

**DISTRICT OF COLUMBIA, DEPARTMENT OF MENTAL HEALTH (DMH)
SOLICITATION, OFFER, AND AWARD
SECTION A**

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 42 3. CONTRACT NUMBER: 4. SOLICITATION NUMBER: RM-10-IFB-082-BY4-VM 5. DATE ISSUED: April 26, 2010 6. OPENING/CLOSING TIME: May 6, 2010 at 2:00 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: N/A
NOTE: IN SEALED BID SOLICITATION "OFFER AND THE CONTRACTOR" MEANS "BID AND BIDDER"	

10. INFORMATION CALL	NAME: Samuel J. Feinberg Agency Chief Contracting Officer	TELEPHONE NUMBER: 202-671-3171	B. E-MAIL ADDRESS: Samuel.feinberg@dc.gov
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OFFER (TO BE COMPLETED BY THE CONTRACTOR)

12. In compliance with the above, the undersigned agrees, if the offer is accepted within **180** calendar days (unless a different period is inserted by the Contractor) from the date for receipt of offers specified above, that with respect to all terms and conditions by the DMH under "AWARD" below, this offer and the provisions of the RFP/IFB will constitute a Formal Contract. All offers are subject to the terms and conditions contained in the solicitation.

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

AWARD (To be completed by the DMH)

16. ACCEPTED AS TO THE FOLLOWING ITEMS: 	17. AWARD AMOUNT:
18. NAME OF CONTRACTING OFFICER: (TYPE OR PRINT) Samuel J. Feinberg, CPPO, CPPB Director, Contracts and Procurement Adm. Agency Chief Contracting Officer	19. CONTRACTING OFFICER SIGNATURE:
20. AWARD DATE: 	

EARLY CHILDHOOD MENTAL HEALTH
CONSULTATION EVALUATION

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NAME OF OFFEROR OR CONTRACTOR –

ITEM NO	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT (TOTAL)
SCHEDULE B PRICING					
Contractor shall provide Evaluation Services for Early Childhood Mental Health Consultation Project.					
This is a Firm Fixed Price Contract including all overhead, profit, labor and materials.					
The Period of Performance (POP) under this Contract shall be One Year from Date of Award					
(BASE YEAR)					
0001	Consultant Services for Early Childhood Project	416	Per Hour	\$ _____	\$ _____
0002	Travel	_____	Ea.	\$ _____	\$ _____
0003	Per Diem Hotel	_____	Ea.	\$ _____	\$ _____
0004	Meal and Expenses	_____	Ea.	\$ _____	\$ _____
(OPTION YEAR ONE)					
0001	Consultant Services for Early Childhood Project	416	Per Hour	\$ _____	\$ _____
0002	Travel	_____	Ea.	\$ _____	\$ _____
0003	Per Diem Hotel	_____	Ea.	\$ _____	\$ _____
0004	Meal and Expenses	_____	Ea.	\$ _____	\$ _____
(OPTION YEAR TWO)					
0001	Consultant Services for Early Childhood Project	416	Per Hour	\$ _____	\$ _____
0002	Travel	_____	Ea.	\$ _____	\$ _____
0003	Per Diem Hotel	_____	Ea.	\$ _____	\$ _____
0004	Meal and Expenses	_____	Ea.	\$ _____	\$ _____

EARLY CHILDHOOD MENTAL HEALTH
CONSULTATION EVALUATION

(OPTION YEAR THREE)

0001	Consultant Services for Early Childhood Project	416	Per Hour	\$ _____	\$ _____
0002	Travel	_____	Ea.	\$ _____	\$ _____
0003	Per Diem Hotel	_____	Ea.	\$ _____	\$ _____
0004	Meals and Expenses	_____	Ea.	\$ _____	\$ _____

(OPTION YEAR FOUR)

0001	Consultant Services for Early Childhood Project	416	Per Hour	\$ _____	\$ _____
0002	Travel	_____	Ea.	\$ _____	\$ _____
0003	Per Diem Hotel	_____	Ea.	\$ _____	\$ _____
0004	Meals and Expenses	_____	Ea.	\$ _____	\$ _____

(OPTION YEAR FIVE)

0001	Consultant Services for Early Childhood Project	416	Per Hour	\$ _____	\$ _____
0002	Travel	_____	Ea.	\$ _____	\$ _____
0003	Per Diem Hotel	_____	Ea.	\$ _____	\$ _____
0004	Meals and Expenses	_____	Ea.	\$ _____	\$ _____

Print Name Company

Print Name of Authorized Person to Sign

Title

Signature of Authorized Person

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PART I - THE SCHEDULE

SECTION C

DESCRIPTION/SPECIFICATIONS/ STATEMENT OF WORK

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PART I - THE SCHEDULE

SECTION C

DESCRIPTION/SPECIFICATIONS/ STATEMENT OF WORK

C.1 BACKGROUND/GENERAL REQUIREMENTS:

The District of Columbia, The Department of Mental Health (DMH), is seeking a Contractor to provide evaluation services for Early Childhood Mental Health Consultation Project. The Contractor shall be responsible for (a) development of an evaluation plan that incorporates all aspects of this project; (b) implementation of a process and outcome evaluation and (c) development of corrective action plans based on the results. The Contractor shall provide, under the director of the Prevention and Early Intervention staff, a detailed evaluation work plan.

The mission of the DMH is to develop, support and oversee a comprehensive, community-based, consumer-driven, culturally competent, quality mental health system. This system shall be responsive and accessible to children, youth, adults, and their families. It shall leverage continuous positive change through its ability to learn and to partner. It shall also ensure that mental health providers are accountable to consumers and offer services that promote recovery from mental illness. The goal of this procurement is to develop an evaluation of a program that supports young children and their families by improving social and emotional outcomes.

C.1.1 Applicable Documents

Document Type	Title	Date
White Paper	Washington DC –Early Childhood Mental Health White Paper	2006

C.1.2 Definitions

C.1.2.1 Early Childhood Education (ECE) Center – A site which provides care of a child during the day by a person (typically other than the child’s parents or legal guardians). This type of care is usually provided for children who are not yet at the appropriate age to enter the public school system.

- C.1.2.2 Early Childhood Mental Health Consultation (ECMHC)- A problem-solving and capacity-building intervention implanted within a collaborative relationship between a professional consultant with mental health expertise and one or more individuals with other areas of expertise-primarily child care, child development, and families – or individuals with child care responsibilities.

C.2 BACKGROUND

The DC DMH was awarded funding from Interagency Collaborative Services Integration Commission (ICSIC) through DCPS and through the Mental Health Block Grant for Early Childhood Mental Health Consultation project, titled “Healthy Futures”. This project aims to address the socio-emotional needs of children from birth through five in up to sixteen Child Development Centers within the District of Columbia. The Healthy Futures program strives to provide children in all of the District’s eight Wards, regardless of their race, ethnicity, socioeconomic status, development and behavioral needs to be healthy and ready to learn when they enter kindergarten through the implementation of center-based and child and family centered consultation services.

The Healthy Futures program has two basic programmatic components which are:

(1) Child or Family-Centered Consultation

The primary goal is to address the factors that contribute to an individual child’s (and/or family’s) difficulties in functioning well in the early childhood setting. This type of early childhood mental health consultation is typically provided to staff and families and is often initiated by concerns about an individual child’s problematic behavior.

(2) Programmatic Consultation

Programmatic consultation focuses on improving the overall quality of the program or agency and/or assisting the program to solve a specific issue that affects more than one child, staff member, and/or family. This type of early childhood mental health consultation is typically provided to program staff and administrators.

In an effort to achieve and monitor the successful achievement of these two components, DMH seeks an independent evaluation of the Healthy Futures’ program outcomes.

C.3 MINIMUM QUALIFICATIONS

C.3.1 The Contractor shall meet the following criteria:

- C.3.1.1 The Contractor shall have at least five years experience developing and implementing evaluation plans in the specialized area of Early Childhood

Mental Health Consultation. The Contractor must also have a PhD level degree related to mental and child health.

C.3.1.2 The Contractor shall have excellent oral and written communication skills.

C.4 **REQUIREMENTS**

C.4.1 The Contractor shall develop a detailed evaluation plan to determine the effectiveness of the ECMHC program. The evaluation plan shall include, but not be limited to, the following:

C.4.1.1 Competency and self-efficacy of early childhood education (ECE) center staff who benefit from ECMHC.

C.4.1.2 Job Stress of ECE staff.

C.4.1.3 Teaching skills of ECE staff and communication with families.

C.4.1.4 ECE Staff Turnover.

C.4.1.5 Impact of Early Childhood Mental Health Consultant.

C.4.1.6 Socialization skills of children.

C.4.1.7 Social skills and peer relationships of children.

C.4.1.8 Changes in problematic behaviors in children.

C.4.1.9 Improvement in parenting skills.

C.4.2 The Contractor shall develop and implement a program work plan to complete the required services described in C.4.1 to C.4.9, including timelines for completion, required services and responsible party.

C.4.3 The Contractor shall collaborate with the individual(s) providing the ECMHC training to develop and evaluation plan to be incorporated into the training. This part of the evaluation shall assess knowledge gained by participants trained and determine whether or not the objectives of training were met.

C.4.4 The Contractor shall have the ability to write and edit draft and final reports which encompasses findings from the evaluation and any recommendations (including policy and/programmatic recommendations) on how to improve the Early Childhood Mental health Consultation Program.

C.4.5 The Contractor shall be required to meet with DMH Prevention and Early Intervention project staff and any other staff related to this project on a regular basis to discuss, revise and approve all activities associated with the training and/or evaluation.

C.5 DELIVERABLES

ITEM	Deliverable	Quantity	Format & Method of Delivery	Due Date
1	Program Work Plan	1	1 original with 1 copy produced in Microsoft Word & 1 in electronic format	10 days after award
2	Evaluation Plan	1	1 original with 1 copy produced in Microsoft word & 1 electronic format	15 days after award
3	Draft Final Report	1	1 original with 1 copy produced in Microsoft Word & 1 in electronic format	Date established in the approval project work plan.
4	Final Report	1	1 original with 1 copy produced in Microsoft Word & 1 in electronic format	Date established in the approval project work plan.

C.6 ADVERTISING AND PUBLICITY

C.6.1 Unless granted prior, express, written authority by the Director, Contracts and Procurement/Agency Chief Contracting Officer, the Contractor shall not issue or sponsor any advertising or publicity that states or implies, either directly or indirectly, that DMH endorses, recommends or prefers the Contractor's services; shall not use the DMH's logo in

any fashion; or use or release information, photographs or other depictions obtained as a result of the performance of services under this Contract, for publication, advertising or financial benefit.

C.7 CONFIDENTIALITY

C.7.1 The Contractor shall maintain the confidentiality and privacy of all identifying information concerning DMH clients in accordance with the confidentiality law, the privacy rule (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) and Section H.2 of this Contract.

C.8 RIGHTS IN DATA

C.8.1 Any data first produced in the performance of this Contract shall be the sole property of the DMH. The Contractor hereby acknowledges that all data, including, without limitation, produced by the Contractor for DMH under this Contract are works made for hire and are the sole property of DMH; but, to the extent any such data may not, by operation of law, be works made for hire, the Contractor hereby transfers and assigns to DMH ownership of copyright in such works, whether published or unpublished.

C.8.2 The Contractor agrees to give DMH 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 DMH at such time as to review the intent to release such data to the public.

C.8.3 DMH shall not unreasonably withhold consent to the Contractor's request to publish or reproduce data in professional and scientific publications.

C.8.4 "Data," as used herein, means recorded information, regardless of form or the media on which it may 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.

- C.8.5** The term “Technical Data”, as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, 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 may 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.
- C.8.6** 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 may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.
- C.8.7** 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.
- C.8.8** All data first produced in 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 the 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 may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the District the ownership 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 may have released such data to the public. The District shall not unreasonable withhold consent to the Contractor's request to publish or reproduce data in professional and scientific publications.

C.8.9 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 will be furnished with restricted rights, provided however, not withstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:

C.8.10 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 may be transferred by the District;

C.8.11 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;

C.8.12 Copy computer programs for safekeeping (archives) or backup purposes; and

C.8.13 Modify the computer software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provisions that the modified portions shall remain subject to these restrictions.

C.8.14 The restricted rights set forth in section C.18.8 are of no effect unless:

C.8.15 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

C.8.16 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 may not place any legend on the computer software I 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.

- C.8.17** In addition to the rights granted in Section C.8.18 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 C.8.18 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 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 this paragraph.
- C.8.18** Whenever any data, including computer software, are to be obtained from a sub-Contractor under this Contract, the Contractor shall use Section I-2 in the sub-Contract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that sub-Contractor data or computer software which is required for the District.
- C.8.19** For all computer software furnished to the District with the rights specified in Section C.8.8, the Contractor shall furnish to the District a copy of the source code with such rights of the scope specified in Section C.8.8. For all computer software furnished to the District with the restricted rights specified in Section C.8.9, 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 if 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 therewith, upon payment to the person in control of the sources code the reasonable cost of making each copy.
- C.8.20** 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 for the following:
- C.8.21** 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
- C.8.22** Based upon any data furnished under this Contract, or based upon libelous or other unlawful matter contained in such data.
- C.8.23** 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.

C.8.24 Sections C.8.9, C.8.11, C.8.12, C.8.13 and C.8.14 in this clause 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.

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

SECTION D: PACKAGING AND MARKING

- D.1** The packaging and marking requirements for this Contract shall be governed by clause number (2), Shipping Instructions-Consignment, of the Government of the District of Columbia's Standard Contract Provisions for Use with Supplies and Services Contracts dated March 2007 (Attachment J.1).
- D.2** The Contractor shall be responsible for all posting and mailing fees connected with the performance of this Contract.

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

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INSPECTION AND ACCEPTANCE
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THE SCHEDULE

SECTION E

INSPECTION AND ACCEPTANCE

E.1 CONSEQUENCES OF CONTRACTOR'S FAILURE TO PERFORM REQUIRED SERVICES

- (a) The Contractor shall be held to the full performance of the Contract. The DMH shall deduct from the Contractor'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 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.
- (c) The DMH shall give the Contractor written notice of deductions by providing copies of reports, which summarize the deficiencies for which the determination was made to assess the deduction in payment for unsatisfactory work.

E.2 Therefore:

(1.) In the case of non-performed work, DMH:

- (a.) 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.
- (b.) 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, 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.

(2.) In the case of unsatisfactory work, DMH:

- (a.) Shall deduct from the Contractor's invoice all amounts associated with such unsatisfactory work at the rates set out in Section B or provided by other provisions of the Contract, unless the Contractor is afforded an opportunity to re-perform and satisfactory completes the work;
- (b.) 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, Contracting and Procurement/Agency Chief Contracting Officer and at no additional cost to the DMH.

E.3 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 determines 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 the 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, the Contractor shall immediately proceed with the following obligations:
 - (a.) Stop work as specified in the notice.
 - (b.) Place no further sub-Contracts or orders except as necessary to complete the continued portion of the Contract.
 - (c.) Terminate all applicable sub-Contracts 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 the Contractor under the sub-Contracts terminated, in which case DMH shall have the right to settle or pay any termination settlement proposal 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 proposals arising from the termination of sub-Contracts; 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.4 TERMINATION FOR DEFAULT

1. DMH may, subject to the conditions stated below, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor 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 the 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 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 the Contractor shall be liable to DMH for any excess costs for those supplies and services. However, the Contractor shall continue the work not terminated.
4. Except for default by Sub-Contractors at any tier, the 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 the 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 must be beyond the control and without the fault or negligence of the Contractor.

5. If the failure to perform is caused by the fault of a sub-Contractor at any tier, and if the cause of the default is beyond the control of both the Contractor and the Sub-Contractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the sub-Contracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required schedule.
6. If the Contract is terminated for default, DMH may require the 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 the Contractor has specifically produced or acquired for the terminated portion of this Contract. Upon direction of the Director, Contracts and Procurement/Agency Chief Contracting Officer, the Contractor shall also protect and preserve property in its possession in which DMH has an interest.
7. DMH 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 the 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 *****

PART I - THE SCHEDULE

SECTION F

DELIVERY and PERFORMANCE

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PART I - THE SCHEDULE

SECTION F

DELIVERY AND PERFORMANCE

F.1 PERIOD OF PERFORMANCE (POP)

F.1.1 Performance under this Contract shall be in accordance with the terms and conditions set forth herein and by any modification made thereto. The Period of Performance under this Contract shall be one (1) year from date of award with four (4) option years.

F.2 CONTRACTOR NOTICE REGARDING LATE PERFORMANCE

F.2.1 In the event the Contractor anticipates or encounters difficulty in complying with the terms and conditions as stated in this Contract, or in meeting any other requirements set forth in this Contract, the Contractor shall immediately notify the Director, Contracts and Procurement/Agency Chief Contracting Officer in writing giving full detail as to the rationale for the late delivery and why the Contractor should be granted an extension of time, if any. Receipt of the Contractor's notification shall in no way be construed as an acceptance or waiver by the DMH.

F.3 OPTION PERIOD

F.3.1 The District may extend the term of this Contract by exercising up to four (4) one year option period or a fraction thereof.

F.3.2 The total duration of this Contract, including the exercise of any options under this clause, shall not exceed five (5) years.

F.4 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.4.1 The District may extend the term of this Contract for a period of one year, one year options, or successive fractions thereof, by written notice to the Contractor before the expiration of the Contract; provided that the District shall give the Contractor a preliminary notice of its intent to extend at least thirty (3) days before the Contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the Contract.

F.4.2 If the District exercises this option, the extended Contract shall be considered to include this option provision.

F.4.3 The price for the option period shall be as specified in the Contract.

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

PART I: THE SCHEDULE

SECTION G

CONTRACT ADMINISTRATION DATA

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PART I: THE SCHEDULE

SECTION G

CONTRACT ADMINISTRATION DATA

G.1 CONTRACT ADMINISTRATION

G.1.1 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 – 4th Floor
Washington, DC 20002
(202) 671-3188 – Office Email: Samuel.feinberg@dc.gov

G.2 TYPE OF CONTRACT

G.2.1 This is a Fixed Price Contract. The Contractor shall be remunerated at the rates indicated in Section B. 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. Pursuant to the Terms and Conditions, individuals under Labor Hour Contracts working for Department of Mental Health (DMH) are not eligible to be paid for holidays and sick leave. However, if you work on a Holiday, you shall be paid at your regular hourly rate.

G.2.2 This Contract is a “non-personal services Contract”. It is therefore, understood and agreed that the Contractor and/or the 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 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 the 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 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

G.4.1 Funds are not presently available for performance under this Contract beyond September 30, 2010. 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 the 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 Contract, have direct responsibility to assign work to the Contractor, review the Contractor'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

Barbara J. Parks, LICSW
D.C. Department of Mental Health
Clinical Program Administrator
Prevention & Early Intervention Programs
821 Howard Road, S.E.,
Washington, D.C. 20020
(202) 698-1871 barbara.parks@dc.gov

G.6 SUBMISSION OF INVOICE

G.6.1 The Contractor shall be prepared in duplicate and submitted on a monthly basis to the Agency Chief Financial Officer (CFO) with concurrent copies to the Contracting Officer's Technical Representative (COTR) as specified in Section G.5. The invoices shall include the Contractor's name and address, invoice date (Contractor's shall date invoices as close to the date of mailing or transmittal), 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, and other supporting documentation or information, as required by the Contracting Officer. Payment shall be made within forty-five (45) days after the COTR receives a proper and certified invoice from the 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 must be resubmitted as indicated in this clause. The address of the CFO is:

**Department of Mental Health
64 New York Avenue, N.E., 4th Floor
Washington, D.C. 20002
Attn: Accounts Payable**

G.7 CERTIFICATION OF INVOICE

G.7.1 Contracting Officer's Technical Representative shall perform certification of the 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 INVOICE 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 the Contractor for performing the services under this Contract at the prices stated in Section B.

G.9 RESPONSIBILITY FOR AGENCY PROPERTY

G.9.1 The 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 Contract, or while in the Contractor's custody for storage or repair, resulting from the negligent acts or omissions of the Contractor or any employee, agent, or representative of the Contractor or Sub-Contractors. The 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 *****

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PART I: THE SCHEDULE

SECTION H

SPECIAL CONTRACT REQUIREMENTS

H.1 PRIVACY AND CONFIDENTIALITY COMPLIANCE

H.1.1 Definitions

- (a) "Business Associate" shall mean The 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.
- (d) 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).
- (e) 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.

- (f) "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.
- (g) "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.
- (h) "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 .
- (i) "Secretary" shall mean the Secretary of the Department of Health and Human Services or designee.

H.1.2 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.1.
- (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.1.
- (d) The Business Associate agrees to report to DMH any use or disclosure of the protected information not provided for by this Section H.1 of which it becomes aware.
- (e) The Business Associate agrees to ensure that any agent, including a sub-Contractor, 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.1.3 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.1, 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.1, 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 will 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.1, 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.1.4 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.1.5 Permissible Requests by DMH

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.1.6 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.1 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.1.6(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 sub-Contractors 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.1.7 Miscellaneous

- (a) Regulatory References. A reference in this Section H.1 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.1 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.1.6 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.1 shall be resolved to permit DMH to comply with the Privacy Rule.

H.2 COST OF OPERATION

H.2.1 All costs of operation under this Contract shall be borne by the Contractor. This includes but is not limited to taxes, surcharges, licenses, insurance, transportation, salaries and bonuses.

H.3 LIQUIDATED DAMAGES

H.3.1 When the Contractor fails to perform the tasks required under this Contract, DMH shall notify the Contractor in writing of the specific task deficiencies with a Notice to Cure notification with a cure period of not to exceed ten (10) Business Days. The assessment of Liquidated Damages as determined by the Director, Contracts and Procurement/Agency Chief Contracting Officer shall be in an amount of \$700 per day where there has been a failure to provide required services as depicted in the Scope of Services. This assessment of Liquidated Damages against the Contractor shall be implemented after the expiration of the cure period and until such time that the Contractor has cured its deficiencies and is able to satisfactorily perform the tasks required under this Contract for a maximum of thirty (30) Business Days.

H.3.2 When the Contractor is unable to cure its deficiencies in a timely manner and DMH requires a replacement Contractor to perform the required services, the Contractor shall be liable for Liquidated Damages accruing until the time DMH is able to award said Contract to a qualified responsive and responsible Contractor. Additionally, if the Contractor is found to be in default of said Contract under the Default Clause of the Standard Contract Provisions, the original Contractor is completely liable for any and all total cost differences between their Contract and the new Contract awarded by DMH to the replacement Contractor.

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

PART I: THE SCHEDULE

SECTION I

LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS

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SECTION I – CONTRACT CLAUSES

I.1 GOVERNING LAW

I.1.1 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

I.2.1 The Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts, dated March 2007 (Attachment J-1), 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

I.4.1 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 SUSPENSION OF WORK

I.5.1 The Director, Contracts and Procurement/Agency Chief Contracting Officer may order the Contractor, 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.5.2** 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 the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this Contract.
- I.5.3** A claim under this clause shall not be allowed for any costs incurred more than twenty (20) days before the Contractor 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.6 **STOP WORK ORDER**

- I.6.1** The Director, Contracts and Procurement/Agency Chief Contracting Officer may, at any time, by written order to the Contractor, require the Contractor 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 the Contractor, and for any further period to which the parties may agree.
- I.6.2** The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor 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 the Contractor, 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-1).
- I.6.3** If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor 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.6.4** If the stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Contract; and the Contractor 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.6.5** 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.6.6** 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.7** **This Section is Reserved for Future Use**
- I.8** **This Section is Reserved for Future Use**
- I.9** **ANTI-KICKBACK PROCEDURES**
- I.9.1** Definitions:
- I.9.1.1** “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 Contractor, prime Contractor employee, sub-Contractor, or sub-Contractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime Contractor in connection with a sub-Contract relating to a prime Contract.
- I.9.1.2** “Person,” as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.
- I.9.1.3** “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.9.1.4** “Prime Contractor” as used in this clause, means a person who has entered into a prime Contract with the District.
- I.9.1.5** “Prime Contractor employee,” as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

- I.9.1.6** “Sub-Contract,” as used in this clause, means a Contract or Contractual action entered into by a prime Contractor or sub-Contractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime Contract.
- I.9.1.7** “Sub--Contractor,” as used in this clause, means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime Contractor a sub-Contractor entered into in connection with such prime Contract, and includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier sub-Contractor.
- I.9.1.8** “Sub-Contractor employee, ” as used in this clause, means any officer, partner, employee, or agent of a sub-Contractor.
- I.9.2** The Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58 (the Act), prohibits any person from:
- I.9.2.1** Providing or attempting to provide or offering to provide any kickback;
- I.9.2.2** Soliciting, accepting, or attempting to accept any kickback; or
- I.9.2.3** Including, directly or indirectly, the amount of any kickback in the Contract price charged by a prime Contractor to the District or in the Contract price charged by a sub-Contractor to a prime Contractor or higher tier sub-Contractor.
- I.9.3** The Contractor 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.9.4** When the Contractor has reasonable grounds to believe that a violation described in paragraph I-10.2 of this clause may have occurred, the Contractor shall promptly report in writing the possible violation to the Director, Contracts and Procurement/Agency Chief Contracting Officer.
- I.9.5** 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 Contractor withhold from sums owed a sub-Contractor 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 Contractor shall notify the Director, Contracts and Procurement/Agency Chief Contracting Officer when the monies are withheld.

I.10 ORDER OF PRECEDENCE

I.10.1 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 questions. The following sets forth in descending order of precedence order of precedence documents that are hereby 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) (Attachment J. (if appropriate).
2. Contract Sections A through J of this Contract Number xxxx.
3. Standard Contract Provisions for the Use with District of Columbia Government Supply and Services Contracts, March 2007 (Attachment J.1)
4. Wage Determination No. 2005-2103 (Revision No.6, May 29, 2009) (Attachment J.3).

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

PART I: THE SCHEDULE

SECTION J

LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS

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J.1 STANDARD CONTRACT PROVISIONS

The Contractor 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.

J.2 TAX CERTIFICATION AFFIDAVIT

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