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

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
REQUEST FOR PROPOSAL  
EMERGENCY GENERATOR INSTALLATION SERVICES  
RM-10-RFQ-033-BY0-SEH-OF**

The Department of Mental Health (DMH), Saint Elizabeths Hospital (SEH), Facilities and Environment Department (FED) is Soliciting a Contractor to provide installation services of an emergency generator.

**Opening Date: Thursday, November 20, 2009**

**Closing Date: Monday, November 30, 2009**

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

Please contact Contracts Specialist O'Linda Fuller, *MBA* @ 202 671-3179 or address: 64 New York Avenue NE, 4<sup>th</sup> Floor Washington, D.C. 20002, to obtain a copy of the RFQ. [Olinda.fuller@dc.gov](mailto:Olinda.fuller@dc.gov) to obtain a copy of the RFP. *All submissions in response to this request are due by Monday, November 30, 2009 by 2:00 PM.*

1. ISSUED BY/ADDRESS OFFER TO:  <b>DISTRICT OF COLUMBIA DEPARTMENT OF MENTAL HEALTH (DMH) CONTRACTS AND PROCUREMENT ADMINISTRATION 64 NEW YORK AVENUE NE, 4<sup>th</sup> FLOOR WASHINGTON, DC 20002</b>		2. PAGE OF PAGES: <b>1 of 58</b>	
		3. CONTRACT NUMBER:	
		4. SOLICITATION NUMBER: <b>RM-10-RFP-033-BY0-SEH-OF</b>	
		5. DATE ISSUED:	
		6. OPENING/CLOSING TIME: <b>November 20, 2009 / November 30, 2009 @ 2:00 PM</b>	
7. TYPE OF SOLICITATION: N/A <input type="checkbox"/> SEALED BID <input checked="" type="checkbox"/> NEGOTIATION (RFP)		8. DISCOUNT FOR PROMPT PAYMENT:	
NOTE: IN SEALED BID SOLICITATION "OFFER AND CONTRACTOR" MEANS "BID AND BIDDER"			

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

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

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

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

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

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

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

The District of Columbia Government, Department of Mental Health (DMH), Saint Elizabeths Hospital (SEH), Facilities and Environment Depart (FED) has a need for a general contractor to furnish all labor, materials, equipment, parts, supplies, and supervision necessary to provide and install an emergency generator at the hospital's network trailer located by the William A. White Building on the east campus of the hospital as per the scope of services in C.2.

The network trailer houses various switches and routers that control the internet, intranet, and AVATAR networks at the hospital.

This emergency generator will provide emergency electrical power to the trailer in the event we loose primary electrical power from the electrical power company (PEPCO), or for scheduled maintenance, thereby reducing or eliminating downtime of the network.

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

The DMH is contemplating executing a Firm Fix Price Contract for a Date of Award through September 30, 2010 without Option Periods.

### **B.3 ORDERING PROCEDURES**

Delivery or performance shall be made only as authorized by orders issued in accordance with ordering instructions from the District. The 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. The Contractor shall complete any order issued during the effective period of performance of this Contract and not completed within that period of performance 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 some 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.4 SCHEDULE B PRICING**

The District of Columbia, Department of Mental Health (DMH), Mental Health Authority (MHA), and Saint Elizabeth Hospital (SEH), Facilities and Environment Depart (FED) is seeking Emergency Generator Installation Services.

**SCHEDULE B – PRICING SCHEDULE**

**B.4 Price Schedule**

<b>BASE YEAR Contract Line Item</b>	<b>ITEM DESCRIPTION</b>	<b>QTY</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>TOTAL PRICE</b>
<b>CLIN 0001</b>	Materials, Equipment and Suppliers to include 125 KW Diesel Emergency Generator Automatic Transfer Switch Generator Pad, etc.	1	each	\$ _____	\$ _____
<b>CLIN 0002</b>	Labor for Electrical and mechanical Installation to include Supervision and Safety Mechanical Installation	400	Per hour	\$ _____	\$ _____
<b>CLIN 0003</b>	Submit Copy of List Price Sheet for Part/Materials. Apply for and provide all necessary permits as needed.			\$ _____	\$ _____
<b>GRAND TOTAL</b>				\$ _____	\$ _____

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

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

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

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

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

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## SECTION C

### DESCRIPTION/SPECIFICATIONS/ STATEMENT OF WORK

#### EMERGENCY GENERATORS INSTALLATION SERVICES SAINT ELIZABETHS HOSPITAL

##### C.1 INTRODUCTION

The District of Columbia Government, Department of Mental Health (DMH), Saint Elizabeths Hospital (SEH), Facilities and Environment Depart (FED) has a need for a general contractor to furnish all labor, materials, equipment, parts, supplies, and supervision necessary to provide and install an emergency generator at the hospital's network trailer located by the William A. White Building on the east campus of the hospital as per the scope of services in C.2.

The network trailer houses various switches and routers that control the internet, intranet, and AVATAR networks at the hospital.

This emergency generator will provide emergency electrical power to the trailer in the event we lose primary electrical power from the electrical power company (PEPCO), or for scheduled maintenance, thereby reducing or eliminating downtime of the network.

##### C.2 STATEMENT OF WORK

C.2.1 Contractor shall provide all labor, materials, supervision, protection, safety and clean up to provide and install a new 125kw Emergency Generator.

C.2.2 Contractor shall:

- Provide and install one (1) new 125KW diesel emergency generator, turbo charged emergency generator - manufacturer – preferably by GENERAC or equivalent or better.
- New generator shall have but not limited to the following specifications:
  - (1) 125KW – wired for 277/480 VAC; 3 phase; at 60 Hz.
  - (2) Engine block heater
  - (3) Flexible fuel connections
  - (4) Minimum of 2 – 200amp circuit breakers
  - (5) Safeguard breaker
  - (6) Spring isolators
  - (7) Steel skid base with end caps and lube oil drain extension
  - (8) 500 – 600 gallons Sub base fuel oil tank UL listed with double wall construction, equipped with fuel gauge, low level alarm, and fuel-in-rupture-basin-alarm
  - (9) Sound attenuated outdoor weather housing, designed to reduce ambient noise level to approximately 70-75 dba @ 7 meters
  - (10) Microprocessor control panel equipped with voltmeter, frequency meter, running time meter, ammeter, fault indicator lamps including pre alarms, engine gauges including lube oil pressure, water temperature, and dc volts.

- (11) Muffler
- (12) Battery charger installed
- (13) Battery alternator
- (14) Battery cables and tray
- (15) Two (2) year warranty

C.2.3 Contractor shall provide and install one (1) Generac or equivalent or better Automatic Transfer Switch – with the following but not limited to specifications:

- a. NEMA 1 enclosure
- b. UL 1008 Listed
- c. 230AMP; three pole; construction operating at 60HZ
- d. 208Volts
- e. 4 wire start circuit
- f. Utility voltage sensing control
- g. Utility interrupt delay
- h. Adjustable logic control
- i. Service Entrance Rated
- j. Weekly Plant exerciser
- k. Two (2) year warranty

- (1) Clear and level area for the installation of the new generator
- (2) Provide and install one pad
- (3) Install generator on pad
- (4) Provide initial start up and demonstration
- (5) Perform onsite load test with portable resistive load bank
- (6) Provide all electrical and mechanical installation as needed for the proper operation of the generator
- (7) Apply for and provide all necessary permits as needed

NOTE: There shall be no excavating work done unless the area to be excavated is marked by an underground utility company

C.2.1 The areas where work will be performed is enclosed by a chain link fence any damage to the fence during the performance of this work shall be immediately repaired by the contractor at no additional cost to the DMH/SEH. The FED, maintenance department have determined that it will be necessary for the contractor to understand that the work under this contract can only be accomplished under strict schedule times and guidelines to include days and hours of work.

C.2.2. The contractor shall apply, obtain and pay for all license(s), permit(s), certificate and fee if needed to perform the work under this contract.

### C.3 WORKING INSIDE BUILDINGS

C.3.1 All of the repairs/upgrades/replacements that will be performed inside of the trailer/building shall be in accordance with all applicable codes and standards to include the hospital's policies and procedures.

**C.4 WORKING HOURS**

C.4.1 All of the repairs/upgrades/replacements on the installation of the emergency generator shall be performed during the hours of 7:30AM through 4:00PM Monday through Friday. Holidays and weekends are exempted. Work on holidays and weekends must be requested by the contractor forty – eight (48) hours and approved by the Director Facilities and Environment Department (FED) prior to performing the work, unless it is an authorized emergency.

**C.5 COORDINATION OF WORK**

C.5.1 The contractor shall coordinate all work schedules with the Contracting Officer Technical Representative (COTR) or the Director Facilities and the Environment (FED).

**C.6 UTILITY SHUTDOWNS**

C.6.1 The contractor shall give at least a seventy-two (72) hour notice to the COTR or the Director, FED if a utility shutdown is required. Before any work can begin, authorization must be given by the Director, FED.

**C.7 CARE OF ADJACENT SURFACES AND EXISTING STRUCTURES**

C.7.1 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, and existing structures shall be fully restored or replaced by the contractor at no cost to the District within five (5) working days

**C.8 CLEANING OF SITE**

C.8.1 Upon completion of the work, 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 St. Elizabeths Hospital Campus prior to final acceptance of the work.

C.8.2 Contractor shall not utilize any dumpster on the grounds of the hospital for the disposal of any debris or discarded equipment, materials, and or supplies generated from the performance of the contract.

**C.9 WORKMANSHIP**

C.9.1 The contractor shall accomplish 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.10 REPAIR PARTS AND MATERIALS SUPPLIED BY THE CONTRACTOR**

C.10.1 All parts and materials furnished by the contractor, unless otherwise authorized, shall conform to the original manufacturer's specifications or an approved equal.

**C.11 RESERVED**

**C.12 CONTRACT DURATION**

C.12.1 The contract duration shall be thirty (30) working days from date of award for ALTERNATE I and forty-five (45) working days for ALTERNATE II.

**C.13 STANDARD OF PERFORMANCE**

C.13.1 Contractor shall at all times, while acting in good faith and in the best interests of the DMH, use its best efforts and exercise all due care and sound business judgment in performing its duties under this Solicitation. Contractor shall at all times, comply with DMH operational policies, procedures and directives while performing the duties specified in this Solicitation.

**C.14 ADVERTISING AND PUBLICITY**

C.14.1 Unless granted prior, express, written authority by the Director, Contracts and Procurement/Agency Chief Contracting Officer, Contractor shall not issue or sponsor any advertising or publicity that states or implies, either directly or indirectly, that DMH endorses, recommends or prefers 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 Solicitation, for publication, advertising or financial benefit.

**C.15 CONFIDENTIALITY**

Contractor shall maintain the confidentiality and privacy of all identifying information concerning DMH clients in accordance with the confidentiality law, the privacy rule (the requirements and restrictions contained in 45 CFR part 160 and part 164, subparts A and E, as modified by any District of Columbia laws, including the Mental Health Information Act of 1978 that may have preemptive effect by operation of 45 CFR part 160, subpart B) and Section H.2 of this Solicitation.

**C.16 RIGHTS IN DATA**

C.16.1 Any data first produced in the performance of this Solicitation shall be the sole property of the DMH. Contractor hereby acknowledges that all data, including, without limitation, produced by Contractor for DMH under this Solicitation are works made for hire and are the sole property of DMH; but, to the extent any such data may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to DMH ownership of copyright in such works, whether published or unpublished.

C.16.2 Contractor agrees to give DMH assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. Contractor agrees not to assert any rights in common law or in equity in such data. Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of DMH at such time as to review the intent to release such data to the public. DMH shall not unreasonably withhold consent to Contractor's request to publish or reproduce data in professional and scientific publications.

- C.16.3** "Data," as used herein, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to Contract administration, such as financial, administrative, cost or pricing, or management information.
- C.16.4** The term "Technical Data", as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to Contract administration.
- C.16.5** 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, automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.
- C.16.6** The term "computer databases", as used herein, means a collection of data in a form capable of being processed and operated on by a computer.
- C.16.7** All data first produced in the performance of this Solicitation shall be the sole property of the District. Contractor hereby acknowledges that all data, including, without limitation, computer program codes, produced by Contractor for the District under this Solicitation, are works made for hire and are the sole property of the District; but, to the extent any such data may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the District the ownership copyright in such works, whether published or unpublished. 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. Contractor agrees not to assert any rights in common law or in equity in such data. Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District may have released such data to the public. The District shall not unreasonably withhold consent to Contractor's request to publish or reproduce data in professional and scientific publications.

- C.16.8** 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 Solicitation, 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:
- C16.9** Use the computer software and all accompanying documentation and manuals or instructional materials with the computer for which or with which it was acquired, including use at any District installation to which the computer may be transferred by the District;
- C.16.10** Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;
- C.16.11** Copy computer programs for safekeeping (archives) or backup purposes; and
- C.16.12** 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.
- C.16.13** The restricted rights set forth in section C.9.1 are of no effect unless:
- C.16.14** The data is marked by Contractor with the following legend:

**RESTRICTED RIGHTS LEGEND**

Use, duplication, or disclosure is subject to restrictions stated in Contract

No. \_\_\_\_\_

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

- C.16.15** If the data is computer software, the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. 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 Contractor to apply a restricted rights legend to such computer software shall relieve the District of liability with respect to such unmarked software.
- C.16.16** In addition to the rights granted in Section C.9.1 below, Contractor hereby grants to the District a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section C.9.1 below, under any copyright owned by Contractor, in any work of authorship prepared for or acquired by the District under this Solicitation. Unless written approval of the Contracting Officer is obtained, Contractor shall not include in technical data or computer software prepared for or acquired by the District under this Solicitation any works of authorship in which copyright is not owned by Contractor without acquiring for the District any rights necessary to perfect a copyright license of the scope specified in this paragraph.

- C.16.17** Whenever any data, including computer software, are to be obtained from a subContractor under this Solicitation, Contractor shall use Section I-2 in the subContract, without alteration, and no other clause shall be used to enlarge or diminish the District's or Contractor's rights in that subContractor data or computer software which is required for the District.
- C.16.18** For all computer software furnished to the District with the rights specified in Section C.9.1, Contractor shall furnish to the District a copy of the source code with such rights of the scope specified in Section C.9.1. For all computer software furnished to the District with the restricted rights specified in Section C.9.1, the District, if Contractor, either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under this Solicitation or any paid-up maintenance agreement, or if Contractor should be declared bankrupt or insolvent by the court if competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under this Solicitation and a single copy of the documentation associated therewith, upon payment to the person in control of the sources codes the reasonable cost of making each copy.
- C.16.19** Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses for the following:
- C.16.20** 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 Solicitation, or
- C.16.21** Based upon any data furnished under this Solicitation, or based upon libelous or other unlawful matter contained in such data.
- C.16.22** Nothing contained in this clause shall imply a license to the District under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.
- C.16.23** Sections C.10. in this clause are not applicable to material furnished to Contractor by the District and incorporated in the work furnished under Contract, provided that such incorporated material is identified by Contractor at the time of delivery of such work.

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

**SECTION D**

**PACKING AND MARKING**

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**SECTION D: PACKAGING AND MARKING**

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

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

**SECTION E**

**INSPECTION AND ACCEPTANCE**

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## SECTION E

### INSPECTION AND ACCEPTANCE

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

- (a) Contractor shall be held to the full performance of the Contract. The DMH shall deduct from Contractor's invoice or otherwise withhold payment for any non-conforming service as specified below.
- (b) A service task may be composed of several sub-items. A service task may be determined to be partially complete if Contractor satisfactorily completes some, but not all, of the sub-items. In those cases, partial deductions may be taken from Contractor's invoice.
- (c) The DMH shall give Contractor written notice of deductions by providing copies of reports, which summarize the deficiencies for which the determination was made to assess the deduction in payment for unsatisfactory work.

#### E.2 Therefore:

In the case of non-performed work, DMH:

- (a) Shall deduct from Contractor's invoice all amounts associated with such non-performed work at the rate set out in Section B or provided by other provisions of the Contract.
- (b) May, at its option, afford Contractor an opportunity to perform the non-performed work within a reasonable period subject to the discretion of the Director, Contracting and Procurement/Agency Chief Contracting Officer and at no additional cost to the DMH.
- (c) May, at its option, perform the services by the DMH personnel or other means.

In the case of unsatisfactory work, DMH:

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

**E.3 TERMINATION FOR CONVENIENCE**

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

**E.4 TERMINATION FOR DEFAULT**

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

8. If, after termination, it is determined that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of DMH.
9. The rights and remedies of DMH in this clause are in addition to any other rights and remedies provided by law or under this agreement.

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

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## **SECTION F**

### **DELIVERY AND PERFORMANCE**

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

Performance under this Solicitation shall be in accordance with the terms and conditions set forth herein and by any modification made thereto. The Period of Performance under this Solicitation shall be Base year without an Option Year period. Option periods shall be exercised and renewed at the sole and absolute discretion of the Department of Mental Health (DMH), based upon favorable annual reviews and annual appropriated funding.

#### **F.2 DELIVERY OF DELIVERABLES**

Contractor shall provide the following Deliverables to the COTR for this procurement as outlined in Section G.5.

#### **F.3 CONTRACTOR NOTICE REGARDING LATE PERFORMANCE**

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

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

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

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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**

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.

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.

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**

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**

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, 2008, 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**

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:

Gilbert Taylor shall serve as the Contracting Officer's Technical Representative (COTR) for this study.

Gilbert Taylor, Director  
Facilities and Environment Department  
2700 Martin Luther King Jr. Avenue SE  
Smith Center Building 132  
Washington, DC 20032  
Email: [Gilbert.taylor@dc.gov](mailto:Gilbert.taylor@dc.gov)  
Phone: (202) 645-5425  
Fax: (202) 645-7010

**G.6 SUBMISSION OF INVOICE**

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**

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**

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**

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 LIQUIDATED DAMAGES

H.1.1 When Contractor fails to perform the tasks required under this Contract, DMH shall notify 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, 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 One Hundred Forty Dollars (\$140.00) per day against Contractor until such time that the Contracts has cured its deficiencies and is able to satisfactorily perform the tasks required under this Contract.

H.1.2 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.

#### 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 **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.

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

**SECTION I**

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

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## SECTION I

### CONTRACT CLAUSES

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

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

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

The Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts, dated March 2007 (Attachment J.1), are incorporated by reference into this Solicitation. 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 RESERVED**

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

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

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

I.6.1 the Director, Contracts and Procurement/Agency Chief Contracting Officer may order 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 Solicitation, or by the Director, Contracts and Procurement/Agency Chief Contracting Officer's failure to act within the time specified in this Solicitation (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this Solicitation (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the Contract modified in writing accordingly.

I.6.2 No adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this Solicitation.

I.6.3 A claim under this clause shall not be allowed for any costs incurred more than twenty (20) days before 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.7 STOP WORK ORDER**

I.7.1 The Director, Contracts and Procurement/Agency Chief Contracting Officer may, at any time, by written order to Contractor, require Contractor to stop all, or any part, of the work called for by this Solicitation for a period of ninety (90) days after the order is delivered to Contractor, and for any further period to which the parties may agree.

I.7.2 The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, 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 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.7.3 If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, 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.7.4 If the stop-work order results in an increase in the time required for, or in Contractor's cost properly allocable to, the performance of any part of this Solicitation; and 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 Solicitation.

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

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

I.8 **RESERVED**

I.9 **RESERVED**

I.10 **ANTI-KICKBACK PROCEDURES**

I.10.1 Definitions:

- I.10.1.1 “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.10.1.2 “Person,” as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.
- I.10.1.3 “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.10.1.4 “Prime Contractor” as used in this clause, means a person who has entered into a prime Contract with the District.
- I.10.1.5 “Prime Contractor employee,” as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.
- I.10.1.6 “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.10.1.7 “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.10.1.8 “SubContractor employee,” as used in this clause, means any officer, partner, employee, or agent of a SubContractor.
- I.10.2 The Anti-Kickback Act of 1986, 41 U.S.C. §§ 51.58 (the Act), prohibits any person from:
  - I.10.2.1 Providing or attempting to provide or offering to provide any kickback;

- I.10.2.2 Soliciting, accepting, or attempting to accept any kickback; or
- I.10.2.3 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.10.3 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.10.4 When Contractor has reasonable grounds to believe that a violation described in paragraph I.10.2 of this clause may have occurred, Contractor shall promptly report in writing the possible violation to the Director, Contracts and Procurement/Agency Chief Contracting Officer.
- I.10.5 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.11 INSURANCE**

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.11.1 Bodily Injury: Contractor shall carry bodily injury insurance coverage written in the comprehensive form of policy of at least \$500,000 per occurrence.
- I.11.2 Property Damage: Contractor shall carry property damage insurance of a least (\$20,000) per occurrence.
- I.11.3 Workers' Compensation: 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 Contractor agrees to comply at all times with the provisions of the workers' compensation laws of the District.
- I.11.4 Employer's Liability: Contractor shall carry employer's liability coverage of at least one hundred thousand dollars (\$100,000) per employee.
- I.11.5 Automobile Liability: 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.11.6 All insurance provided by 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.12 ORDER OF PRECEDENCE**

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

- I.12.1 Consent Order date December 12, 2003 in Dixon, et al. v Fenty, et al., CA 74-285 (TFH) (Dixon Consent Order).
- I.12.2 Sections A through J of this Contract.
- I.12.3 Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts, dated March 2007.
- I.12.4 Wage Determination No. 2005-2103 (Revision No.6, May 29, 2008).
- I.12.5 Best and Final Offer dated (if Applicable)
- I.12.6 Request for Proposal submission date.
- I.12.7 Solicitation/Request for Proposal Number.

**\*\*\* 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 date December 12, 2003 in Dixon, et al. v Fenty, et al., CA 74-285 (NHJ ) (Dixon Consent Order).
J.2	Sections A through J of this Contract Number: RM-10-RFP-033-BY0-OF
<b><u>WEBSITES ADDRESSES FOR COMPLIANCE DOCUMENTS:</u></b>	
J.3	<b>STANDARD CONTRACT PROVISIONS (MARCH 2007)</b> <a href="http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/standard_contract_provisions_0307.pdf&amp;open= 34644 ">http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/standard_contract_provisions_0307.pdf&amp;open= 34644 </a>
J.4	<b>TAX CERTIFICATION AFFIDAVIT</b> <a href="http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/tax_certification_affidavit.pdf&amp;open= 34644 ">http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/tax_certification_affidavit.pdf&amp;open= 34644 </a>
J.5	<b>FIRST SOURCE EMPLOYMENT AGREEMENT</b> <a href="http://www.dcconvention.com/pdfs/First_Source_Employment.PDF">http://www.dcconvention.com/pdfs/First_Source_Employment.PDF</a>
J.6	<b>EQUAL EMPLOYMENT OPPORTUNITY DOCUMENT</b> <a href="http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/eo_compliance.pdf&amp;open= 34644 ">http://ocp.dc.gov/ocp/frames.asp?doc=/ocp/lib/ocp/information/solatt/eo_compliance.pdf&amp;open= 34644 </a>
J.7	<b>WAGE DETERMINATION</b> <a href="#">Wage Determination - May 29, 2008.PDF (568KB)</a>
J.8	Best and Final Offer (if Applicable).
J.9	Invitation for Bid submission date (MAY 2009).
J.10	Solicitation/Invitation for Bid Number RM-10-RFP-033-BY0-OF

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

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

**SECTION K**  
**REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF CONTRACTOR**

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**SECTION K:**

**REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF CONTRACTORS**

**K.1 TAX CERTIFICATION**

Each Prospective Contractor shall submit with its offer, a sworn Tax Certification Affidavit incorporated herein as Attachment J.5.

**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 proposals: (list names, titles, and telephone numbers of the authorized negotiators).

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**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 Solicitation 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 Solicitation 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 Subcontractors, prior to execution of any Contractual agreements, that the Subcontractors 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 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 Solicitation.

Prospective Contractor \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

Prospective Contractor \_\_\_ has \_\_\_ has not participated in a previous Contract or Subcontract 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 Subcontractors. (The above representations need not be submitted in connection with Contracts or SubContracts, which are exempt from the Mayor’s Order.)

**K.6 WALSH-HEALY ACT**

If this Solicitation 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 Solicitation 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 **SHALL** 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 Solicitation.

\_\_\_\_\_ The following person(s) listed in Clause 17 may benefit from this Solicitation. 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:

(c) The prices in this Solicitation 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;

(d) The prices in this Solicitation 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

(e) 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.

- (f) Each signature on the offer is considered to be a certification by the signatory that the signatory;
1. Is the person in the Prospective Contractor’s organization responsible for determining the prices being offered in this Solicitation, 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 Solicitation 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.
- (g) If the Prospective Contractor deletes or modifies subparagraph (a)(2) above, the Prospective Contractor shall furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

**K.10 ACKNOWLEDGMENT OF AMENDMENTS**

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

**SECTION L****INSTRUCTIONS CONDITIONS AND NOTICES TO CONTRACTORS****TABLE OF CONTENT**

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## 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.1.2 Initial Offers

The District may award Contracts on the basis of initial offers received, without discussion. Therefore, each initial offer should contain the Prospective Contractor's best terms from a standpoint of cost or price, technical and other factors.

#### L.2 PROPOSAL FORM, ORGANIZATION AND CONTENT

One original and five (5) copies of the written proposals shall be submitted in two parts, titled "Technical Proposal" and "Price Proposal". Each page shall be numbered, and labeled to include the Solicitation number and name of the Prospective Contractor, Stapled or bond technical proposal shall be submitted with a minimum of five (5) pages and not to exceed the maximum of ten (10) pages, additional pages only for cost proposal and supporting documentation. Proposals shall be typewritten in single space, single page, Times New Roman: twelve (12) point font size on 8.5" by 11" bond paper. **Telephonic and telegraphic proposals or electronic email shall "NOT" be accepted.** Each proposal shall be submitted in a sealed envelope conspicuously marked: "Proposal in Response to Solicitation No. *(insert solicitation number, Title and name of Prospective Contractor)*".

Prospective Contractors are directed to the specific proposal evaluation criteria found in Section M of this solicitation, **EVALUATION FACTORS FOR AWARD**. The Prospective Contractor shall respond to each factor in a way that shall allow the District to evaluate the Prospective Contractor's response. The Prospective Contractor shall submit information in a clear, concise, factual and logical manner providing a comprehensive description of program services and service delivery. The information requested below for the technical proposal shall facilitate evaluation and best value source selection for all proposals. The technical proposal shall contain sufficient detail to provide a clear and concise representation of the requirements in the statement of work:

1. Technical Understanding of the requirement and approach
2. Management Plan
3. Quality Improvement Plan
4. Personnel
5. Past Performance

Questions may be submitted in advance of the Pre-bidder's conference (Optional) via e-mail to [Samuel.Feinberg@dc.gov](mailto:Samuel.Feinberg@dc.gov) or Fax (202) 671-3395. Agencies and/or organizations planning to attend the Pre -Bidder's conference (Optional) are asked to please limit your organization representation to two (2) persons maximum. Pre-Bidder's Conference Attendance is "Optional".

### **L.3 PROPOSAL SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, AND LATE WITHDRAWALS**

#### **L.3.1 Proposal Submission**

Proposals shall be submitted no later than 2:00 PM (Eastern Time) on **Monday, November 30, 2009**. Proposals, modifications to proposals, 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. The proposal 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;
- b. The proposal or modification was 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 proposal, 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 proposal, 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 proposal 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 proposal, 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 Proposals**

A late proposal, 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 PROPOSALS**

DELIVER OR MAIL TO:

Samuel J. Feinberg, CPPO, CPPB  
Director, Contracting and Procurement  
Agency Chief Contracting Officer  
Department of Mental Health  
Contracts and Procurement Administration  
64 New York Avenue, NE, 4<sup>th</sup> Floor (Visitor Entrance)  
Washington, D. C. 20002  
(202) 671 -3171 – Front Desk

**L.5 QUESTIONS ON SOLICITATION**

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 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 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)

**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 proposal 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 PROPOSAL 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 proposals shall be filed with the Board prior to bid opening or the time set for receipt of initial proposals. In procurements in which proposals 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 proposals 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 PROPOSALS**

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 PROPOSALS**

All proposal 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 PROPOSAL COSTS**

The District is not liable for any costs incurred by the Prospective Contractors' in submitting proposals 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 90 days from the solicitation's closing date.

### **L.14 BEST AND FINAL OFFERS (BAFO)**

If, subsequent to receiving original proposals, negotiations are conducted, all Prospective Contractors within the competitive range shall be so notified and shall be provided an opportunity to submit written best and final offers at the designated date and time. Best and Final Offers shall be subject to Late Submissions, Late Modifications and Late

Withdrawals of Proposals provision of the solicitation. After receipt of Best and Final Offers, no discussions shall be reopened unless the ACCO determines that it is clearly in the Government's best interest to do so, e.g., it is clear that information available at that time is inadequate to reasonably justify Contractor selection and award based on the Best and Final Offers received. If discussions are reopened, the ACCO shall issue an additional request for Best and Final Offers to all Prospective Contractors still within the competitive range.

### **L.15 LEGAL STATUS OF CONTRACTOR**

Each proposal 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.

**L.17. OPTIONAL PRE-BID CONFERENCE**

**L.17.1** Optional Pre-Bid Conference shall be held on **Tuesday, November 24, 2009 @ 11:00 AM to 12:30 PM** in the conference room (Training Room) located at 64 New York Avenue NE 4<sup>th</sup> floor Washington, DC 20002 Present at the conference shall be representatives from the DMH's, Contracts and Procurement Administration and the Saint Elizabeths Hospital - Facilities and Environment Depart (FED). The purpose shall be to discuss and clarify points of issue involving the Emergency Generator Installation services.

**L.17.2** Questions may be submitted in advance of the Pre-bidder's conference (Optional) via e-mail to [Samuel.Feinberg@dc.gov](mailto:Samuel.Feinberg@dc.gov) or Fax (202) 671-3395. Agencies and/or organizations planning to attend the Pre -Bidder's conference (Optional) are asked to please limit your organization representation to two (2) persons maximum. Pre-Bidder's Conference Attendance is "Optional".

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

**SECTION M**

**EVALUATION FACTORS**

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**SECTION M**

**EVALUATION FACTORS**

**M.1 EVALUATION FOR AWARD**

The contract shall be awarded to the responsive and responsible Prospective Contractor whose offer is most advantageous to the District, based upon the Evaluation Criteria specified below. Thus, while the points in the Evaluation Criteria indicate their relative importance, the total scores shall not necessarily be determinative of the award. Rather, the total scores shall guide the District in making an intelligent award decision based upon the Evaluation Criteria.

**M.2 TECHNICAL RATING**

The Technical Rating Scale is as follows:

Numeric Rating	Adjective	Description
1	Unacceptable	Fails to meet minimum requirements; major deficiencies which are not correctable.
2	Poor	Marginally meets minimum requirements; significant deficiencies which may be correctable.
3	Acceptable	Meets requirements; only minor deficiencies which are correctable.
4	Good	Meets requirements; no deficiencies.
5	Excellent	Exceeds most, if not all requirements; no deficiencies.

For example, if a subfactor has a point evaluation of 0 to 6 points, and (using the Technical Rating Scale) the District evaluates as "good" the part of the proposal applicable to the subfactor, the score for the subfactor is 4.8 (4/5 of 6). The subfactor scores shall be added together to determine the score for the factor level.

**M.3 TECHNICAL CRITERIA**

**80 Total Points**

1. Contractor's technical approach demonstrates a clear understanding of the work to be performed, and proposed services, including work plan, and methodology, experience, skills and qualifications of staff – 50 points
2. Contractor's ability to make available sufficient personnel, equipment and materials as necessary for the execution of work – 15 points
3. Contractor's ability to demonstrate high quality of work to include but not limited to providing materials and workmanship of appropriate standard of quality; maintaining cleanliness of job site; scheduling and communicating PM clearly; and overhaul quality of finished work – 15 points

**M.3.1 PAST PERFORMANCE CRITERIA**

**10 Total Points**

1. Contractor's references and or profile demonstrates successful performance and management of similar tasks in type and scope - 10 points

**M.4 PRICE CRITERIA**

**10 Total Points**

1. Contractor submit budget projections (5) points
  2. Contractor submitted Schedule B work sheets for Base Year (5) points
- a. The Price Evaluation shall be objective. The Prospective Contractor with the lowest cost/price shall receive the maximum price points. All other proposals shall receive a proportionately lower total score. The following formula shall be used to determine each Contractor's evaluated cost/price score:

$$\frac{\text{Lowest cost/price proposal} \times \text{weight}}{\text{cost/price of proposal being evaluated}} = \text{evaluated cost/price score}$$

**M.5. PREFERENCE**

**(10 Points)**

- LSDBE Contractor

**M.6 TOTAL**

**(110 Points)**

**M.7 CLAUSE APPLICABLE TO ALL OPEN MARKET SOLICITATIONS**

- a. Preference for Local Businesses, Disadvantaged Businesses, Resident Business Ownerships or Businesses Operation in an Enterprise Zone.

## 1. General Preferences

Under the provisions of D.C. Law 13-169, "Equal Opportunity for Local, Small, or Disadvantaged Business Enterprises Amendment Act of 2000" (the "Act", as used in this section), the District shall apply preferences in evaluating offers from businesses that are local, disadvantaged, resident business ownership or located in an enterprise zone of the District of Columbia.

For evaluation purposes, the allowable preferences under the Act for this procurement are as follows:

1. Four percent reduction in the bid price or the addition of four points on a 100-point scale for a local business enterprise (LBE) certified by the Local Business Opportunity Commission (LBOC);
2. Three percent reduction in the bid price or the addition of three points on a 100-point scale for a disadvantaged business enterprise (DBE) certified by the LBOC;
3. Three percent reduction in the bid price or the addition of three points on a 100-point scale for a resident business ownership (RBO), as defined in Section 2 (a)(8A) of the Act, and certified by the LBOC; and
4. Two percent reduction in the bid price or the addition of two points on a 100-point scale for a business located in an enterprise zone, as defined in Section 2(5) of D.C. Law 12-268 and in 27 DCMR 899, 39 DCR 9087-9088 (December 4, 1992).

Any prime Contractor that is a LBE certified by the LBOC shall receive a four percent (4%) reduction in bid price for a bid submitted by the LBE in response to an Invitation for Bids (IFB) or the addition of four points on a 100-point scale added to the overall score for bids submitted by the LBE in response to a Request for Proposals (RFP).

Any prime Contractor that is a DBE certified by the LBOC shall receive a three percent (3%) reduction in the bid price for a bid submitted by the DBE in response to an IFB or the addition of three points on a 100-point scale added to the overall score for proposals submitted by the DBE in response to a RFP.

Any prime Contractor that is a RBO certified by the LBOC shall receive a three percent (3%) reduction in the bid price for a bid submitted by the RBO in response to an IFB or the addition of three points on a 100-point scale added to the overall score for proposals submitted by the RBO in response to a RFP.

Any prime Contractor that is a business enterprise located in an enterprise zone shall receive a two percent (2%) reduction in bid price for a bid submitted by such business enterprise in response to an IFB or the addition of two points on a 100-point scale added to the overall score for proposals submitted by such business in response to a RFP.

**B. Preferences for Subcontracting in Open Market Solicitations with No LBE, DBE, RBO Subcontracting Set Aside**

The preferences for subcontracting in open market solicitations where there is no LBE, DBE or RBO subcontracting set aside are as follows:

1. If the prime Contractor is not a certified LBE, certified DBE, certified RBO or a business located in the enterprise in an enterprise zone, the District shall award the above-stated preferences by reducing the bid price or by increasing the points proportionally based on the total dollar value of the bid or proposal that is designated by the prime Contractor for subcontracting with a certified LBE, DBE, RBO or business located in an enterprise zone.
2. If the prime Contractor is a joint venture that is not a certified LBE, certified DBE or certified RBO joint venture, or if the prime Contractor is a joint venture that includes a business in an enterprise zone but such business located in an enterprise zone does not own and control at least fifty-one percent (51%) of the joint venture, the District shall award the above-stated preferences by reducing the bid price or by increasing the points proportionally in the proposal based on the total dollar value of the bid or proposal that is designated by the prime Contractor for a certified LBE, DBE, RBO or business located in an enterprise zone, for participation in the joint venture.

For Example:

If a non-certified prime Contractor subcontracts with a certified local business enterprise for a percentage of the work to be performed on an RFP, the calculation of the percentage points to be added during evaluation would be according to the following formula:

$$\frac{\text{Amount of Subcontract}}{\text{Amount of Contract}} \times 4^* = \text{Points Awarded for Evaluating LSDBE Subcontracting}$$

\*Note: Equivalent of four (4) points on a 100 point scale

The maximum total preference under the act of this procurement is twelve percent (12%) for bids submitted in response to an IFB or the equivalent of twelve (12) points on a 100-point scale for proposals submitted in response to a RFP. Any prime Contractor receiving the full bid price reduction or point addition to its overall score for a particular preference shall not receive any additional bid price reduction or points for further participation on a subcontracting level for that particular preference.

However, the prime Contractor shall receive a further proportional bid price reduction or point addition on a different preference for participation on a subcontracting level for that different preference. For example, if a LBE prime Contractor receives the four percent bid price reduction or the equivalent of four points on a 100-point scale, the LBE prime Contractor does not receive a further price reduction or additional points if such Contractor proposes subcontracting with an LBE. However,\*if this same LBE prime Contractor proposes subcontracting with a DBE, the LBE prime Contractor receives a further proportional bid price reduction or point addition for the DBE participation on the subcontracting level.

C. Preferences for Open Market Solicitation with LBE, DBE or RBO Subcontracting Set Aside

If the solicitation is an open market solicitation with LBE, DBE or RBO subcontracting set-aside, the prime Contractor shall receive the LBE, DBE, or RBO preferences only if it is a certified LBE, DBE or RBO. There shall be no preference awarded for subcontracting by the prime Contractor with a LBE, DBE or RBO, even if the prime Contractor proposes LBE, DBE, or RBO subcontracting above the subcontracting levels required by the solicitation. However, the prime Contractor shall be entitled to the full preference for business located in an enterprise zone if it is a business located in an enterprise zone or a proportional preference if the prime Contractor subcontracts with a business located in an enterprise zone.

The maximum total preference under the Act for this procurement is twelve percent (12%) for bids submitted in response to an IFB or the equivalent of twelve (12) points on a 100 point scale for proposals submitted in response to a RFP.

D. Preferences for Certified Joint Ventures Including Local or Disadvantaged Businesses or Resident Business Ownerships

When an LBOC-certified joint venture includes a local business enterprise (LBE), disadvantaged business enterprise (DBE) or a resident business ownership (RBO), and the LBE, DBE or RBO owns and controls at least fifty-one percent (51%) of the venture, the joint venture shall receive the preference as if it were a certified LBE, DBE or RBO.

E. Preference for joint Ventures Including Businesses located in an Enterprise Zone

When a joint venture includes a business located in an enterprise zone, and such business located in an enterprise zone owns and controls at least fifty-one percent (51%) of the venture, the joint venture shall receive the preferences as if it were a business located in an enterprise zone.

1. Vendor Submission for Preferences

Any vendor seeking to receive preferences on this Contract must submit at the time of, and as part of its bid or proposal the following documentation, as applicable to the preference being sought:

- (a) Evidence of the vendor's, sub Contractor's, or joint venture partner's certification or self-certification as a LBE, DBE, or RBO, to include either:
  - (1) A copy of all relevant letters of certification from the Local Business Opportunity Commission (LBOC); or
  - (2) A copy of the sworn notarized Self-Certification Form prescribed by the LBOC, along with an acknowledgement letter issued by the Director of the LBOC. Businesses with principal offices located outside of the District of Columbia must first be certified as LBEs before qualifying for self-certification.

2. Evidence that the vendor or any sub Contractor is located in an enterprise zone.

In order for an Contractor to receive allowable preferences under this Contract, the Contractor must include the relevant information as described in subparagraphs (a) and (b) of this clause, as part of its proposal.

Refer to J.2.1 for the Self-Certification Package. In order to receive any preferences under this Contract, any vendor seeking self-certification must complete and submit the forms to:

Office of Local Business Development  
ATTN: LSDBE Certification Program  
441 Fourth Street, N.W., Suite 970N  
Washington, DC 20001

All vendors are encouraged to contact the Local, Small and Disadvantaged Business Enterprises Certification Program at (202) 727-3900 if additional information is required on certification procedures and requirements.

#### Penalties for Misrepresentation

Any material misrepresentation on the sworn notarized self-certification form could result in termination of the contract, the Contractor's liability for civil and criminal action in accordance with the Act, D.C. Law 12-268, and other District laws, including debarment.

#### Local, Small, and Disadvantaged Business Enterprise Subcontracting

When a prime Contractor is certified by the Office of Local Business Development as a local, small or disadvantaged business or a resident business ownership, the prime Contractor shall perform at least fifty percent (50%) of the contracting effort, excluding the cost of materials, good, and supplies with its own organization resources, and if it subcontracts, fifty percent (50%) of the subcontracting effort, excluding the cost of materials, goods, and supplies shall be with certified local, small or disadvantaged business enterprises and resident business ownerships, unless a waiver is granted by the Contracting Officer, with prior approval and consent of the Director of the LBOC under the provisions of 27 DCMR 805, 39 DCR 5578-5580 (July 24, 1992).

By submitting a signed bid or proposal, the prime Contractor certifies that it shall comply with the requirements of paragraph (a) of this clause.

**\*\*\*\* END OF SECTION M \*\*\*\***