

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 48	
		3. CONTRACT NUMBER:	
		4. SOLICITATION NUMBER: RM-10-IFB-139-BY-TH	
		5. DATE ISSUED:	
		6. OPENING/CLOSING TIME: September 3, 2010/September 27, 2010 @ 12:00 PM EST.	
7. TYPE OF SOLICITATION:		8. DISCOUNT FOR PROMPT PAYMENT:	
NOTE: IN SEALED BID SOLICITATION "OFFER AND THE CONTRACTOR" MEANS "BID AND BIDDER"			

10. INFORMATION CALL	NAME: Samuel J Feinberg, CPPO, CPPB Director, Contracts and Procurement Agency Chief Contracting Officer	TELEPHONE NUMBER: (202) 671-3188	B. E-MAIL ADDRESS: Samuel.Feinberg@dc.gov
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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 shall constitute a Formal Contract. All offers are subject to the terms and conditions contained in the solicitation.

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

AWARD (To be completed by the DMH)

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

SECTION B

SUPPLIES/SERVICES AND PRICE/COSTS

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SECTION B

SUPPLIES/SERVICES AND PRICE/COSTS

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B.1 PURPOSE OF SOLICITATION

The District of Columbia Government, Department of Mental Health, (DMH) is issuing this Invitation for Bid to solicit bids from qualified Bidders to abate the asbestos containing materials from the John Howard Pavilion Roof.

B.2 CONTRACT TYPE

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

B.3 PERIOD OF PERFORMANCE

The Period of Performance (POP) under this Contract shall be from Date of Award through forty five (45) days.

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)

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NAME OF CONTRACTOR-

Contract Line Item No. (CLIN)	Item Description	Quantity	Unit	Unit Price	Extended Price
0001	General Conditions	One	Each	\$ _____	\$ _____
0002	Insurance and Bonds	One	Each	\$ _____	\$ _____
0003	Roof Abatement of Approximately 47,000 Square Feet	One	Each	\$ _____	\$ _____
0004	Allowance	One	Each	\$25,000.00	\$25,000.00
Extended Total				\$ _____	\$ _____
Grand Total					\$ _____

Print Name of Offeror

Print Name of Authorized Person

Title

Signature of Authorized Person

Date

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

The District of Columbia, Department of Mental Health (DMH), Saint Elizabeths Hospital (SEH) provides 24-hour in-patient mental health care to residents of the District of Columbia. The scope of this work is at the unoccupied, six-story John Howard Pavilion.

C.2 SCOPE OF SERVICES

The District of Columbia, Department of Mental Health (DMH), Saint Elizabeth's Hospital requires a contractor to furnish the necessary labor, equipment, parts, materials and supplies, etc. to abate the roof at John Howard Pavilion. Whether shown or indicated on the contract documents, the Contractor is responsible for a complete removal of all asbestos containing materials.

C.3 SPECIFIC REQUIREMENTS

The Contractor shall be responsible for all abatement, including the following work:

DEMOLITION:

- C.3.1** The Contractor shall be responsible for complete abatement of approximately 47,000 square feet to the roof of the John Howard Pavilion. (The roof membrane, flashing and waterproofing contains (category I (non-friable) asbestos.)
- C.3.2** The Contractor shall perform testing of materials to determine composition.
- C.3.3** The Contractor shall be responsible for complete removal of all roofing to the concrete deck and remove of all trash and captured Asbestos Containing Materials' (ACM's) and properly dispose of them per local/federal codes and regulations.
- C.3.4** The Contractor shall obtain all necessary permits from DCRA to perform work.
- C.3.5** The Contractor shall provide three (3) copies of disposal manifest.
- C.3.6** The Contractor shall provide method of air quality monitoring if needed.
- C.3.7** The Contractor shall provide three (3) copies of company's policies/procedures/protocol on confined spaces.
- C.3.8** The Contractor shall provide copies of certification of all workers.
- C.3.9** The Contractor shall provide proof of experience in abatement on top of building structures.
- C.3.11** The Contractor shall perform all work in accordance with accepted practices, industry standards, manufacturer's recommendations and all applicable D.C. and Federal codes and regulations pertaining to the abatement of asbestos.

C.3.12 The Contractor shall exercise caution and care to avoid and prevent damage to adjacent equipment, surfaces and existing structures that are excluded from the scope of work they are addressing at any given distance.

C.3.13 Electrical power and water are available at the location where work shall be performed and shall be provided by DMH to the Contractor. However, the Contractor shall provide all the necessary connections. Water will be provided from hydrants at grade and electrical will be provided from the penthouse.

GENERAL:

C.3.16 The Contractor shall perform all work during the hours of 7:00 a.m. through 3:30 p.m., Monday through Friday. Holidays and weekends are exempted. Work on holidays and weekends must be requested by the Contractor forty-eight (48) hours in advance, and approved by the COTR and Construction Manager prior to performing work, unless it is an authorized emergency.

C.3.17 The contractor shall give at least a seventy-two (72) hour notice to the Construction Manager if a utility shutdown is required. Before any work can begin, authorization must be given by the COTR and Construction Manager.

C.3.18 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.3.19 The Contractor shall, as needed, deliver all materials in good condition to the job site in the manufacturer's original unopened containers that bear the name and brand of the manufacturer.

C.3.20 The Contractor shall inspect all areas prior to installation of any new materials to determine any defects that may prevent proper installation of new material.

C.3.21 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.3.22 The Contractor shall install materials in strict accordance with the manufacturer's recommendations.

C.3.23 The Contractor shall protect all surfaces and work areas.

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 accomplish all work in strict accordance to the regulations and requirements as set forth by the District's applicable codes.

C.3.26 The Contractor shall submit list of employees, subcontractors, work scheduled and work plans prior to start of work.

C.3.27 The Contractor shall provide DMH with identification of all deliverers.

C.3.28 Smoking is prohibited in all buildings and on campus grounds

C.3.29 The Contractor is to coordinate all work with the Contracting Officer's Technical Representative (COTR) and the Construction Manager.

C.3.30 The Contractor shall provide a ten (10) percent bid bond.

C.3.30 CARE OF ADJACENT SURFACES AND EXISTING STRUCTURES

C.3.30.1 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. Any and all damages to such adjacent equipment, surfaces, equipment and existing structures shall be fully restored or replaced by the contractor at no cost to the District.

C.3.31 CLEANING OF SITE

C.3.31.1 Upon completion of the work and on a daily basis, the contractor shall remove, and dispose of all protection items, tools, discarded equipment, excess materials and debris from the job site without any delay out of Saint Elizabeth's Hospital Campus prior to final acceptance of the work. All construction debris and waste shall be disposed of properly by the Contractor. The Contractor shall not utilize any dumpster on the grounds of the hospital for the disposal of any debris or discarded equipment generated from the performance of the contract.

C.3.32 WARRANTY

C.3.32.1 All work shall be guaranteed for one (1) year from the date of acceptance of the work. Warranties must be submitted to the Construction Manager within ten (10) working days after completion of work. Three copies of warranty shall be provided.

C.3.32.2 The Contractor shall provide DMH with all manufactures' warranties for all supplies and materials used in preparation and installation.

C.4 CONTRACTOR'S REQUIREMENTS

The Contractor must provide documentation of similar work experience for the scope involved.

C.4.1 The Contractor shall meet the following minimum requirements:

C.4.2 The Contractor shall be a Certified Licensed Contractor with the Government of the District of Columbia.

C.4.2 The Contractor must provide proof of certifications for all Technicians that will be performing services under this Contract.

C.4.3 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.4.1 The Contractor shall have experience working in a hospital, school, or prison environment.

C.5 MANDATORY WALK-THROUGH & PRE-BID CONFERENCE

C.5.1 All Prospective Bidders are required to participate in a scheduled mandatory walk through of facility and optional pre-bid conference in order to bid, accompanied by a representative of SEH and a representative of the DMH Contracts and Procurement Office at the date and time specified. At this time prospective bidders shall have the opportunity to view the work area where services shall be performed:

Friday September 10, 2010 10:00 AM
Saint Elizabeths Hospital
Gilbane Trailer
1100 Alabama Avenue, SE
Washington, DC 20032

AND

Monday September 13, 2010 10:00 AM
Department of Mental Health
64 New York Avenue, NE 4th Floor Conference Room F
Washington, DC 20032

C.6 ADVERTISING AND PUBLICITY

Unless granted prior, express, written authority by the Construction Manager, 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.

*** END OF SECTION C ***

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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 this contract shall be governed by clause number five (5), Inspection of Supplies AND clause number six (6), Inspection of Services of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March 2007. (Attachment J.1)

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

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

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

E.2.3 The District shall give the Contractor written notice of deductions by providing copies of reports, which 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

The Period of Performance (POP) under this Contract shall be from Date of Award through forty five (45) days.

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

<u>Deliverable</u>	Method of Delivery	Due Date
Identification See Section C.3.26	The Contractor shall submit list of employees, subcontractors, work scheduled and work plans prior to start of work.	2 (two) days prior to Commencement of Work.

F.2.2 IDENTIFICATION

<u>Deliverable</u>	Method of Delivery	Due Date
Identification See Section C.3.27	The Contractor shall provide DMH with identification of all deliverers.	2 (two) days prior to Commencement of Work.

F.2.3 MANUFACTURER’S WARRANTY

<u>Deliverable</u>	Method of Delivery	Due Date
Manufacturer’s Warranty See Section C. 3.32.1	The Contractor shall provide DMH with all manufacturers’ warranties.	Ten (10) working days after completion of work
Warranty See Section C. 3.32.2	The Contractor shall provide DMH with all warranties.	Ten (10) working days after completion of work

F.2.2 CONTRACTOR’S REQUIREMENTS

<u>Deliverable</u>	Method of Delivery	Due Date
Identification See Section C.3.	The Contractor shall provide DMH with a copy of all documentation associated with Contractor’s Requirements.	2 (two) days prior to delivery.

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 – 4th Floor
Washington, DC 20002
Office - (202) 671-3188 – Fax (202-671-3395
Email: Samuel.feinberg@dc.gov

G.2 TYPE OF CONTRACT

- G.2.1 This shall be a Fixed Price Contract. 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.

Richard Warsh
Director of Facilities Planning
64 New York Avenue, NE 5th Floor
Washington, DC 20002
Office: (202) 673-7050
Cell: (202) 558-8769
E-mail: richard.warsh@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/CLEARENCE

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 \$300.00 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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CLAUSE NO.	CLAUSE TITLE
J.1	CONSENT ORDER DATED DECEMBER 12, 2003 in DIXON, ET AL. V FENTY, ET AL., CA 74-285 (TFH) (DIXON CONSENT ORDER). http://www.dmh.dc.gov/dmh/cwp/view,a,3,q,639222,dmhNav, 31262 .asp
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 http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/standard_contractprovisions_0307.pdf&open= 34644
J.4	WAGE DETERMINATION No. 2005-2103 (REVISIONS NO. 8, JUNE 2, 2009) *
J.5	TAX CERTIFICATION AFFIDAVIT http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/tax_certification_affidavit.pdf&open= 34644
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

PART IV: REPRESENTATIONS AND INSTRUCTIONS

SECTION K

REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF CONTRACTOR

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PART IV: REPRESENTATIONS AND INSTRUCTIONS

SECTION K:

REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF CONTRACTORS

K.1 TAX CERTIFICATION

Each Prospective Contractor must submit with its offer, a sworn Tax Certification Affidavit which is separately attached.

K.2 AUTHORIZED NEGOTIATORS

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

K.3 TYPE OF BUSINESS ORGANIZATION

K.3.1 The Prospective Contractor, by checking the applicable box, represents that

(a) It operates as:

- a corporation incorporated under the laws of the State of _____
- an individual,
- a partnership
- a nonprofit organization, or
- a joint venture; or

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

- an individual
- a joint venture, or
- a corporation registered for business in _____
(Country)

K.4 EMPLOYMENT AGREEMENT

For all offers over \$100,000, except for those in which the Prospective Contractor is located outside the Washington Metropolitan Area and shall perform no work in the Washington Metropolitan Area, the following certification is required (see Clause 28 of the Standard Contract Provisions). The Prospective Contractor recognizes that one of the primary goals of the District government is the creation of job opportunities for bona fide District residents. Accordingly, the Prospective Contractor agrees to pursue the District's

following goals for utilization of bona fide residents of the District of Columbia with respect to this Contract and in compliance with Mayor's Order 83-265 and implementing instructions: (1) at least 51% of all jobs created as a result of this Contract are to be performed by employees who are residents of the District of Columbia; and (2) at least 51% of apprentices and trainees shall be residents of the District of Columbia registered in programs approved by the D.C. Apprenticeship Council. The Prospective Contractor also agrees to notify all perspective Sub-contractors, prior to execution of any Contractual agreements, that the Sub-contractors are expected to implement Mayor's Order 83-265 in their own employment practices. The Prospective Contractor understands and shall comply with the requirements of The Volunteer Apprenticeship Act of 1978, D.C. Code sec. 36-401 et seq., and the First Source Employment Agreement Act of 1984, D.C. Code sec. 1-1161 et seq.

The Prospective Contractor certifies that it intends to enter into a First Source Employment Agreement with the District of Columbia Department of Employment Services (DOES). Under this First Source Employment Agreement, the Prospective Contractor shall use DOES as the first source for recruitment and referral of any new employees. The Prospective Contractor shall negotiate the First Source Employment Agreement directly with DOES. Nothing in this certification or the First Source Employment Agreement shall be construed as requiring the Prospective Contractor to hire or train persons it does not consider qualified based on standards the Contractor applies to all job applicants.

Name _____ Title _____

Signature _____ Date _____

K.5 CERTIFICATION TO COMPLIANCE WITH EQUAL OPPORTUNITY

Contracts", dated June 10, 1985 and the Office of Human Rights' regulations, Chapter 11, "Equal Employment Opportunity Requirements in Contracts", promulgated August 15, 1986 (4 DCMR Chapter 11, 33 DCR 4952) are included as a part of this solicitation and require the following certification for Contracts subject to the order. Failure to complete the certification may result in rejection of the Prospective Contractor for a Contract subject to the order. I hereby certify that I am fully aware of the content of the Mayor's Order 85-85 and the Office of Human Rights' regulations, Chapter 11, and agree to comply with them in performance of this Contract.

Prospective Contractor _____ Date _____

Name _____

Title _____

Signature _____

Prospective Contractor ____ has ____ has not participated in a previous Contract or Sub-contract subject to the Mayor’s Order 85-85. Prospective Contractor ____ has ____ has not filed all required compliance reports, and representations indicating submission of required reports signed by proposed Sub-contractors. (The above representations need not be submitted in connection with Contracts or Sub-contracts, which are exempt from the Mayor’s Order.)

K.6 WALSH-HEALY ACT

If this Contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed \$10,000, and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), the following terms and conditions apply:

- (a) All representations and stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These representations and stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.
- (b) All employees whose work relates to this Contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and handicapped workers may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (41 U.S.C. 40).

If your offer is \$10,000, or more, the following information **MUST** be furnished:

- (c) Regular Dealer
 - _____ The Prospective Contractor is a Regular Dealer.
 - _____ The Prospective Contractor is not a Regular Dealer.
- (d) Manufacturer
 - _____ The Prospective Contractor is a Manufacturer.
 - _____ The Prospective Contractor is not a Manufacturer.

K.7 BUY AMERICAN CERTIFICATION

The Prospective Contractor hereby certifies that each end product, except the end products listed below, is a domestic end product (as defined in Clause 29 of the Standard Contract Provisions, “Buy American Act”), and that components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

_____ EXCLUDED END PRODUCTS

_____ COUNTRY OF ORIGIN

K.8 OFFICERS NOT TO BENEFIT CERTIFICATION

Each Prospective Contractor shall check one of the following:

_____ No person listed in Clause 17 of the Standard Contract Provisions shall benefit from this Contract.

_____ The following person(s) listed in Clause 17 may benefit from this Contract. For each person listed, attach the affidavit required by Clause 17 of the Standard Contract Provisions.

K.9 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

- (a) Each signature of the Prospective Contractor is considered to be a certification by the signatory that:
- (b) The prices in this Contract have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any Contractor or competitor relating to:
 - 1. those prices
 - 2. the intention to submit a Contract, or
 - 3. the methods or factors used to calculate the prices in the Contract;
- (c) The prices in this Contract have not been and shall not be knowingly disclosed by the Prospective Contractor, directly or indirectly, to any other Prospective Contractor or competitor before Contract opening unless otherwise required by law; and
- (d) No attempt has been made or shall be made by the Prospective Contractor to induce any other concern to submit or not to submit a Contract for the purpose of restricting competition.
- (e) Each signature on the offer is considered to be a certification by the signatory that the
 - 1. Is the person in the Prospective Contractor’s organization responsible for determining the prices being offered in this Contract, and that the signatory has not participated and shall not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
 - 2. Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and shall not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above:

(insert full name of person(s) in the organization responsible for determining the prices offered in this Contract and the title of his or her position in the Prospective Contractor’s organization);

- (i) As an authorized agent, does certify that the principals named in subdivision (b)(2)(I) above have not participated, and shall not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and
- (ii) As an agent, has not participated, and shall not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(f) If the Prospective Contractor deletes or modifies subparagraph (a)(2) above, the

Prospective Contractor must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

K.10 ACKNOWLEDGMENT OF AMENDMENTS

The Contractor acknowledges receipt of Amendment to the solicitation and related documents numbered and dated as follows:

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

END OF SECTION K

PART IV: REPRESENTATIONS AND INSTRUCTIONS

SECTION L

INSTRUCTIONS CONDITIONS AND NOTICES TO CONTRACTORS

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PART IV: REPRESENTATIONS AND INSTRUCTIONS

SECTION L

INSTRUCTIONS, CONDITIONS AND NOTICES TO CONTRACTORS

L.1 CONTRACT AWARD

L.1.1 Most Advantageous to the District

The District intends to award a Contract resulting from this solicitation to the responsible Prospective Contractor whose offer conforming to the solicitation shall be most advantageous to the District, cost or price, technical and other factors, specified elsewhere in this solicitation considered.

L.2 BID FORM, ORGANIZATION AND CONTENT

One original and (1) copies of the written bid (Including Cover) shall be submitted. Each page shall be numbered and labeled to include the Solicitation number and name of the Prospective Contractor. **Telephonic and telegraphic quotes shall "NOT" be accepted.** Each quote shall be submitted in a sealed envelope conspicuously marked: "Quote" in Response to Solicitation No. **RM-10-IFB-139-BY-TH**

L.3 BID SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, AND LATE WITHDRAWALS

L.3.1 QUOTE Submission

Bids shall be submitted no later than **12:00 PM (est) on September 27, 2010.** Bids, modifications to quotes, or requests for withdrawals that are received in the designated District office after the exact local time specified above, are "late" and shall be considered only if they are received before the award is made and one (1) or more of the following circumstances apply:

- a. Quote or modification was sent by registered or certified mail not later than the fifth (5th) calendar day before the date specified for receipt of offers; and
- b. Quote or modification sent by mail and it is determined by the ACCO that the late receipt at the location specified in the solicitation was caused solely by mishandling by the District.

L.3.2 Postmarks

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

L.3.3 Late Modifications

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

L.3.4 Late Bid

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

L.4 HAND DELIVERY OR MAILING OF BIDS

DELIVER OR MAIL TO:

Tornia Harrison, Contract Specialist
Department of Mental Health
Contracts and Procurement Administration
64 New York Avenue, NE, 4th Floor
Washington, D. C. 20002
(202) 671-3180

L.5 REQUEST FOR INFORMATION

If a Prospective Contractor has any questions relative to this solicitation, 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 solicitation. The District shall not consider any questions received less than seven (7) calendar days before the date set for submission of bid. 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.

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
(202) 671-3395 - Fax
Email: Samuel.feinberg@dc.gov

L.6 FAILURE TO SUBMIT OFFERS

Recipients of this solicitation not responding with an offer should not return this solicitation. Instead, they should advise the Director, Contracting and Procurement/ Agency Chief Contracting Officer, Samuel J. Feinberg, CPPO, CPPB, 64 New York Avenue, NE, 4th Floor, Washington, DC,

20002, 202-671-3188, by letter or postcard whether they want to receive future solicitations for similar requirements. It is also requested that such recipients advise the Agency Chief Contracting Officer, Department of Mental Health of the reason for not submitting a quote in response to this solicitation. If a recipient does not submit an offer and does not notify the Director/ACCO, Department of Mental Health that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

L.7 BID PROTESTS

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

L.8 SIGNING OF OFFERS

The Prospective Contractor shall sign the offer and print or type its name on the **Solicitation, Offer and Award** form of this solicitation. Erasures or other changes shall be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the ACCO.

L.9 UNNECESSARILY ELABORATE BIDS

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are **not** desired and may be construed as an indication of the Prospective Contractor's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor desired

L.10 RETENTION OF BIDS

All quote documents shall be the property of the District and retained by the District, and therefore shall not be returned to the Prospective Contractors.

L.11 BID COSTS

The District is not liable for any costs incurred by the Prospective Contractors' in submitting quotes in response to this solicitation.

L.12 ACKNOWLEDGMENT OF AMENDMENTS

The Prospective Contractor shall acknowledge receipt of any amendment to this solicitation by (a) signing and returning the amendment; (b) by identifying the amendment number and date in the space provided for this purpose in Section K of the solicitation; or (c) by letter or telegram including mailgrams. The District shall receive the acknowledgment by the date and time specified for receipt of offers. Prospective Contractors' failure to acknowledge an amendment may result in rejection of the offer.

L.13 ACCEPTANCE PERIOD

The Prospective Contractor agrees that its offer remains valid for a period of 120 days from the solicitation's closing date.

L.15 LEGAL STATUS OF CONTRACTOR

Each bid shall provide the following information:

L.15.1 Name, Address, Telephone Number, Federal tax identification number and DUNS Number of Contractor;

L.15.2 District of Columbia, if required by law to obtain such license, registration or certification. If the Prospective Contractor is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the offer shall certify its intent to obtain the necessary license, registration or certification prior to Contract award or its exemption from such requirements; and

L.15.3 If the Prospective Contractor is a partnership or joint venture, names of general partners or joint ventures, and copies of any joint venture or teaming agreements.

L.15.4 The District reserves the right to request additional information regarding the Prospective Contractor's organizational status.

L.16 STANDARDS OF RESPONSIBILITY

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

L.16.1 Furnish evidence of adequate financial resources, credit or the ability to obtain such resources as required during the performance of the Contract.

L.16.2 Furnish evidence of the ability to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.

L.16.3 Furnish evidence of the necessary organization, experience, accounting and operational control, technical skills or the ability to obtain them.

L.16.4 Furnish evidence of compliance with the applicable District licensing, tax laws and regulations.

L.16.5 Furnish evidence of a satisfactory performance record, record of integrity and business ethics.

L.16.6 Furnish evidence of the necessary production, construction and technical equipment and facilities or the ability to obtain them.

L.16.7 If the Prospective Contractor fails to supply the information requested, the ACCO shall make the determination of responsibility or non-responsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the ACCO shall determine the Prospective Contractor to be non-responsible.

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

SECTION M: EVALUATION FACTORS

M.1. Preferences for Certified Business Enterprises

Under the provisions of the “Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005”, as amended, D.C. Official Code § 2-218.01 *et seq.* (the Act), the District shall apply preferences in evaluating bids from businesses that are small, local, disadvantaged, resident-owned, longtime resident, veteran-owned, local manufacturing, or local with a principal office located in an enterprise zone of the District of Columbia.

M.1.1. Application of Preferences

For evaluation purposes, the allowable preferences under the Act shall be applicable to prime contractors as follows:

M.1.1.1 Any prime contractor that is a small business enterprise (SBE) certified by the Department of Small and Local Business Development (DSLBD) will receive a three percent (3%) reduction in the bid price for a bid submitted by the SBE in response to this Invitation for Bids (IFB).

M.1.1.2 Any prime contractor that is a resident-owned business (ROB) certified by DSLBD will receive a five percent (5%) reduction in the bid price for a bid submitted by the ROB in response to this IFB.

M.1.1.3 Any prime contractor that is a longtime resident business (LRB) certified by DSLBD will receive a five percent (5%) reduction in the bid price for a bid submitted by the LRB in response to this IFB.

M.1.1.4 Any prime contractor that is a local business enterprise (LBE) certified by DSLBD will receive a two percent (2%) reduction in the bid price for a bid submitted by the LBE in response to this IFB.

M.1.1.5 Any prime contractor that is a local business enterprise with its principal offices located in an enterprise zone (DZE) certified by DSLBD will receive a two percent (2%) reduction in the bid price for a bid submitted by the DZE in response to this IFB.

M.1.1.6 Any prime contractor that is a disadvantaged business enterprise (DBE) certified by DSLBD will receive a two percent (2%) reduction in the bid price for a bid submitted by the DBE in response to this IFB.

M.1.1.7 Any prime contractor that is a veteran-owned business (VOB) certified by DSLBD will receive a two percent (2%) reduction in the bid price for a bid submitted by the VOB in response to this IFB.

M.1.1.8 Any prime contractor that is a local manufacturing business enterprise (LMBE) certified by DSLBD will receive a two percent (2%) reduction in the bid price for a bid submitted by the LMBE in response to this IFB.

M.1.2 Maximum Preference Awarded

Notwithstanding the availability of the preceding preferences, the maximum total preference to which a certified business enterprise is entitled under the Act is twelve per cent (12%) for bids

submitted in response to this IFB. There will be no preference awarded for subcontracting by the prime contractor with certified business enterprises.

M.1.3 Preferences for Certified Joint Ventures

When DSLBD certifies a joint venture, the certified joint venture will receive preferences as a prime contractor for categories in which the joint venture and the certified joint venture partner are certified, subject to the maximum preference limitation set forth in the preceding paragraph.

M.1.4 Verification of Bidder's Certification as a Certified Business Enterprise

M.1.4.1 Any vendor seeking to receive preferences on this solicitation must be certified at the time of submission of its bid. The CO will verify the bidder's certification with DSLBD, and the bidder should not submit with its bid any documentation regarding its certification as a certified business enterprise.

M.1.4.2 Any vendor seeking certification or provisional certification in order to receive preferences under this solicitation should contact the:

Department of Small and Local Business Development
ATTN: CBE Certification Program
441 Fourth Street, NW, Suite 970N
Washington DC 20001

M.1.4.3 All vendors are encouraged to contact DSLBD at (202) 727-3900 if additional information is required on certification procedures and requirements.