

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
REQUEST FOR QUOTATION  
RETROFIT & UPGRADE VAV AND FAN COIL AUTOMATION  
SYSTEMS  
RM-10-RFQ-106-BY4-THS**

The District of Columbia Department of Mental Health (DMH) is seeking Quotations from qualified bidders to provide retrofit services of Automatic Temperature Controls at Dual Duct and Fan Coil Units located at Saint Elizabeths Hospital.

Opening Date: June 9, 2010  
Closing Date: June 29, 2010  
Closing Time: 12:00 PM EST

To obtain a copy of the Request for Quotation please contact Tornia Harrison, Contract Specialist, at:

**D.C. Department of Mental Health | Contracts and Procurement Administration**  
64 New York Avenue NE - 4th Floor Washington DC 20002  
Tel: 202.671-3180 | Fax: 202.671-3395

**All responses to this request are due by June 29, 2010 12:00PM EST, mailed or hand delivered in sealed envelope, marked with Solicitation Number and Name of Vendor submitting quote.**

<b>1. ISSUED BY/ADDRESS OFFER TO:</b>  <b>DISTRICT OF COLUMBIA</b> <b>DEPARTMENT OF MENTAL HEALTH (DMH)</b> <b>CONTRACTS AND PROCUREMENT ADMINISTRATION</b> <b>64 NEW YORK AVENUE NE, 4<sup>th</sup> FLOOR</b> <b>WASHINGTON, DC 20002</b>	<b>2. PAGE OF PAGES:</b> <b>1 of 39</b>
	<b>3. CONTRACT NUMBER:</b>
	<b>4. SOLICITATION NUMBER:</b> <b>RM-10-RFQ-106-BY4-THS</b>
	<b>5. DATE ISSUED:</b>
	<b>6. OPENING/CLOSING TIME:</b> <b>June 9, 2010/June 29, 2010 @ 12:00 PM EST.</b>
	<b>7. TYPE OF SOLICITATION: N/A</b> <input checked="" type="checkbox"/> <b>SEALED BID</b> <input type="checkbox"/> <b>NEGOTIATION (RFP)</b>

<b>8. DISCOUNT FOR PROMPT PAYMENT:</b>
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**NOTE: IN SEALED BID SOLICITATION "OFFER AND CONTRACTOR" MEANS "BID AND BIDDER"**

<b>10. INFORMATION CALL</b>	<b>NAME:</b> <b>Samuel J Feinberg, CPPO, CPPB</b> <b>Director, Contracts and Procurement</b> <b>Agency Chief Contracting Officer</b>	<b>TELEPHONE NUMBER:</b> <b>(202) 671-3188</b>	<b>B. E-MAIL ADDRESS:</b> <b>Samuel.Feinberg@dc.gov</b>
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**OFFER (TO BE COMPLETED BY CONTRACTOR)**

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

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

**AWARD (To be completed by the DMH)**

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

**IMPORTANT NOTICE: AWARD SHALL BE MADE ON THIS FORM, OR ON DMH FORM 26, OR BY OTHER AUTHORIZED OFFICIAL WRITTEN NOTICE**

## **SECTION B: SUPPLIES OR SERVICES AND PRICE**

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

**B.1.1** The Government of the District of Columbia, Department of Mental Health (DMH), is issuing this Request for Quote to solicit quotes from qualified Bidders to provide retrofit services of Automatic Temperature Controls at Dual Duct and Fan Coil Units located at Saint Elizabeths Hospital in accordance with the requirements as stated in Section C of this solicitation.

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

**B.2.1** This is a Time and Material – Labor Hour Contract with payments based on fixed unit rates as outlined in the Pricing Schedule in Section B of this contract.

### **B.3 PERIOD OF PERFORMANCE**

**B.3.1** The Period of Performance (POP) under this Contract shall be Date of Award through September 30, 2010

### **B.4 ORDERING PROCEDURES**

**B.4.1** Delivery or performance shall be made only as authorized by orders issued in accordance with ordering instructions from the District. The Contractor shall furnish to the District, when and if ordered, the supplies or services specified in the Schedule C as agreed upon in the Contract. There is no limit on the number of orders that may be issued. The District may issue orders requiring delivery to multiple destinations or performance at multiple locations. Any order issued during the effective period of this Contract and not completed within the period shall be completed by the Contractor within the time specified in the order. The Contract shall govern the Contractor's and District's rights and obligations with respect to that order to the same extent as if the order were completed during the Contract's effective period; provided that the Contractor shall not be required to make any deliveries under this Contract after the Contract expiration date.

**B.5 PRICING SCHEDULE**

**B.5.1** The Contractor shall bid on all or none of the following Contract Line Items for Base Year. (Section C.3)

**NAME OF CONTRACTOR-**

Contract Line Item No. (CLIN)	Item Description	Quantity	Unit	Unit Price	Extended Price
0001	Labor Rate (Section C.3)		Hourly Labor Rate	\$ _____	\$ _____
0002	Communication Wiring (Section C.3)		Each	\$ _____	\$ _____
0003	24 VAC Low Voltage Wiring (Section C.3)		Each	\$ _____	\$ _____
0004	Damper Linkage (Hot or Cold Deck) (Section C.3)		Each	\$ _____	\$ _____
0005	Differential Pressure Sensor (USF/UDF) (Section C.3)		Each	\$ _____	\$ _____
0006	Belimo Damper Actuator (LM24) (Section C.3)		Each	\$ _____	\$ _____
0007	Complete Fan Coil Unit (Section C.3)		Each	\$ _____	\$ _____
0008	Space Sensor (ALC/10K-2-SP) (Section C.3)		Each	\$ _____	\$ _____
0009	Complete Dual Duct Terminal Units (Section C.3)		Each	\$ _____	\$ _____
Extended Total				\$ _____	\$ _____

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

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

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Signature of Authorized Person**

\_\_\_\_\_  
**Date**

**B.5.2 GRAND TOTAL**

**B.5.2.1 The Contractor shall bid on all or none of the CLINS in Section B.5.1 and provide the Grand Total of all CLINS below.**

<b>Section</b>	<b>Extended Total</b>
<b>B.5.1</b>	\$ _____

<b>Grand Total</b>	\$ _____
<b>(LSDBE) Total</b>	\$ _____

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

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

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Signature of Authorized Person**

\_\_\_\_\_  
**Date**

**\*\*\* END OF SECTION B \*\*\***

**PART I - THE SCHEDULE**

**SECTION C**

**BACKGROUND/SCOPE OF SERVICES/ REQUIREMENTS**

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## **SECTION C: BACKGROUND, SCOPE OF SERVICES AND REQUIREMENTS**

### **C.1 BACKGROUND**

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

### **C.2 SCOPE OF SERVICES**

**C.2.1** The Department of Mental Health (DMH), Saint Elizabeths Hospital is seeking a Contractor to provide retrofit services of Automatic Temperature Controls at Dual Duct and Fan Coil Units located at:

**Saint Elizabeths Hospital Campus  
1100 Alabama Avenue, SE  
Washington, DC 20032**

The Contractor shall perform all services Monday through Friday 7:30 AM through 4:00 PM. During these times DMH shall ensure that the locations being serviced are unlocked and provide an on-duty staff person.

### **C.3 SPECIFICATIONS**

**C.3.1** The Contractor shall provide labor and materials (including replacement parts and/or equipment) to retrofit and furnish new components of the Automation Temperature Control System for the Dual Duct and Fan Coil Terminal Units in the RMB Building located on the Saint Elizabeths Hospital.

**C.3.2** The Contractor shall remove and replace in kind all 125 DDC (BACnet compatible) controllers for the terminal units.

**C.3.3** The Contractor shall verify proper operation of existing field devices, power, communication, and wiring and re-use all re-usable products/materials.

**C.3.4** The Contractor shall replace all non re-usable field devices with the same brand or brand equivalent device.

**C.3.5** The Contractor shall upgrade all short connections with five (5) feet of existing controllers' location and actual termination.

**C.3.6** The Contractor shall add control valves to the 40 fan coil units to include fan status monitoring (BACnet compatible).

**C.3.7** The Contractor shall retrofit the DDC controllers to be standard single duct VAV DDC controller without damper actuator.

- C.3.8 The Contractor shall provide and install Off Board DP sensors.
- C.3.9 The Contractor shall extend the retrofitted/upgraded DDC controllers for the terminal units and fan coil units with required hardware, software, and communication wiring to the newly installed BACnet network.
- C.3.9.1 The Contractor shall upgrade the newly installed Operator Workstation to provide additional navigation; building and floor by floor graphic displays to include jump tags to the added terminal unit locations.
- C.3.9.2 The Contractor shall ensure additional schematic displays for each DDTU and FCU.
- C.3.10 The Contractor shall verify proper operation of existing ALC/10K-2-SP space sensors (ceiling or wall mounted) and 22AWG wiring for re-use.
- C.3.10.1 The Contractor shall verify operation of all existing Belimo LM24 damper actuators and wiring for re-use.
- C.3.10.2 The Contractor shall verify proper operation of all existing 24VAC power and communication wiring for re-use.
- C.3.10.3 The Contractor shall verify proper operation of all existing USF/UDF dual DP transducers for terminal units.
- C.3.10.4 The Contractor shall upgrade as needed all hot or cold deck damper linkages.
- C.3.10.5 The Contractor shall ensure the systems communication wiring is shielded by providing and installing new communication wiring.
- C.3.10.6 The Contractor shall provide balancing of the new controllers on the existing Dual Duct Terminal Units to minimum and maximum CFM.
- C.3.11 The Contractor shall for C.3.10 report any defects or damages to the attention of DMH/SEH for replacement in writing to include but not limited to damages/defect report and cost proposal for replacement.
- C.3.12 The Contractor shall verify operation of all existing ALC/10K-2-SP space sensors (ceiling or wall mounted) and 22AWG wiring for re-use.
- C.3.12.1 The Contractor shall report and defective or damage ALC/10K-2-SP Space Sensors and or 22AWG wiring shall be noted and brought to the attention of the DMH/SEH for replacement.
- C.3.12.2 The Contractor shall provide a cost proposal for reported defective or damage ALC/10K-2-SP Space Sensors and or 22AWG wiring.



- C.3.12.3 The Contractor shall ensure that the systems communication wiring is shielded by providing and installing new communication wiring.
- C.3.13 The Contractor shall work in accordance with all applicable building codes and standards to include but not limited to the hospital's policies and procedures when performing services.
- C.3.14 The Contractor shall, as needed, deliver all materials in good condition to the job sites in the manufacturer's original unopened containers that bear the name and brand of the manufacturer.
- C.3.15 The Contractor shall inspect all areas prior to installation of any new materials to determine any defects that might prevent proper installation of new material.
- C.3.16 The Contractor shall report conditions contrary to Contract requirements that would prevent proper installation. Do not proceed with the installation until unsatisfactory conditions have been corrected.
- C.3.17 The Contractor shall install all materials in strict accordance with the manufacturer's recommendations.
- C.3.18 The Contractor shall follow all manufacturer's recommendations and guidelines for pre and post installation.
- C.3.19 The Contractor shall protect all surfaces around the work areas.
- C.3.20 The Contractor shall provide DMH with all manufacturers' warranties for all supplies and materials used in the preparation and installation of equipment.
- C.3.21 The Contractor shall provide a warranty for all services and workmanship rendered under this contract for a minimum of one (1) year.
- C.3.22 The Contractor shall coordinate all work schedules with COTR or the FED within forty eight (48) business hours prior to conducting services.
- C.3.23 The Contractor shall coordinate with COTR to provide services on the weekend or holidays, except emergencies.
- C.3.24 The Contractor shall complete a final walk-through with COTR within two days after completion of all services.
- C.3.25 The Contractor shall provide seventy two (72) hour notice to the COTR or the FED for all utility shutdowns, except for emergencies.
- C.3.26 The Contractor shall receive authorization from COTR or the FED prior to providing services.

- C.3.27 The Contractor shall remove and dispose of all trash and debris associated with the delivery, maintenance and installation to an off-site location prior to final completion of work.
- C.3.28 The Contractor shall meet with COTR prior to purchase and installation of any product to review final specifications. DMH must give final approval before purchase.
- C.3.29 The Contractor shall submit list of employees, subcontractors, work scheduled and work plans prior to start of work.
- C.3.30 The Contractor must ensure all work vehicles are labeled with Company's name on the outside of the vehicle.
- C.3.31 The Contractor must provide DMH with a copy of all drivers' identification along with the license plate number of vehicle prior to start of work.

**C.4 CARE OF ADJACENT SURFACES AND EXISTING STRUCTURES**

- C.4.1 The contractor shall exercise extreme caution and care to avoid and prevent any damages to adjacent equipment, surfaces, and existing structures which are excluded from the Scope of Work.
- C.4.2 The Contractor shall be responsible for all damages to such adjacent equipment, surfaces, and existing structures shall be fully restored or replaced by the contractor at no cost to the District within five (5) working days.

**C.5 CONTRACTOR'S REQUIREMENTS**

- C.5.1 The Contractor shall meet the following minimum requirements:
- C.5.2 The Contractor shall be a Certified Licensed Contractor with the Government of the District of Columbia.
- C.5.3 The Contractor shall perform all work in strict accordance to the regulations and requirements as set forth by Best Practice and Standard Specifications and other applicable codes, and standard engineering practices.
- C.5.4 The Contractor shall have general construction upgrade experience working in a hospital, school, or prison environment.

**C.7 CONTRACTOR'S QUESTIONS**

If a Prospective Contractor has any questions relative to this Contract, the Prospective Contractor shall submit the question in writing to the Contact Person, identified on page one, in writing. The Prospective Contractor shall submit questions no later than seven (7) calendar days prior to the closing date and time indicated for this Contract. The District shall not consider any questions received less than seven (7) calendar days before the date set for submission of proposal. The District shall furnish responses promptly to all other Prospective Contractors. An amendment to the solicitation shall be issued if that information is necessary in submitting offers, or if the lack of it would be prejudicial to any other Prospective Contractors. Oral explanations or instructions given before the award of the contract shall not be binding.

All 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)

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

**SECTION D**  
**PACKAGING AND MARKING**  
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**SECTION D: PACKAGING AND MARKING**

**D.1 PACKAGING AND MARKING**

**D.1.1** The packaging and marking requirements for the resultant Contract shall be governed by clause number (2), Shipping Instructions-Consignment, of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March 2007, **Attachment J.3**.

**D.2 POSTAGE AND MAILING FEES**

**D.2.1** Contractor shall be responsible for all posting and mailing fees incurred in connection with performance under this Contract.

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

**SECTION E**  
**INSPECTION AND ACCEPTANCE**  
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## **SECTION E: INSPECTION AND ACCEPTANCE**

### **E.1 GENERAL PROVISIONS**

**E.1.1** The inspection and acceptance requirements for the resultant Contract shall be governed by clause number six (6), Inspection of Services, of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March, 2007.

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION F**  
**PERFORMANCE AND DELIVERABLES**

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## **SECTION F: PERFORMANCE AND DELIVERABLES**

### **F.1 PERIOD OF PERFORMANCE**

F.1.1 The Period of Performance (POP) for this Contract shall be Date of Award through September 30, 2010.

### **F.2 DELIVERABLES**

The Contractor shall coordinate all services with DMH representative listed in Section G.5, the Contractor shall contact representative within 2 (two) days after Contract award.

#### **F.2.1 EMPLOYEES**

<b><u>Deliverable</u></b>	<b>Method of Delivery</b>	<b>Due Date</b>
Identification See Section C.3.29	The Contractor shall submit list of employees, subcontractors, work scheduled and work plans prior to start of work.	2 (two) days prior to delivery.

#### **F.2.2 IDENTIFICATION**

<b><u>Deliverable</u></b>	<b>Method of Delivery</b>	<b>Due Date</b>
Identification See Section C.3.31	The Contractor shall provide DMH with identification of all deliverers.	2 (two) days prior to delivery.

#### **F.2.3 MANUFACTURER'S WARRANTY**

<b><u>Deliverable</u></b>	<b>Method of Delivery</b>	<b>Due Date</b>
Manufacturer's Warranty See Section C. 4	The Contractor shall provide DMH with all manufacturers' warranties.	Prior to Delivery
Extended Warranty See Section C. 4	The Contractor shall provide DMH with all extended warranties.	Prior to Delivery

**F.2.2 CONTRACTOR'S REQUIREMENTS**

<b><u>Deliverable</u></b>	<b>Method of Delivery</b>	<b>Due Date</b>
Identification See Section C.3.5	The Contractor shall provide DMH with a copy of all documentation associated with Contractor's Requirements.	2 (two) days prior to delivery.

**F.2.2 BALANCE REPORT**

<b><u>Deliverable</u></b>	<b>Method of Delivery</b>	<b>Due Date</b>
Balance Report	The Contractor shall provide DMH with a copy of balance report.	Within one week after installation.

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

**SECTION G**  
**CONTRACT ADMINISTRATION DATA**

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**SECTION G: CONTRACT ADMINISTRATION DATA**

**G.1 CONTRACT ADMINISTRATION**

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

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

**G.2 TYPE OF CONTRACT**

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

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

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

**G.3 MODIFICATIONS**

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

**G.4 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR**

G.4.1 DMH's obligation for performance of this Solicitation beyond that date is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of the DMH for any payment may arise for performance under this Solicitation beyond September 30, 2010, until funds are made available to the Director, Contracts and Procurement/Agency Chief Contracting Officer for performance and until Contractor receives notice of availability of funds, to be confirmed in writing by the Agency's Chief Financial Officer.

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

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

Mr. Timothy Coefield shall serve as the Contracting Officer's Technical Representative (COTR) for this Contract.

Timothy Coefield  
Facilities Operation Specialist  
1100 Alabama Avenue, SE  
Washington, DC 20032  
Office: (202) 645-8560  
E-mail: [timothy.coefield@dc.gov](mailto:timothy.coefield@dc.gov)

**G.6 SUBMISSION OF INVOICE**

G.6.1 Contractor shall submit an original and three copies of the invoice on a monthly basis to the Contracting Officer's Technical Representative (COTR). The invoices

shall include Contractor's name and address, invoice date, Contract number, Contract line items numbers (CLINS), description of the services, quantity, unit price and extended prices, terms of any prompt payment discounts offered, name and address of the official to whom payment is to be sent and the name, title and phone number of the person to be notified in the event of a defective invoice. Payment shall be made within forty-five (45) days after the COTR receives a proper and certified invoice from Contractor, unless a discount for prompt payment is offered and payment is made within the discount periods. Any invoices deemed improper for payment shall be returned, **UNPAID** and shall be resubmitted as indicated in this clause.

**G.7 CERTIFICATION OF INVOICE**

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

**G.8 PAYMENT**

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

**G.9 RESPONSIBILITY FOR AGENCY PROPERTY**

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

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

**SECTION H**  
**SPECIAL CONTRACT REQUIREMENTS**

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## **SECTION H: SPECIAL CONTRACT REQUIREMENTS**

### **H.1 CONTRACTOR LICENSE/CLEARANCES**

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

### **H.2 PRIVACY AND CONFIDENTIALITY COMPLIANCE**

#### H.2.1 Definitions

- (a) "Business Associate" shall mean Contractor.
- (b) "DMH" shall mean the District of Columbia, Department of Mental Health
- (c) "Confidentiality law" shall mean the requirements and restrictions contained in Federal and District law concerning access to child welfare information, including D.C. Official Code §§ 4-1302.03, 1302.08, 1303.06 and 130-3.07.
- (d) "Designated Record Set" means:
  - 1. A group of records maintained by or for DMH that is:
    - (i) The medical records and billing records about individuals maintained by or for a covered health care provider;
    - (ii) The enrollment, payment, claims adjudication and case or medical management record systems maintained by or for a health plan; or
    - (iii) Used, in whole or in part, by or for DMH to make decisions about individuals.
  - 2. For purposes of this paragraph, the term record means any items, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for DMH.
- (e) Individual shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- (f) Privacy Rule. "Privacy Rule" shall mean the requirements and restrictions contained in 45 CFR part 160 and part 164, subparts A and E, as modified by any District of Columbia laws, including the Mental Health Information Act of 1978, that may have preemptive effect by operation of 45 CFR part 160, subpart B.
- (g) "Protected information" shall include "protected health information" as defined in 45 CFR 164.501, limited to the protected health information created or received by Business Associate from or on behalf of DMH, information required to be kept confidential pursuant to the confidentiality law and confidential information concerning DMH or its employees.



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

#### H.2.2 Obligations and Activities of Business Associate

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

Procurement/Agency Chief Contracting Officer, for purposes of the determining DMH's compliance with the Privacy Rule.

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

### H.2.3 Permitted Uses and Disclosures by Business Associate

- (a) Refer to underlying services agreement. Except as otherwise limited in this Section H.2, the Business Associate may use or disclose protected information to perform functions, activities, or services for, or on behalf of, DMH as specified in this Solicitation, provided that such use or disclosure would not violate the confidentiality law or privacy rule if done by DMH or the minimum necessary policies and procedures of DMH.
- (b) Except as otherwise limited in this Section H.2, the Business Associate may use protected information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- (c) Except as otherwise limited in this Section H.2, the Business Associate may disclose protected information for the proper management and administration of the Business Associate, provided that disclosures are required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it shall remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (d) Except as otherwise limited in this Section H.2, the Business Associate may use protected information to provide Data Aggregation services to DMH as permitted by 42 CFR 164.504(e)(2)(i)(B).
- (e) The Business Associate may use protected information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j) (1).

#### H.2.4 Obligations of DMH

- (a) DMH shall notify the Business Associate of any limitation(s) in its notice of privacy practices of DMH in accordance with 45 CFR 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of protected information.
- (b) DMH shall notify the Business Associate of any changes in, or revocation of, permission by Individual to use or disclose protected information, to the extent that such changes may affect the Business Associate's use or disclosure of protected information.
- (c) DMH shall notify the Business Associate of any restriction to the use or disclosure of Protected information that DMH has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect the Business Associate's use or disclosure of Protected information.

#### H.2.5 Permissible Requests by DMH

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

#### H.2.6 Term and Termination

- (a) Term. The requirements of this HIPAA Privacy Compliance Clause shall be effective as of the date of Contract award and shall terminate when all of the protected information provided by DMH to the Business Associate, or created or received by the Business Associate on behalf of DMH, is destroyed or returned to DMH, or, if it is infeasible to return or destroy Protected information, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination for Cause. Upon DMH's knowledge of a material breach of this Section H.2 by the Business Associate, DMH shall either:
  - (1) Provide an opportunity for the Business Associate to cure the breach or end the violation and terminate the Contract if the Business Associate does not cure the breach or end the violation within the time specified by DMH;
  - (2) Immediately terminate the Contract if the Business Associate has breached a material term of this HIPAA Privacy Compliance Clause and cure is not possible; or
  - (3) If neither termination nor cure is feasible and the breach involves protected health information, DMH shall report the violation to the Secretary.
- (c) Effect of Termination.

- (1) Except as provided in Section H.2.6(c)(2), upon termination of the Contract, for any reason, the Business Associate shall return or destroy all protected information received from DMH, or created or received by the Business Associate on behalf of DMH. This provision shall apply to protected information that is in the possession of Subcontractors or agents of the Business Associate. The Business Associate shall retain no copies of the protected information.
- (2) In the event that the Business Associate determines that returning or destroying the protected information is infeasible, the Business Associate shall provide to DMH notification of the conditions that make return or destruction infeasible. Upon determination by the Director, Contracts and Procurement/Agency Chief Contracting Officer that return or destruction of protected information is infeasible, the Business Associate shall extend the protections of this Agreement to such protected information and limit further uses and disclosures of such protected information to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such protected information.

#### H.2.7 Miscellaneous

- (a) Regulatory References. A reference in this Section H.2 to a Section in the Privacy Rule means the Section as in effect or as amended.
- (b) Amendment. The Parties agree to take such action as is necessary to amend this Section H.2 from time to time as is necessary for CFSA to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191.
- (c) Survival. The respective rights and obligations of the Business Associate under Section H.2.6 of this Clause and Sections 9 and 20 of the Standard Contract Provisions for use with District of Columbia Government Supply and Services Contracts, effective March 2007, shall survive termination of the Contract.
- (d) Interpretation. Any ambiguity in this Section H.2 shall be resolved to permit DMH to comply with the Privacy Rule.

### **H.3 COST OF OPERATION**

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

### **H.4 LIQUIDATED DAMAGES**

- H.4.1 When the Contractor fails to perform the tasks required under this Contract, DMH shall notify the Contractor in writing of the specific task deficiencies with a scheduled meeting and a Notice to Cure document with a cure period of Not to Exceed Ten (10) Business Days. Upon receiving the Notice to Cure document,

the Contractor shall provide DMH with their assessment of the identified deficiencies in order to reach an agreement on a proactive plan to resolve the matter. The assessment of Liquidated Damages as determined by the Director, Contracts and Procurement/Agency Chief Contracting Officer shall be in an amount of \$350.00 per day against the Contractor until such time that the Contractor has cured its deficiencies and is able to satisfactorily perform the tasks required under this Contract.

H.4.2 When Contractor is unable to cure its deficiencies in a timely manner and DMH requires a replacement Contractor to perform the required services, Contractor shall be liable for Liquidated Damages accruing until the time DMH is able to award said Contract to a qualified responsive and responsible Contractor. Additionally, if Contractor is found to be in default of said Contract under the Default Clause of the Standard Contract Provisions, the original Contractor is completely liable for any and all total cost differences between their Contract and the new Contract awarded by DMH to the replacement Contractor.

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

**SECTION I**  
**CONTRACT CLAUSES**  
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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, subContractor, or subContractor 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.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 “SubContract,” as used in this clause, means a Contract or Contractual action entered into by a prime Contractor or subContractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime Contract.

I.9.1.7 “SubContractor,” 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 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 Contractor or a higher tier subContractor.

I.9.1.8 “SubContractor employee,” as used in this clause, means any officer, partner, employee, or agent of a subContractor.

- 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 subContractor to a prime Contractor or higher tier subContractor.
- 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 subContractor 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 INSURANCE**

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

- I.10.1 **Bodily Injury:** The Contractor shall carry bodily injury insurance coverage written in the comprehensive form of policy of at least \$500,000 per occurrence.
- I.10.2 **Property Damage:** The Contractor shall carry property damage insurance of at least (\$20,000) per occurrence.
- I.10.3 **Workers' Compensation:** The Contractor shall carry workers' compensation insurance covering all of its employees employed upon the premises and in connection with its other operations pertaining to this Contract and the

Contractor agrees to comply at all times with the provisions of the workers' compensation laws of the District.

- I.10.4 Employer's Liability: The Contractor shall carry employer's liability coverage of at least one hundred thousand dollars (\$100,000) per employee.
- I.10.5 Automobile Liability: The Contractor shall maintain automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the Contract. Policies shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage.
- I.10.6 All insurance provided by the Contractor as required by this Section, except comprehensive automobile liability insurance, shall set forth the District as an additional named insured. All insurance shall be written with responsible companies licensed by the District of Columbia's Department of Insurance and Securities Regulation with a certificate of insurance to be delivered to the District's Contracting Officer within fourteen (14) days of Contract award. The policies of insurance shall provide for at least thirty (30) days written notice to the District prior to their termination or material alteration.

## **I.11 CONFIDENTIALITY OF INFORMATION**

- I.11.1 All information obtained by the Contractor relating to any employee or customer of the District shall be kept in absolute confidence and shall not be used by the Contractor in connection with any other matters, nor shall any such information be disclosed to any other person, firm, or corporation, in accordance with the District and Federal laws governing the confidentiality of records.

## **I.12 RIGHTS IN DATA**

- I.12.1 "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.
- I.12.2 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.

**I.12.3** The term "Computer Software", as used herein means computer programs and computer databases. "Computer Programs", as used herein means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. "Computer Programs" include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort merge programs and automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs. Computer programs 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.

**I.12.4** The term "computer databases", as used herein, means a collection of data in a form capable of being processed and operated on by a computer.

**I.12.5** 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 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 of copyright in such works, whether published or unpublished. The Contractor agrees to give the District all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District may have released such data to the public.

**I.12.6** The District shall have restricted rights in data, including computer software and all accompanying documentation, manuals and instructional materials, listed or described in a license or agreement made a part of this Contract, which the parties have agreed shall be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:

**I.12.6.1** 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;

**I.12.6.2** Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;

**I.12.6.3** Copy computer programs for safekeeping (archives) or backup purposes; and modify the computer software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provision that the modified portions shall remain subject to these restrictions.

**I.12.7** The restricted rights set forth in Section I.5.6 are of no effect unless

- (i) the data is marked by the Contractor with the following legend:

**RESTRICTED RIGHTS LEGEND**

Use, duplication, or disclosure is subject to restrictions stated in Contract No. \_\_\_\_\_

With \_\_\_\_\_ (Contractor's Name); and

- (ii) If the data is computer software, the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on the computer software indicating restrictions on the District's rights in such software unless the restrictions are set forth in a license or agreement made a part of the Contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the District of liability with respect to such unmarked software.

**I.12.8** In addition to the rights granted in Section I.5.6 above, the Contractor hereby grants to the District a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section I.5.6 above, 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 the first sentence of this paragraph.

**I.12.9** Whenever any data, including computer software, are to be obtained from a subContractor under this Contract, the Contractor shall use this clause, I.5, Rights

in Data, in the subContract, without alteration and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that subContractor data or computer software which is required for the District.

**I.12.10** For all computer software furnished to the District with the rights specified in Section I.5.5, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope specified in Section I.5.5. For all computer software furnished to the District with the restricted rights specified in Section I.5.6, the District, if the Contractor, either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under this Contract or any paid-up maintenance agreement, or if Contractor should be declared bankrupt or insolvent by a court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under this Contract and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

**I.12.11** The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this Contract, or (ii) based upon any data furnished under this Contract, or based upon libelous or other unlawful matter contained in such data.

**I.12.12** Nothing contained in this clause shall imply a license to the District under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.

**I.12.13** Paragraphs I.5.6, I.5.7, I.5.8, I.5.11 and I.5.12 above are not applicable to material furnished to the Contractor by the District and incorporated in the work furnished under Contract, provided that such incorporated material is identified by the Contractor at the time of delivery of such work

### **I.13            ORDER OF PRECEDENCE**

**I.13.1**            A conflict in language or any inconsistencies in this Contract shall be resolved by giving precedence to the document in the highest order of priority which contains language addressing the issue in question. The following sets forth in descending order of precedence priority the documents that are incorporated into this Contract by reference and made a part of the Contract:

1. Consent Order dated December 12, 2003 in *Dixon, et al. v Fenty, et al.*, CA 74-285 (TFH) (Dixon Consent Order)

2. Contract Sections A through J of this Contract
3. Standard Contract Provisions for the Use with District of Columbia Government Supply and Services Contracts, March, 2007 (Attachment J.1)
4. Wage Determination No. 2005-2103 (Revision No. 6, May 29, 2008)
5. Invitation for Bid Submission Dated:

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

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

**SECTION J: LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS**

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<b>CLAUSE NO.</b>	<b>CLAUSE TITLE</b>
J.1	CONSENT ORDER DATED DECEMBER 12, 2003 in DIXON, ET AL. V FENTY, ET AL., CA 74-285 (TFH) (DIXON CONSENT ORDER).  <a href="http://www.dmh.dc.gov/dmh/cwp/view,a,3,q,639222,dmhNav, 31262 .asp">http://www.dmh.dc.gov/dmh/cwp/view,a,3,q,639222,dmhNav, 31262 .asp</a>
J.2	SECTIONS A THROUGH J OF THIS CONTRACT NUMBER:
J.3	STANDARD CONTRACT PROVISIONS FOR USE WITH DISTRICT OF COLUMBIA GOVERNMENT SUPPLY AND SERVICES CONTRACT, DATED MARCH 2007  <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	WAGE DETERMINATION No. 2005-2103 (REVISIONS NO. 6, MAY 29, 2008) *
J.5	TAX CERTIFICATION AFFIDAVIT  <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.6	INVITATION FOR BID SUBMISSION DATED:

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.

\*DOCUMENTS ATTACHED SEPARATELY