Offeror fails to:
  - (a) Perform the services within the time specified in this Contract or any extension; or
  - (b) Make progress so as to endanger performance of this Contract; or
  - (c) Perform any of the other material provisions of this Contract.
2. DMH's right to terminate this Contract may be exercised if Offeror 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 Contract 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 Offeror shall be liable to DMH for any excess costs for those supplies and services. However, Offeror shall continue the work not terminated.
4. Except for default by SubOfferors at any tier, Offeror 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 Offeror. 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 Offeror.
5. If the failure to perform is caused by the fault of a SubOfferor at any tier, and if the cause of the default is beyond the control of both Offeror and the SubOfferor, and without the fault or negligence of either, Offeror 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 Offeror to meet the required schedule.
6. If the contract is terminated for default, DMH may require Offeror 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 Offeror has specifically produced or acquired for the terminated portion of this Contract. Upon direction of the Director, Contracts and Procurement/Agency Chief Contracting Officer, Offeror 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 Offeror 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 \*\*\***



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## **SECTION F**

### **DELIVERY AND PERFORMANCE**

#### **F.1 PERIOD OF PERFORMANCE (POP)**

Performance under this Solicitation shall be in accordance with the terms and conditions set forth herein and by any Modification made thereto. The Period of Performance under this Solicitation shall be DATE OF AWARD through September 30, 2009 without option periods. Any decisions to exercise option periods shall be exercised and renewed at the sole and absolute discretion of the Department of Mental Health (DMH) Contracts and Procurement Administration (CPA) Director, Agency Chief Contracting Officer, based upon favorable annual reviews and annual appropriated funding.

#### **F.2 TERM OF CONTRACT**

The term of the contract shall be from the DATE OF AWARD through September 30, 2009 as specified in Section B of the contract.

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

**SECTION G  
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## SECTION G

### CONTRACT ADMINISTRATION DATA

#### G.1 CONTRACT ADMINISTRATION

Correspondence or inquiries related to this Contract 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 – 4<sup>th</sup> Floor  
Washington, DC 20002  
(202) 671-3188 – Office/ (202) 671-3195  
Email: [Samuel.feinberg@dc.gov](mailto:Samuel.feinberg@dc.gov)

#### G.2 TYPE OF CONTRACT

This shall be a Fixed Price contract. Offeror shall be remunerated at a fixed unit rate indicated in Section B for service performed. In the event of termination under this Contract, the DMH shall only be liable for the payment of all services accepted during the hours of work actually performed. This Contract shall be a “non-personal services contract”. It is therefore, understood and agreed that Offeror and/or Offeror’s employees: (1) shall perform the services specified herein as independent Offerors, 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 Contract; (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. By accepting this order or contract Offeror 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**

Any changes, additions or deletions to this Contract shall be made in writing by a formal Modification to this Contract 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**

DMH's obligation for performance of this Contract 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 Contract beyond September 30, 2010, until funds are made available to the Director, Contracts and Procurement/Agency Chief Contracting Officer for performance and until Offeror 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**

COTR shall be determined (TBD). COTR shall designate a Contracting Officer's Technical Representative (COTR) who shall, among other duties relating to this Contract, have direct responsibility to assign work to Offeror, review Offeror's performance during the term of this Contract 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: TBD

**G.6 SUBMISSION OF INVOICE**

Offeror 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 Offeror'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 Offeror, 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**

Contracting Officer's Technical Representative shall perform certification of Offeror'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**

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 Offeror for performing the services under this Contract at the prices stated in Section B.

**G.9 RESPONSIBILITY FOR AGENCY PROPERTY**

Offeror 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 Offeror's custody during the performance of services under this Contract, or while in Offeror's custody for storage or repair, resulting from the negligent acts or omissions of Offeror or any employee, agent, or representative of Offeror or SubOfferors. Offeror 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**

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## SECTION H

### SPECIAL CONTRACT REQUIREMENTS

#### H.1 OFFEROR LICENSE/CLEARANCES

Offeror 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 Offeror.
- (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 subOfferor, 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 Contract, 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 subOfferors 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 Contract shall be borne by Offeror. This includes but is not limited to taxes, surcharges, licenses, insurance, transportation, salaries and bonuses.

### **H.4 LIQUIDATED DAMAGE**

H.4.1 When Offeror fails to perform the tasks required under this Contract, DMH shall assess Liquidated damages in an amount of fifty dollars (\$50) per day against Offeror until such time Offeror has cured its deficiencies and is able to satisfactorily perform the tasks required under this Contract.

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

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

**SECTION I**

**LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS**

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## SECTION I

### CONTRACT CLAUSES

#### **I.1 GOVERNING LAW**

This Contract shall be governed by and construed in accordance with the laws applicable in the District of Columbia.

#### **I.2 APPLICABILITY OF STANDARD CONTRACT PROVISIONS AND WAGE DETERMINATION**

The Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts, dated March 2007 (Attachment J-3), are incorporated by reference into this Contract. The Standard Provisions are attached hereto and can also be retrieved at <http://www.ocp.dc.gov/ocp/site/default.asp>; click on the "OCP Policies" link, and then the link to "Standard Contract Provisions-Supply and Services Contracts."

**I.3** This Section is Reserved for Future Use.

#### **I.4 TIME**

Time, if stated in a number of days, includes all calendar days unless otherwise stated. Business days shall mean all days excluding Saturdays, Sundays, Holidays and other days in which District government is closed.

**I.5** This Section is Reserved for Future Use.

#### **I.6 SUSPENSION OF WORK**

**I.6.1** the Director, Contracts and Procurement/Agency Chief Contracting Officer may order Offeror, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Director, Contracts and Procurement/Agency Chief Contracting Officer determines appropriate for the convenience of the District. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed or interrupted by an act of the Director, Contracts and Procurement/Agency Chief Contracting Officer in the administration of this Contract, or by the Director, Contracts and Procurement/Agency Chief Contracting Officer's failure to act within the time specified in this Contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this Contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly.

- I.6.2 No adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of Offeror, or for which an equitable adjustment is provided for or excluded under any other term or condition of this Contract.
- I.6.3 A claim under this clause shall not be allowed for any costs incurred more than twenty (20) days before Offeror shall have notified the Director, Contracts and Procurement/Agency Chief Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

## **I.7 STOP WORK ORDER**

- I.7.1 The Director, Contracts and Procurement/Agency Chief Contracting Officer may, at any time, by written order to Offeror, require Offeror to stop all, or any part, of the work called for by this Contract for a period of ninety (90) days after the order is delivered to Offeror, and for any further period to which the parties may agree.
- I.7.2 The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, Offeror shall immediately comply with its terms and take all reasonable steps to minimize the incurring of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a stop-work is delivered to Offeror, or within any extension of that period to which the parties shall have agreed, the Director, Contracts and Procurement/Agency Chief Contracting Officer shall either cancel the stop-work order; or terminate the work covered by the order as provided in the Default or Termination for Convenience clauses in the Standard Contract Provisions (Attachment J-3).
- I.7.3 If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, Offeror shall resume work. The Director, Contracts and Procurement/Agency Chief Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly.
- I.7.4 If the stop-work order results in an increase in the time required for, or in Offeror's cost properly allocable to, the performance of any part of this Contract; and Offeror asserts its right to the adjustment within thirty (30) days after the end of the period of work stoppage; provided, that, if the Director, Contracts and Procurement/Agency Chief Contracting Officer decides the facts justify the action, the Director, Contracts and Procurement/Agency Chief Contracting Officer may receive and act upon the claim submitted at any time before final payment under this Contract.



- I.7.5 If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the District, the Director, Contracts and Procurement/Agency Chief Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.
- I.7.6 If a stop-work order is not canceled and the work covered by the order is terminated for default, the Director, Contracts and Procurement/Agency Chief Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

## **I.8 ANTI-KICKBACK PROCEDURES**

### **I.8.1 Definitions:**

- I.8.1.1 “Kickback,” as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Offeror, prime Offeror employee, subOfferor, or subOfferor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.
- I.8.1.2 “Person,” as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.
- I.8.1.3 “Prime contract,” as used in this clause, means a contract or contractual action entered into by the District for the purpose of obtaining supplies, materials, equipment, or services of any kind.
- I.8.1.4 “Prime Offeror” as used in this clause, means a person who has entered into a prime contract with the District.
- I.8.1.5 “Prime Offeror employee,” as used in this clause, means any officer, partner, employee, or agent of a prime Offeror.
- I.8.1.6 “Subcontract,” as used in this clause, means a contract or contractual action entered into by a prime Offeror or subOfferor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.
- I.8.1.7 “SubOfferor,” as used in this clause, means any person, other than the prime Offeror, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and includes any person who offers to furnish or furnishes general supplies to the prime Offeror or a higher tier subOfferor.

- I.8.1.8 “SubOfferor employee,” as used in this clause, means any officer, partner, employee, or agent of a subOfferor.
- I.8.2 The Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58 (the Act), prohibits any person from:
  - I.8.2.1 Providing or attempting to provide or offering to provide any kickback;
  - I.8.2.2 Soliciting, accepting, or attempting to accept any kickback; or
  - I.8.2.3 Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Offeror to the District or in the contract price charged by a subOfferor to a prime Offeror or higher tier subOfferor.
- I.8.3 Offeror shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph I-10.2 of this clause in its own operations and direct business relationships.
- I.8.4 When Offeror has reasonable grounds to believe that a violation described in paragraph I-10.2 of this clause may have occurred, Offeror shall promptly report in writing the possible violation to the Director, Contracts and Procurement/Agency Chief Contracting Officer.
- I.8.5 The Director, Contracts and Procurement/Agency Chief Contracting Officer may offset the amount of the kickback against any monies owed by the District under the prime contract and/or direct that the Prime Offeror withhold from sums owed a subOfferor under the prime contract the amount of the kickback. The Director, Contracts and Procurement/Agency Chief Contracting Officer may order that monies withheld under this clause be paid over to the District unless the District has already offset those monies under this clause. In either case, the Prime Offeror shall notify the Director, Contracts and Procurement/Agency Chief Contracting Officer when the monies are withheld.

**I.9 INSURANCE**

This subtitle is “Not Applicable”

**I.10 ORDER OF PRECEDENCE**

A conflict in language 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 documents that are hereby incorporated into this Contract by reference and made a part of the Contract:

- I.10.1 Consent Order date December 12, 2003 in Dixon, et al. v Fenty, et al., CA 74-285 (TFH) (Dixon Consent Order).
- I.10.2 Sections A through J of this Contract.
- I.10.3 Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts, dated March 2007.
- I.10.4 Wage Determination No. 2005-2103 (Revision No.6, May 29, 2008).
- I.10.5 Best and Final Offer dated.
- I.10.6 Request for QUOTES submission date.
- I.10.7 Solicitation/Request for QUOTES Number

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

**SECTION J**

**LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS**

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|--|---|
| J.1  | Consent Order date December 12, 2003 in Dixon, et al. v Fenty, et al., CA 74-285 (NHJ ) (Dixon Consent Order).  |
| J.2  | Sections A through J of this Contract Number: RM-09-RFQ-113-BY0-OF  |
| <b><u>WEBSITES ADDRESSES FOR COMPLIANCE DOCUMENTS:</u></b> |   |
| J.3  | <b>STANDARD CONTRACT PROVISIONS (MARCH 2007)</b><br><a href="http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/standard_contract_provisions_0307.pdf&amp;open= 34644 ">http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/standard_contract_provisions_0307.pdf&amp;open= 34644 </a> |
| J.4  | <b>TAX CERTIFICATION AFFIDAVIT</b><br><a href="http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/tax_certification_affidavit.pdf&amp;open= 34644 ">http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/tax_certification_affidavit.pdf&amp;open= 34644 </a>                           |
| J.5  | <b>FIRST SOURCE EMPLOYMENT AGREEMENT</b><br><a href="http://www.dcconvention.com/pdfs/First_Source_Employment.PDF">http://www.dcconvention.com/pdfs/First_Source_Employment.PDF</a>   |
| J.6  | <b>EQUAL EMPLOYMENT OPPORTUNITY DOCUMENT</b><br><a href="http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/eeo_compliance.pdf&amp;open= 34644 ">http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/eeo_compliance.pdf&amp;open= 34644 </a>   |
| J.7  | <b>WAGE DETERMINATION</b><br><a href="#">Wage Determination - May 29, 2008.PDF (568KB)</a>  |
| J.8  | Best and Final Offer (if Applicable).   |
| J.9  | Request for QUOTES submission date (MAY 2009).  |
| J.10   | Solicitation/Request for QUOTES Number RM-09-RFQ-113-BY0-OF   |

Offeror shall perform all services in accordance with the Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts, dated March 2007 and incorporated herein by reference.

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