

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF MENTAL HEALTH
CONTRACTS AND PROCUREMENT SERVICES**

**REQUEST FOR QUOTATIONS (RFQ) RM-12-RFQ-010-BY4-MA
FOR OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES.**

The Government of the District of Columbia, Department of Mental Health (DMH), Saint Elizabeths Hospital (SEH) is releasing this solicitation for Request for Quotations (RFQ) for Otolaryngology Ear, Nose and Throat Medical Services to severely and persistently mentally ill patients. It is intended that the Successful Response and Responsible Bidder shall play a key role in providing Otolaryngology Ear, Nose and Throat Medical Services efficiently and effectively.

Opening Date: Thursday, September 22, 2011
Closing Date: Tuesday, September 27, 2011
Closing Time: 11:00 A.M. EST

To obtain a copy of the RFQ please contact Meredith Lynne Alexander, Contract Staff Assistant, at:

D.C. Department of Mental Health | Contracts and Procurement Services
64 New York Avenue NE - 4th Floor Washington DC 20002
Tel: 202.671-3173 | Fax: 202.671-3395

Meredith.Alexander@dc.gov or visit our website at www.dmh.dc.gov and then under the "Information" Header, select "Opportunities" then select "View Contract Opportunities" and then select "Index of Procurement Listings" for the listing of Procurement opportunities with DMH.

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

1. ISSUED BY, ADDRESS OFFER TO: DISTRICT OF COLUMBIA DEPARTMENT OF MENTAL HEALTH (DMH) CONTRACTS AND PROCUREMENT ADMINISTRATION 64 NEW YORK AVENUE NE, 4th FLOOR WASHINGTON, DC 20002	2. PAGE OF PAGES: 1 of 47 3. CONTRACT NUMBER: 4. SOLICITATION NUMBER: RM-12-RFQ-010-BY4-MA 5. DATE ISSUED: NA 6. OPENING, CLOSING TIME:
--	---

7. TYPE OF SOLICITATION: N,A <input checked="" type="checkbox"/> SEALED BID <input type="checkbox"/> SINGLE AVAILABLE SOURCE <input type="checkbox"/> NEGOTIATION (RFP)	8. DISCOUNT FOR PROMPT PAYMENT:
---	---------------------------------

NOTE: IN SEALED BID SOLICITATION "OFFER AND THE CONTRACTOR" MEANS "BID AND BIDDER"

10. INFORMATION CALL	NAME: Samuel J Feinberg, CPPO, CPPB Director, Contracts and Procurement Administration Agency Chief Contracting Officer	TELEPHONE NUMBER: (202) 671-3188	B. E-MAIL ADDRESS: <u>Samuel.Feinberg@dc.gov</u>
----------------------	--	--	--

11. TABLE OF CONTENTS

(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
PART I – The Schedule				PART II – Contract Clauses			
x	A	Solicitation, Contract Form	1	x	I	Contract Clauses	36-46
x	B	Supplies, Services and Price, Costs	2-8	PART III – List of Documents, Exhibits and Other Attach			
x	C	Description, Specs, Work Statement	9-12	x	J	List of Attachments	47
x	D	Packaging and Marking	13-14	PART IV – Representations and Instructions			
x	E	Inspection and Acceptance	15-21		K	Representations, Certifications and other Statements of The Contractors	N,A
x	F	Deliveries or Performance	22-24		L	Instrs. Conds., & Notices to The Contractors	N,A
x	G	Contract Administration	25-29		M	Evaluation Factors for Award	N,A
x	H	Special Contract Requirements	30-35				

OFFER (TO BE COMPLETED BY THE CONTRACTOR)

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

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

AWARD (To be completed by the (DMH))

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

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

SECTION B

SUPPLIES OR SERVICES AND PRICE

TABLE OF CONTENTS

<u>CLAUSE NO.</u>	<u>CLAUSE TITLE</u>	<u>PAGE NO.</u>
B.1	PURPOSE OF SOLICITATION	3
B.2	CONTRACT TYPE	3
B.3	PERIOD OF PERFORMANCE	3
B.4	SCHEDULE B PRICING SHEET	4 - 8

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

SECTION B: SUPPLIES OR SERVICES AND PRICE

B.1 PURPOSE OF SOLICITATION

B.1.1 The Government of the District of Columbia, Department of Mental Health ((DMH)), Saint Elizabeths Hospital (SEH) is releasing this solicitation for Request for Quotations (RFQ) for Otolaryngology, Ear, Nose and Throat Medical Services to severely and persistently mentally ill patients. It is intended that the Successful Response and Responsible Bidder shall play a key role in providing Otolaryngology, Ear, Nose and Throat Medical Services efficiently and effectively.

B.2 CONTRACT TYPE

B.2.1 This is a Firm Fixed Price Contract. Payments shall be made based on the Hourly Rates for Otolaryngology Ear, Nose and Throat Medical Services as specified in the Schedule B Pricing (SEH) of this contract.

B.3 PERIOD OF PERFORMANCE

B.3.1 The Period of Performance (POP) under this Contract shall be for a One Year from Date of Award Base Year with Four (4) One Year Option Periods.

B.4 SCHEDULE B PRICING SEHET

See following pages 4 - 8.

**RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES**

B.4 Pricing Schedule	SOLICITATION # RM-12-RFQ-010-BY4-MA OTOLARYNGOLOGY,EAR,NOSE AND THROAT MEDICAL SERVICES				
Contract Line Item Numbers	<u>SCHEDULE B PRICING SEHET</u>	QUANTITY	UNIT	UNIT PRICE	AMOUNT
<u>001</u>	<p>The Contractor shall provide Bi-Weekly Clinics (26) per Year with the duration for each clinic being Six (6) Hours per Session. These Clinics shall be held between the Hours of 8:30 AM to 2:30 PM, except for Legal Holidays for Otolaryngology, Ear, Nose and Throat Medical Services to severely and persistently Mentally Ill Patients that are located at Saint Elizabeths Hospital.</p> <p>Services shall be conducted on a Bi-Weekly Basis Not to Exceed Amount of weeks yielding a Not to exceed Total Amount of (26) Hours during Period of Performance (POP).</p> <p>The Period of Performance (POP) under this Contract shall be for a Base Year which shall be One Year from Date of Award with Four (4) One Year Option Periods.</p> <p>This is a Firm Fixed Price Contract.</p> <hr/> <p>Print Name of Contractor</p> <hr/> <p>Print name of Authorized Official</p> <hr/> <p>Signature of Authorized Official</p> <hr/> <p>Title of Authorized Official</p>	<p><u>26</u> Not to Exceed</p>	<p><u>Clinics</u></p>	<p>_____</p>	<p>_____</p>

BASE YEAR

**RM-12-RFQ-010-BY4-MA
 OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES**

B.4 Pricing Schedule	SOLICITATION # RM-12-RFQ-010-BY4-MA OTOLARYNGOLOGY,EAR,NOSE AND THROAT MEDICAL SERVICES				
Contract Line Item Numbers	<u>SCHEDULE B PRICING SEHET</u> The Contractor shall provide Bi-Weekly Clinics (26) per Year with the duration for each clinic being Six (6) Hours per Session. These Clinics shall be held between the Hours of 8:30 AM to 2:30 PM, except for Legal Holidays for Otolaryngology, Ear, Nose and Throat Medical Services to severely and persistently Mentally Ill Patients that are located at Saint Elizabeths Hospital. Services shall be conducted on a Bi-Weekly Basis Not to Exceed Amount of weeks yielding a Not to exceed Total Amount of (26) Hours during Period of Performance (POP). The Period of Performance (POP) under this Contract shall be for a Base Year which shall be One Year from Date of Award with Four (4) One Year Option Periods. This is a Firm Fixed Price Contract. <hr/> Print Name of Contractor <hr/> Print name of Authorized Official <hr/> Signature of Authorized Official <hr/> Title of Authorized Official Date	QUANTITY	UNIT	UNIT PRICE	AMOUNT
<u>001</u>		<u>26</u> Not to Exceed	<u>Clinics</u>	_____	_____

OPTION YEAR ONE

**RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES**

B.4 Pricing Schedule	SOLICITATION # RM-12-RFQ-010-BY4-MA OTOLARYNGOLOGY,EAR,NOSE AND THROAT MEDICAL SERVICES				
Contract Line Item Numbers	<u>SCHEDULE B PRICING SEHET</u> The Contractor shall provide Bi-Weekly Clinics (26) per Year with the duration for each clinic being Six (6) Hours per Session. These Clinics shall be held between the Hours of 8:30 AM to 2:30 PM, except for Legal Holidays for Otolaryngology, Ear, Nose and Throat Medical Services to severely and persistently Mentally Ill Patients that are located at Saint Elizabeths Hospital. Services shall be conducted on a Bi-Weekly Basis Not to Exceed Amount of weeks yielding a Not to exceed Total Amount of (26) Hours during Period of Performance (POP). The Period of Performance (POP) under this Contract shall be for a Base Year which shall be One Year from Date of Award with Four (4) One Year Option Periods. This is a Firm Fixed Price Contract. _____ Print Name of Contractor _____ Print name of Authorized Official _____ Signature of Authorized Official _____ Title of Authorized Official _____ Date	QUANTITY	UNIT	UNIT PRICE	AMOUNT
<u>001</u>		<u>26</u> Not to Exceed	<u>Clinics</u>	_____	_____

OPTION YEAR TWO

**RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES**

B.4 Pricing Schedule	SOLICITATION # RM-12-RFQ-010-BY4-MA OTOLARYNGOLOGY, EAR, NOSE AND THROAT MEDICAL SERVICES				
Contract Line Item Numbers	<u>SCHEDULE B PRICING SEHET</u>	QUANTITY	UNIT	UNIT PRICE	AMOUNT
<u>001</u>	<p>The Contractor shall provide Bi-Weekly Clinics (26) per Year with the duration for each clinic being Six (6) Hours per Session. These Clinics shall be held between the Hours of 8:30 AM to 2:30 PM, except for Legal Holidays for Otolaryngology, Ear, Nose and Throat Medical Services to severely and persistently Mentally Ill Patients that are located at Saint Elizabeths Hospital.</p> <p>Services shall be conducted on a Bi-Weekly Basis Not to Exceed Amount of weeks yielding a Not to exceed Total Amount of (26) Hours during Period of Performance (POP).</p> <p>The Period of Performance (POP) under this Contract shall be for a Base Year which shall be One Year from Date of Award with Four (4) One Year Option Periods.</p> <p>This is a Firm Fixed Price Contract.</p> <p>_____</p> <p>Print Name of Contractor</p> <p>_____</p> <p>Print name of Authorized Official</p> <p>_____</p> <p>Signature of Authorized Official</p> <p>_____</p> <p>Title of Authorized Official _____</p> <p style="text-align: right;">Date</p>	<u>26</u> Not to Exceed	<u>Clinics</u>	_____	_____

OPTION YEAR THREE

**RM-12-RFQ-010-BY4-MA
 OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES**

B.4 Pricing Schedule	SOLICITATION # RM-12-RFQ-010-BY4-MA OTOLARYNGOLOGY, EAR, NOSE AND THROAT MEDICAL SERVICES				
Contract Line Item Numbers	<u>SCHEDULE B PRICING SEHET</u>	QUANTITY	UNIT	UNIT PRICE	AMOUNT
001	<p>The Contractor shall provide Bi-Weekly Clinics (26) per Year with the duration for each clinic being Six (6) Hours per Session. These Clinics shall be held between the Hours of 8:30 AM to 2:30 PM, except for Legal Holidays for Otolaryngology, Ear, Nose and Throat Medical Services to severely and persistently Mentally Ill Patients that are located at Saint Elizabeths Hospital.</p> <p>Services shall be conducted on a Bi-Weekly Basis Not to Exceed Amount of weeks yielding a Not to exceed Total Amount of (26) Hours during Period of Performance (POP).</p> <p>The Period of Performance (POP) under this Contract shall be for a Base Year which shall be One Year from Date of Award with Four (4) One Year Option Periods.</p> <p>This is a Firm Fixed Price Contract.</p> <p>_____ Print Name of Contractor</p> <p>_____ Print name of Authorized Official</p> <p>_____ Signature of Authorized Official</p> <p>_____ Title of Authorized Official</p> <p>_____ Date</p>	<p align="center"><u>26</u> Not to Exceed</p>	<p align="center"><u>Clinics</u></p>	<p align="center">_____</p>	<p align="center">_____</p>

OPTION YEAR FOUR

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

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

PART I - THE SCHEDULE

SECTION C

BACKGROUND, SCOPE OF SERVICES, REQUIREMENTS

TABLE OF CONTENTS

<u>CLAUSE NO.</u>	<u>CLAUSE TITLE</u>	<u>PAGE NO.</u>
C.1	BACKGROUND	10
C.2	SCOPE OF SERVICES	10
C.3	SPECIFIC REQUIREMENTS	10-11
C.4	HOURS OF OPERATION & SERVICES	11
C.5	CONTRACTOR REQUIREMENTS	11
C.6	STANDARD OF PERFORMANCE	11
C.7	ADVERTISING AND PUBLICITY	11
C.8	CONFIDENTIALITY	12
C.9	RIGHTS IN DATA	12

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

PART 1 – THE SCHEDULE

SECTION C:

BACKGROUND, SCOPE OF SERVICES AND REQUIREMENTS

C.1 BACKGROUND

C.1.1 The Department of Mental Health, Saint Elizabeths Hospital requires the services of a Contractor to provide Assessments and Treatment for Otolaryngology Ear, Nose and Throat Medical Services conditions of severely and persistently Mentally Ill Patients of the Department of Mental Health ((DMH)), Saint Elizabeths Hospital (SEH) located at 1100 Alabama Ave., SE, Washington D.C. 20032. Saint Elizabeths Hospital is the District's Public Psychiatric Facility which provides treatment for individuals with serious and persistent Mental Illness who need intensive inpatient care to support their recovery. In addition, Saint Elizabeths Hospital also provides Primary Care Services Mandated by the courts. The Hospital provides services to individuals in care who need intensive inpatient care to support their recovery and mental health evaluations and care to individuals who have been committed by the courts.

C.2 SCOPE OF SERVICES

C.2.1 The Contractor shall provide Otolaryngology Examinations, Assessments and Treatments for Ear, Nose and Throat conditions of Consumers at the Department of Mental Health ((DMH)), Saint Elizabeths Hospital (SEH) located at 1100 Alabama Avenue, SE, Washington, D.C. 20032.

C.3 SPECIFIC REQUIREMENTS

C. 3.1 The Contractor shall provide Otolaryngology Examination and Assessment services using Test and Diagnostic procedures according to accepted medical practices.

C. 3.2. The Contractor shall provide consultation to staff of (SEH) on caring for Consumer's with Ear, Nose and/or Throat conditions.

C. 3.3 The Contractor shall provide interventions and treatment for Ear, Nose and Throat conditions of Consumers requiring care; this treatment shall include, but is not limited to, prescribing medication and the provision of non-surgical medical interventions.

C. 3.4 The Contractor shall order and interpret laboratory with special diagnostic studies to determine medical status, including the reaction of prescribed drugs.

C.3.5 The Contractor shall record in the Consumer's electronic medical records all results of diagnostic, consultative and therapeutic services.

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

- C.3.6 The Contractor shall provide referral services to consumers requiring care and treatment beyond services provided as a result of this contract.
- C.3.7 The Contractor shall provide other Otolaryngology services during scheduled visits, as assigned by the Contracting Officer's Technical Representative (COTR) when such activities are required to meet the general requirements of this contract.

C.4 HOURS OF OPERATION & SERVICES

- C.4.1 The Contractor shall provide Bi-Weekly Clinics (26) per Year with the duration of each Clinic being Six (6) hours per session to be held between the hours of 8:30 AM to 2:30 PM, except for Legal Holidays.

C.5 CONTRACTOR REQUIREMENTS

- C.5.1 The Contractor shall be certified in Otolaryngology and licensed in the District of Columbia.
- C.5.2 The Contractor shall not have any prior criminal record or convictions of child abuse or molestation, sexual abuse and rape, drug possession or distribution.
- C.5.3 The Contractor shall provide to the (COTR), the following information to be placed in his, her file: professional and personal references; applicable licenses; credentials, certifications; and records of required medical examinations.

C.6 STANDARD OF PERFORMANCE

- C.6.1 The Contractor shall at all times, while acting in good faith and in the best interest of the ((DMH)), use its best efforts and exercise all due care and sound business judgment in performing its duties under this contract. Contractor shall at all times, comply with ((DMH)) operational policies, procedures and directives while performing the duties specified in this contract.

C.7 ADVERTISING AND PUBLICITY

- C.7.1 Unless granted prior, express, written authority by the Director, Contracts and Procurement, Agency Chief Contracting Officer, the Contractor shall not issue or sponsor any advertising or publicity that states or implies, either directly or indirectly, that ((DMH)) endorses, recommends or prefers the Contractor's services; shall not use ((DMH))'s logo in any fashion; or use or release information, photographs or other depictions obtained as a result of the performance of services under this contract, for publication, advertising or financial benefit.

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

C.8 CONFIDENTIALITY

C.8.1. The Contractor shall maintain the confidentiality and privacy of all identifying information concerning (DMH) clients in accordance with the confidentiality law, the privacy rule (the requirements and restrictions contained in 45 CFR part 160 and part 164, subparts A and E, as modified by any District of Columbia laws, including the Mental Health Information Act of 1978, that may have preemptive effect by operation of 45 CFR part 160, subpart B) and Section H.2 of this Contract.

C.9 RIGHTS IN DATA

C.9.1. Any data first produced in the performance of this contract shall be the sole property of the Contractor hereby acknowledges that all data, including, without limitation, produced by the Contractor for (DMH) under this contract are works made for hire and are the sole property of (DMH); but, to the extent any such data may not, by operation of law, be works made for hire, the Contractor hereby transfers and assigns to (DMH) ownership of copyright in such works, whether published or unpublished.

C.9.2 The Contractor agrees to give (DMH) assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of (DMH) at such time as to review the intent to release such data to the public.

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

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

**RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES**

PART 1 – THE SCHEDULE

SECTION D

PACKAGING AND MARKING

TABLE OF CONTENTS

<u>CLAUSE NO.</u>	<u>CLAUSE TITLE</u>	<u>PAGE NO.</u>
D.1	PACKAGING AND MARKING	14
D.2	POSTAGE AND MAILING FEES	14

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

PART 1 – THE SCHEDULE

SECTION D

PACKAGING AND MARKING

D.1 PACKAGING AND MARKING

D.1.1 References Standard Contract Provisions (SCP) Clause 2, Shipping Instructions-Consignment, Page 1.

[http://www.ocp.in.dc.gov/ocp/lib/ocp/policies_and_form/Standard Contract Provisions_0307.pdf](http://www.ocp.in.dc.gov/ocp/lib/ocp/policies_and_form/Standard_Contract_Provisions_0307.pdf) (To open, “right click on mouse,” select “open hyperlink and select “OK.”)

D.2 POSTAGE AND MAILING FEES

D.2.1 Includes any additional instructions that are specific to the requirement of the Solicitation, Contract.

END OF SECTION D

**RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES**

PART 1 – THE SCHEDULE

SECTION E

INSPECTION AND ACCEPTANCE

TABLE OF CONTENTS

<u>CLAUSE NO.</u>	<u>CLAUSE TITLE</u>	<u>PAGE NO.</u>
E.1	INSPECTION AND ACCEPTANCE	16
E.2	TERMINATION FOR CONVENIENCE	16 - 17
E.3	TERMINATION FOR DEFAULT	17 - 19
E.4	SUSPENSION OF WORK	20
E.5	STOP WORK ORDER	20-21
E.6	INSPECTION	21

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

SECTION E: INSPECTION AND ACCEPTANCE

E.1.1 **References SCP Clause 5, Inspection of Supplies and/or Clause 6, Inspection of Services, Pages 1-4.**

[http://www.ocp.in.dc.gov/ocp/lib/ocp/policies_and_form/Standard Contract Provisions 0307.pdf](http://www.ocp.in.dc.gov/ocp/lib/ocp/policies_and_form/Standard_Contract_Provisions_0307.pdf) (To open, “right click on mouse,” select “open hyperlink and select “OK.”)

E.1.2 A service task may be composed of several sub-items. A service task may be determined to be partially complete if the Contractor satisfactorily completes some, but not all, of the sub-items. In those cases, partial deductions may be taken from the Contractor’s invoice.

E.1.3 The District shall give the Contractor written notice of deductions by providing copies of reports, which summarizes the deficiencies for which the determination was made to assess the deduction in payment for unsatisfactory work.

E.1.4 Therefore, in the case of non-performed work, the District:

E.1.4.1 Shall deduct from the Contractor’s invoice all amounts associated with such non-performed work at the rate set out in Section B or provided by other provisions of the Contract;

E.1.4.2 May, at its option, afford the Contractor an opportunity to perform the non-performed work within a reasonable period subject to the discretion of the Director, ACCO and at no additional cost to the District;

E.1.4.3 May, at its option, perform the services by District personnel or other means.

E.1.5 In the case of unsatisfactory work, the District:

E.1.5.1 Shall deduct from the Contractor’s invoice all amounts associated with such unsatisfactory work at the rates set out in Section B or provided by other provisions of the Contract, unless the Contractor is afforded an opportunity to re-perform and satisfactory completed the work;

E.1.5.2 May, at its option, afford the Contractor an opportunity to re-perform the unsatisfactory work within a reasonable period subject to the discretion of the Director, ACCO and at no additional cost to the District.

E.2 TERMINATION FOR CONVENIENCE

E.2.1 The (DMH) may terminate performance of work under this contract for the convenience of the Government, in whole or, from time to time, in part, if the Director, Contracts and Procurement, Agency Chief Contracting Officer determines that a termination is in the Government’s best interest.

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

E.2.2 The Director, Contracts and Procurement, Agency Chief Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date. After receipt of a Notice of Termination and, except as directed by the Director, Contracts and Procurement, Agency Chief Contracting Officer, the Contractor shall immediately proceed with the following obligations:

- (a) Stop work as specified in the notice.
- (b) Place no further 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 the 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 contract.

E.3 TERMINATION FOR DEFAULT

E.3.1 (DMH) may, subject to the conditions stated below, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

- (a) Perform the services within the time specified in this contract or any extension; or
- (b) Make progress so as to endanger performance of this contract; or

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

- (c) Perform any of the other material provisions of this contract.
- E.3.2 (DMH)'s right to terminate this contract may be exercised if the Contractor does not cure such failure within 10 days (or such longer period as authorized in writing by the Contracting Officer) after receipt of the notice to cure from the Contracting Officer specifying the failure.
- E.3.3 If (DMH) terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Director, Contracts and Procurement, Agency Chief Contracting Officer considers appropriate supplies and services similar to those terminated, and the Contractor shall be liable to (DMH) for any excess costs for those supplies and services. However, the Contractor shall continue the work not terminated.
- E.3.4 Except for default by Subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God, (2) fires or floods, (3) strikes, and (4) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.
- E.3.5 If the failure to perform is caused by the fault of a Sub Contractor at any tier, and if the cause of the default is beyond the control of both the Contractor and the Subcontractor, and without the fault or negligence of either, the 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 the Contractor to meet the required schedule.
- E.3.6 If the contract is terminated for default, (DMH) may require the Contractor to transfer title and deliver to (DMH), as directed by the Director, Contracts and Procurement, Agency Chief Contracting Officer, any completed and partially completed supplies and materials that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Director, Contracts and Procurement, Agency Chief Contracting Officer, the Contractor shall also protect and preserve property in its possession in which CFSA has an interest.
- E.3.7 (DMH) shall pay the contract price or a portion thereof, for fully or partially completed or delivered supplies and services that are accepted by (DMH).
- E.3.8 If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of (DMH).
- E.3.9 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.

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

E.3.10 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 E.10.6(c)(2), upon termination of the Contract, for any reason, the Business Associate shall return or destroy all protected information received from (DMH), or created or received by the Business Associate on behalf of (DMH). This provision shall apply to protected information that is in the possession of Sub-Contractors or agents of the Business Associate. The Business Associate shall retain no copies of the protected information.

 - (2) In the event that the Business Associate determines that returning or destroying the protected information is infeasible, the Business Associate shall provide to (DMH) notification of the conditions that make return or destruction infeasible. Upon determination by the Director, Contracts and Procurement, Agency Chief Contracting Officer that return or destruction of protected information is infeasible, the Business Associate shall extend the protections of this Agreement to such protected information and limit further uses and disclosures of such protected information to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such protected information.

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

E.4 SUSPENSION OF WORK

- E.4.1 The Director, Contracts and Procurement, Agency Chief Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this Contract for the period of time that the Director, Contracts and Procurement, Agency Chief Contracting Officer determines appropriate for the convenience of the District. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed or interrupted by an act of the Director, Contracts and Procurement, Agency Chief Contracting Officer in the administration of this Contract, or by the Director, Contracts and Procurement, Agency Chief Contracting Officer's failure to act within the time specified in this Contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this Contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption and the Contract modified in writing accordingly.
- E.4.2 No adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this Contract.
- E.4.3 A claim under this clause shall not be allowed for any costs incurred more than twenty (20) days before the Contractor shall have notified the Director, Contracts and Procurement, Agency Chief Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the Contract.

E.5 STOP WORK ORDER

- E.5.1 The Director, Contracts and Procurement, Agency Chief Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this Contract for a period of ninety (90) days after the order is delivered to the Contractor and for any further period to which the parties may agree.
- E.5.2 The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurring of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Director, Contracts and Procurement, Agency

Chief Contracting Officer shall either cancel the stop-work order; or terminate the work covered by the order as provided in the Default or Termination for Convenience clauses in the Standard Contract Provisions (Attachment J-1).

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

- E.5.3 If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Director, Contracts and Procurement Administration, 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.
- E.5.4 If the stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Contract; and the Contractor asserts its right to the adjustment within thirty (30) days after the end of the period of work stoppage; provided, that, if the Director, Contracts and Procurement, Agency Chief Contracting Officer decides the facts justify the action, the Director, Contracts and Procurement, Agency Chief Contracting Officer may receive and act upon the claim submitted at any time before final payment under this Contract.
- E.5.5 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.
- E.5.6 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.

E.6 INSPECTION

- E.6.1 The inspection and acceptance requirements for the resultant Contract shall be governed by the District of Columbia Government's Standard Contract Provisions Clause Number Five (5) - Inspection of Supplies, SCP.1 – 3 and, Clause Number Six (6) - Inspection of Services, SCP. 3- 4 dated March 2007.

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

**RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES**

PART 1 – THE SCHEDULE

SECTION F

PERFORMANCE AND DELIVERABLES

TABLE OF CONTENTS

<u>CLAUSE NO.</u>	<u>CLAUSE TITLE</u>	<u>PAGE NO.</u>
F.1	PERIOD OF PERFORMANCE	23
F.2	DELIVERY OR DELIVERABLES	23
F.3	OFFEROR NOTICE REGARDING LATE PERFORMANCE	23
F.4	OPTION TO EXTEND THE TERM OF THE CONTRACT	24

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

SECTION F: PERFORMANCE AND DELIVERABLES

F.1 PERIOD OF PERFORMANCE (POP)

F.1.1 Performance under this Contract shall be in accordance with the terms and conditions set forth herein and by any modifications made there to. The Period of Performance (POP) under this Contract shall be for a Base Year which is One Year from Date of Award with Four (4) One Year Option Periods.

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT RESERVED

The District shall extend the term of this contract for a period of Four (4) One Year Option Periods or successive fractions thereof, by written notice to the Contractor before the expiration of the Contract, provided that the District shall give the Contractor a preliminary notice of its intent to extend at least thirty (30) days before the Contract expires.

The preliminary notice does not commit the District to an extension. The Exercise of the Option Period of a Contract is at the sole and absolute discretion of (DMH) based upon the satisfactory performance of the Contractor by being in compliance with the Scope of Work, along with the Terms, Conditions of the Contract and is subject to the availability of funds at the time of the Exercise of Option Periods. The Contractor shall waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Director, Contracts and Procurement, Agency Chief Contracting Officer (Director, ACCO) prior to the expiration of the Contract.

F.3 DELIVERY OR DELIVERABLES

F.3.1 The Contractor shall provide the District of Columbia Department of Mental Health with for Otolaryngology, Ear, Nose and Throat Medical Services.

F.3.2 The Contractor shall make records, reports and any other data and program information available to (DMH) via paper or electronically.

F.3.3 The Contractor shall provide a completely filled out job ticket that includes the following information:

- a) Arrival Time
- b) Departure Time
- c) Description of Work Performed

F.3.4 The Contractor shall ensure that all job tickets are signed by the Contracting Officer's Technical Representative (COTR).

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

F.4 OFFEROR'S NOTICE REGARDING LATE PERFORMANCE

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

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

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

PART 1 – THE SCHEDULE

SECTION G

CONTRACT ADMINISTRATION DATA

TABLE OF CONTENTS

<u>CLAUSE NO.</u>	<u>CLAUSE TITLE</u>	<u>PAGE NO.</u>
G.1	CONTRACT ADMINISTRATION	26
G.2	TYPE OF CONTRACT	26
G.3	MODIFICATIONS	27
G.4	AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR	27
G.5	DESIGNATION OF THE CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)	27
G.6	SUBMISSION OF INVOICES	27-28
G.7	CERTIFICATION OF INVOICES	28
G.8	PAYMENT	28
G.9	RESPONSIBILITY FOR AGENCY PROPERTY	28
G.10	ASSIGNMENT OF PAYMENTS	28-29

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

SECTION G: CONTRACT ADMINISTRATION DATA

G.1 CONTRACT ADMINISTRATION

G.1.1 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, NE – 4th Floor
Washington, DC 20002
Office - (202) 671-3188 – Fax (202-671-3395
Email: Samuel.feinberg@dc.gov

G.2 TYPE OF CONTRACT

G.2.1 This shall be a Firm Fixed Price Contract with fixed unit prices. The Contractor shall be remunerated at a fixed unit rate as indicated in the Section B Pricing Schedule. In the event of termination under this Solicitation, the (DMH) shall only be liable for the payment of all goods accepted during the hours of work actually performed. Pursuant to the terms of this Contract, individuals working under this Contract for the Department of Mental Health ((DMH)) are not eligible to be paid for holidays and sick leave. However, if the Contractor works on a holiday, the Contractor shall be paid at the regular hourly rate.

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

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

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

G.3 MODIFICATIONS

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

G.4 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR

G.4.1 (DMH)'s obligation for performance of this Solicitation beyond that date is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of the (DMH) for any payment may arise for performance under this Solicitation beyond September 30, 2011 until funds are made available to the Director, Contracts and Procurement, Agency Chief Contracting Officer for performance and until the Contractor receives notice of availability of funds, to be confirmed in writing by the Agency's Chief Financial Officer.

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

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

JoAnn Spencer, Administrative Officer, shall serve as the Contracting Officer's Technical Representative (COTR) for this Contract.

JoAnn Spencer, Administrative Officer
Saint Elizabeths Hospital, Office of Medical Affairs
1100 Alabama Avenue, SE
Washington, DC 20032
Office: (202) 299-5105; Fax: (202) 561-6833
E-mail: joann.spencer@dc.gov

G.6 SUBMISSION OF INVOICE

G.6.1 The Contractor shall submit, on a monthly basis, an original and three copies of each invoice to the Department of Mental Health, Accounts Payable Office at 64 New York Ave., NE, 6th Floor Washington, DC 20002 or by e-mail to [\(DMH\).ap@dc.gov](mailto:(DMH).ap@dc.gov). The Invoices shall include the Contractor's name and address, invoice date, Contract Number, Contract Line Items Numbers (CLINs), Description of the Services, Quantity, Unit Price with 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

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

person to be notified in the event of a defective invoice. Payment shall be made within Thirty (30) days after the COTR receives a proper and certified invoice from the Contractor, unless a discount for prompt payment is offered and payment is made within the discount periods. Please note that the invoice shall match the itemized lines CLINs of the Purchase Order as written up to but not exceeding the maximum of each line. Any invoices deemed improper for payment shall be returned UNPAID and shall be resubmitted as indicated in this clause.

G.7 CERTIFICATION OF INVOICE

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

G.8 PAYMENT

G.8.1 (DMH) shall pay the Contractor monthly the amount due the Contractor as set forth in Section B.3 of the contract in accordance with the Terms of the contract and upon presentation of a properly executed invoice and authorized by the COTR.

(DMH) shall pay Interest Penalties on amounts due to the Contractor in accordance with the Quick Payment Act, D.C. Official Code § 2-221.02 et seq., for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made to the Contractor.

G.9 RESPONSIBILITY FOR AGENCY PROPERTY

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

G.10 ASSIGNMENT OF PAYMENTS

G.10.1 In accordance with 27 DCMR, 3250, unless otherwise prohibited by this Contract, the Contractor may assign funds due or to become due as a result of the performance of this Contract, to a bank, trust company or other financial institution.

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

G.10.2 Any assignment shall cover all unpaid amounts payable under this Contract and, shall not be made to more than one party.

G.10.3 Notwithstanding an assignment of money claims pursuant to authority contained in the Contract, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made; the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

Pursuant to the instrument of assignment dated _____, make payment of this invoice to:

(Name and address of Assignee)

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

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

PART 1 – THE SCHEDULE

SECTION H

SPECIAL CONTRACT REQUIREMENTS

TABLE OF CONTENTS

<u>CLAUSE NO.</u>	<u>CLAUSE TITLE</u>	<u>PAGE NO.</u>
H.1	LIQUIDATED DAMAGES	31
H.2	PRIVACY AND CONFIDENTIALITY COMPLIANCE	31 - 35
H.3	COST OF OPERATION	35
H.4	THE CONTRACTOR LICENSE, CLEARANCES	35
H.5	AMERICANS WITH DISABILITES ACT OF 1990	35
H.6	SECTION 504 OF THE REHABILITATION ACT OF 1973	35

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

SECTION H: SPECIAL CONTRACT REQUIREMENTS

H.1 LIQUIDATED DAMAGES

H.1.1 When the Contractor fails to perform the tasks required under this Contract, (DMH) shall notify the Contractor in writing of the specific task deficiencies with a scheduled meeting and a Notice to Cure document with a cure period of Not to Exceed Ten (10) Business Days. Upon receiving the Notice to Cure document, the Contractor shall provide (DMH) with their assessment of the identified deficiencies in order to reach an agreement on a proactive plan to resolve the matter. The assessment of Liquidated Damages as determined by the Director, Contracts and Procurement, Agency Chief Contracting Officer shall be in the amount of \$100.00 per day against the Contractor until such time that the Contractor has cured its deficiencies and is able to satisfactorily perform the tasks required under this Contract. This assessment of Liquidated Damages against the Contractor shall be implemented after the expiration of the cure period and until such time that the Contractor has cured its deficiencies and is able to satisfactorily perform the tasks required under this Contract for a maximum of thirty (30) Business Days.

H.1.2 When the Contractor is unable to cure its deficiencies in a timely manner and (DMH) requires a replacement Contractor to perform the required services, the Contractor shall be liable for Liquidated Damages accruing until the time (DMH) is able to award said Contract to a qualified responsive and responsible Contractor. Additionally, if the Contractor is found to be in default of said Contract under the Default Clause of the Standard Contract Provisions, the original the 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 the Contractor.

(b) "(DMH)" shall mean the District of Columbia, Department of Mental Health

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.

(c) "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

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

- (iii) Used, in whole or in part, by or for (DMH) to make decisions about individuals.
- 2. For purposes of this paragraph, the term record means any items, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for (DMH).
- (d) Individual shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- (e) Privacy Rule. "Privacy Rule" shall mean the requirements and restrictions contained in 45 CFR part 160 and part 164, subparts A and E, as modified by any District of Columbia laws, including the Mental Health Information Act of 1978, that may have preemptive effect by operation of 45 CFR part 160, subpart B.
- (f) "Protected information" shall include "protected health information" as defined in 45 CFR 164.501, limited to the protected health information created or received by Business Associate from or on behalf of (DMH), information required to be kept confidential pursuant to the confidentiality law and confidential information concerning (DMH) or its employees.
- (g) "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 164.501, limited to the information created or received by the Business Associate from or on behalf of (DMH).
- (h) "Required by law" shall have the same meaning as the term "required by law" in 45 CFR 164.501, except to the extent District of Columbia laws have preemptive effective by operation of 45 CFR part 160, subpart B, or, regarding other protected information, required by District or federal law.
- (i) "Secretary" shall mean the Secretary of the Department of Health and Human Services or designee.

H.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.

OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

- (e) The Business Associate agrees to ensure that any agent, including a Sub-Contractor, to whom it provides protected information received from, or created or received by the Business Associate on behalf of ((DMH)) agrees to the same restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information.
- (f) The Business Associate agrees to provide access, at the request of (DMH) and in the time and manner prescribed by the Director, Contracts and Procurement, Agency Chief Contracting Officer, to protected information in a Designated Record Set, to (DMH) or, as directed by (DMH), to an individual in order to meet the requirements under 45 CFR 164.524.
- (g) The Business Associate agrees to make any amendment(s) to protected information in a Designated Record Set that (DMH) directs or agrees to pursuant to 45 CFR 164.526 at the request of (DMH) 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).

OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

- (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).

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

H.2.6 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 (DMH) to comply with the requirements of the MHIA 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

- H.3.1 All costs of operation under this Solicitation shall be borne by The Contractor. This includes, but is not limited to, taxes, surcharges, licenses, insurance, transportation, salaries and bonuses.

H.4 THE CONTRACTOR LICENSE, CLEARENCS

- H.4.1 The Contractor shall maintain documentation that he/SEH possesses adequate training, qualifications and competence to perform the duties to which he/SEH is assigned and hold current licenses or certification as appropriate.

H.5 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

During the performance of the Contract, this Contractor and any of its Sub-Contractors shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. Section 12101 et. Seq.

H.6 SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED

During the performance of this Contract, the Contractor and any of its Sub-Contractors shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded programs and activities. See 29 U.S.C. Section 797 et. Seq.

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

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

SECTION I

CONTRACT CLAUSES

TABLE OF CONTENTS

<u>CLAUSE NO.</u>	<u>CLAUSE TITLE</u>	<u>PAGE NO.</u>
I.1	APPLICABILITY OF STANDARD CONTRACT PROVISIONS AND WAGE DETERMINATION	37
I.2	CONTRACTS THAT CROSS FISCAL YEARS	37
I.3	CONFIDENTIALITY OF INFORMATION	37
I.4	TIME	37
I.5	EQUAL EMPLOYMENT OPPORTUNITY	37
I.6	DEPARTMENT OF MENTAL HEALTH POLICIES AND RULES	38
I.7	OTHER CONTRACTS	38
I.8	SUBCONTRACTS	38
I.9	INSURANCE	38-39
I.10	GOVERNING LAW	40
I.11	RESTRICTION ON DISCLOSURE AND USE OF DATA	40
I.12	FIRST SOURCE EMPLOYMENT AGREEMENT	40
I.13	RIGHTS IN DATA	40-43
I.14	ANTI-KICKBACK PROCEDURES	43-45
I.15	CONTINUITY OF SERVICES	45
I.16	ORDER OF PRECEDENCE	45-46

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

PART I: THE SCHEDULE

SECTION I: CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS AND WAGE DETERMINATION

I.1.1 The Standard Contract Provisions for use with District of Columbia Government Supply and Services Contracts dated March 2007 (Attachment J.1) the District of Columbia Procurement Practices Act of 1985, as amended, and Title 27 of the District of Columbia Municipal Regulations, as amended, are incorporated by reference into this Contract. The Standard Provisions are attached hereto and can also be retrieved at http://ocp.in.dc.gov/ocp/lib/ocp/policies_and_form/Standard_Contract_Provisions_0707.pdf as part of the Contract resulting from this solicitation.

I.2 CONTRACTS THAT CROSS FISCAL YEARS

I.2.1 Continuation of this Contract beyond the Fiscal Year is contingent upon future fiscal appropriations.

I.3 CONFIDENTIALITY OF INFORMATION

I.3.1 All information obtained by the Contractor relating to any employee of the District or Consumer of the District shall be kept in absolute confidence and shall not be used by the Contractor in connection with any other matters, nor shall any such information be disclosed to any other person, firm, or corporation, in accordance with the District and Federal laws governing the confidentiality of records.

I.4 TIME

I.4.1 Time, if stated as a number of days, shall mean all calendar days including Saturdays, Sundays, and Holidays, unless otherwise stated herein. Business days shall mean all days excluding Saturdays, Sundays, holidays and other days in which District Government is closed.

I.5 EQUAL EMPLOYMENT OPPORTUNITY

I.5.1 In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein Attachment J.4. An award cannot be made to any Contractor who has not satisfied the equal employment requirement as set forth by Department of Small and Local Business Development.

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

I.6 DEPARTMENT OF MENTAL HEALTH POLICIES AND RULES

- I.6.1 All Contractors must be in compliance with Department of Mental Health ((DMH)) Policies and Rules which can be found on the (DMH) Website by using the link below.**

[http://www.\(DMH\).dc.gov,\(DMH\),cwp,view,a,3,q,621393,\(DMH\)Nav,%7C31262%7C.asp](http://www.(DMH).dc.gov,(DMH),cwp,view,a,3,q,621393,(DMH)Nav,%7C31262%7C.asp)

I.7 OTHER CONTRACTORS

- I.7.1 The Contractor shall not commit or permit any act that shall interfere with the performance of work by another District Contractor or by any District employee.**

I.8 SUB-CONTRACTS

- I.8.1 The Contractor hereunder shall not sub-contract any of the Contractor's work or services to any sub-Contractor without the prior written consent of the Contracting Officer. Any work or service so sub-contracted shall be performed pursuant to a sub-contract agreement, which the District shall have the right to review and approve prior to its execution to the Contractor. Any such sub-contract shall specify that the Contractor and the sub-Contractor shall be subject to every provision of this Contract. Notwithstanding any such sub-Contractor approved by the District, the Contractor shall remain liable to the District for all the Contractor's work and services required hereunder.**

I.9 INSURANCE

- I.9.1 The Contractor shall procure and maintain at its' own cost and expense, during the entire period of performance under this Contract, the types of insurances specified below. The Contractor shall submit a Certificate of Insurance giving evidence of the required coverage prior to commencing work. All insurance shall be procured from insurers authorized to do business in Washington, DC. The Contractor shall require all sub-Contractors to carry insurance required herein, or the Contractor may, at his option, provide the coverage for any or all sub-Contractors, and if so, the evidence of insurance submitted shall so stipulate. In no event shall work be performed until the required certificate of insurance has been furnished. The insurance shall provide for thirty (30) days written notice to be given to the District in the event coverage is substantially changed, cancelled or non-renewed. If the insurance coverage provided is not in compliance with all the requirements herein, the District maintains the right to stop work until proper evidence is provided. The Contractor shall obtain the minimum insurance coverage set forth below prior to the 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.**

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

Evidence of insurance shall be submitted to:

Samuel J. Feinberg, CPPO, CPPB
Director Contracts and Procurement
Agency Chief Contracting Officer
Department of Mental Health
Government of the District of Columbia
64 New York Ave., NE
Washington, DC 20002

- I.9.2 **Bodily Injury:** The Contractor shall carry bodily injury insurance coverage written in the comprehensive form of policy of at least \$500,000 per occurrence.
- I.9.3 **Property Damage:** The Contractor shall carry property damage insurance of a least (\$20,000) per occurrence.
- I.9.4 **Workers' Compensation:** The Contractor shall carry workers' compensation insurance covering all of its employees employed upon the premises and in connection with its other operations pertaining to this Contract, and the Contractor agrees to comply at all times with the provisions of the workers' compensation laws of the District or the jurisdiction(s) in which the contract work shall be performed. Employer's Liability coverage with limits of not less than \$100,000/accident, \$100,000/disease and \$500,000/disease policy limit shall be included.
- I.9.5 **Employer's Liability:** The Contractor shall carry employer's liability coverage with Limits of liability of not less than one hundred thousand dollars (\$100,000) per employee.
- I.9.6 **Automobile Liability:** The Contractor shall maintain automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the Contract. Policies shall provide coverage of at least \$200,000 per person and \$500,000 per occurrence for bodily injury and \$20,000 per occurrence for property damage.
- I.9.7 **Professional Liability:** The Contractor shall carry and maintain professional liability insurance coverage of at least one (1) Million Dollars.
- I.9.8 All insurance provided by the Contractor as required by this section, except comprehensive automobile liability insurance, shall set forth the District as an additional named insured. All insurance shall be written with responsible companies licensed by the District of Columbia's Department of Insurance and Securities Regulation with a certificate of insurance to be delivered to the District's Contracting Officer within fourteen (14) days of Contract award. The policies of insurance shall provide for at least thirty (30) days written notice to the District prior to their termination or material alteration.

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

I.10 GOVERNING LAW

This contract shall be governed by and construed in accordance with the laws applicable in the District of Columbia, the rules and regulations of the Department of Mental Health and other pertinent laws, rules and regulations relating to the award of public Contracts in the District.

I.11 RESTRICTION ON DISCLOSURE AND USE OF DATA

I.11.1 Contractors who include in their Bid data that they do not want disclosed to the public or used by the District Government except for use in the procurement process shall:

I.11.2 Mark the title page with the following legend:

"This Bid includes data that shall not be disclosed outside the District Government and shall not be duplicated, used or disclosed in whole or in part for any purpose except for use in the procurement process."

I.11.3 If however, a Contract is awarded to this Contractor as a result of or in connection with The submission of this data, the District Government shall have the right to duplicate, use, or disclose the data to the extent consistent with the District's needs in the procurement process. This restriction does not limit the District's rights to use, without restriction, information contained in this data if it is obtained from another source. The data subject to this restriction are contained in Sheets (insert numbers or other identification of Sheets)."

I.11.4 Mark each Sheet of data it wishes to restrict with the following legend:
"Use or disclosure of data contained on this Sheet is subject to the restriction on the title page of this Bid."

I.12 FIRST SOURCE EMPLOYMENT AGREEMENT

The Contractor shall maintain compliance with the terms and conditions of the First Source Employment Agreement executed between the District of Columbia and the Contractor throughout the entire duration of the contract, including option periods if any.

I.13 RIGHTS IN DATA

I.13.1 "Data," as used herein, means recorded information, regardless of form or the media on which it shall 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.

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

- I.13.2 The term "Technical Data", as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It shall, 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 shall be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process Sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to Contract administration.
- I.13.3 The term "Computer Software", as used herein means computer programs and computer Databases. "Computer Programs", as used herein means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. "Computer Programs" include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort merge programs, and automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs. Computer programs shall be either machine-dependent or machine-independent, and shall be general purpose in nature or designed to satisfy the requirements of a particular user.
- I.13.4 The term "computer Databases", as used herein, means a collection of data in a form capable of being processed and operated on by a computer.
- I.13.5 Any data derived from the performance of this Contract shall be the sole property of the District. The Contractor hereby acknowledges that all data, including, without limitation, computer program codes, produced by the Contractor for the District under this Contract, are works made for hire and are the sole property of the District; but, to the extent any such data shall not, by operation of law, be works made for hire, the Contractor hereby transfers and assigns to the District the ownership of copyright in such works, whether published or unpublished. The Contractor agrees to give the District all assistance reasonably necessary to perfect such rights including, but not limited to the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District shall have released such data to the public.
- I.13.6 The District shall have restricted rights in data, including computer software and all accompanying documentation, manuals and instructional materials, listed or described in a license or agreement made a part of this Contract, which the parties have agreed shall be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

- I.13.7 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 shall be transferred by the District;
- I.13.8 Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;
- I.13.9 Copy computer programs for safekeeping (archives) or backup purposes; and,
- I.13.10 Modify the computer software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provision that the modified portions shall remain subject to these restrictions.
- I.13.11 The restricted rights set forth in section I.13.6 are of no effect unless:

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

RESTRICTED RIGHTS LEGEND

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

No. _____

With _____ (The Contractor's Name) and

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

- I.13.12 In addition to the rights granted in Section I.6.9 below, the Contractor hereby grants to the District a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section I.6.9 below, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the District under this Contract. Unless written approval of the Agency Chief Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the District under this Contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the District any rights necessary to perfect a copyright license of the scope specified in the first sentence of this paragraph.

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

- I.13.13 Whenever any data, including computer software, are to be obtained from a sub-Contractor under this Contract, the Contractor shall use Section I.6 in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that sub-Contractor data or computer software which is required for the District.
- I.13.14 For all computer software furnished to the District with the rights specified in Section I.6.5, The Contractor shall furnish to the District, a copy of the source code with such rights of the scope specified in Section I.6.5. For all computer software furnished to the District with the restricted rights specified in Section I.6.6, the District, if the Contractor, either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under this Contract or any paid-up maintenance agreement, or if the Contractor should be declared bankrupt or insolvent by the court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under this Contract, and a single copy of the documentation associated herewith, upon payment to the person in control of the source code the reasonable cost of making each copy.
- I.13.15 The Contractor shall indemnify and save and hold harmless the District, its Officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this Contract, or (ii) based upon any data furnished under this Contract, or based upon libelous or other unlawful matter contained in such data.
- I.13.16 Nothing contained in this clause shall imply a license to the District under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.
- I.13.17 Paragraphs I.6.6, I.6.7, I.6.8, I.6.11 and I.6.12 above are not applicable to material furnished to the Contractor by the District and incorporated in the work furnished under Contract, provided that such incorporated material is identified by the Contractor at the time of delivery of such work.

I.14 ANTI-KICKBACK PROCEDURES

Definitions: "Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, sub-Contractor, or sub-Contractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract, or in connection with a sub-contract relating to a prime contract.

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

- I.14.1 “Person,” as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.
- I.14.2 “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.14.3 “Prime Contractor” as used in this clause, means a person who has entered into a prime contract with the District.
- I.14.4 “Prime Contractor employee,” as used in this clause, means any officer, partner employee, or agent of a prime Contractor.
- I.14.5 “Sub-Contract,” as used in this clause, means a contract or contractual action entered into by a prime Contractor or sub-Contractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.
- I.14.6 “Sub-Contractor,” as used in this clause, means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract, or a sub-contract entered into in connection with such prime contract, and includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier sub Contractor.
- I.14.7 “Sub-Contractor employee,” as used in this clause, means any officer, partner, employee, or agent of a sub-Contractor.
- I.14.8 The Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58 (the Act), prohibits any person from:
- I.14.8.1 Providing or attempting to provide or offering to provide any kickback;
- I.14.8.2 Soliciting, accepting, or attempting to accept any kickback; or
- I.14.8.3 Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the District or in the contract price charged by a sub-Contractor to a prime Contractor or higher tier sub-Contractor.
- I.14.9 The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph I-10.2 of this clause in its own Operations and direct business relationships.
- I.14.10 When the Contractor has reasonable grounds to believe that a violation described in paragraph I-10.2 of this clause may have occurred, the Contractor shall promptly report in writing the possible violation to the Director, Contracts and Procurement, Agency Chief Contracting Officer.

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

I.14.11 The Director, Contracts and Procurement, Agency Chief Contracting Officer may offset the amount of the kickback against any monies owed by the District under the prime contract and/or direct that the prime Contractor withhold from sums owed a sub-Contractor under the prime contract the amount of the kickback. The Director, Contracts and Procurement, Agency Chief Contracting Officer may order that monies withheld under this clause be paid over to the District unless the District has already offset those monies under this clause. In either case, the prime Contractor shall notify the Director, Contracts and Procurement, Agency Chief Contracting Officer when the monies are withheld.

I.15 CONTINUITY OF SERVICES

I.15.1 The Contractor recognizes that the services provided under this Contract are vital to the District of Columbia and must be continued without interruption and that, upon Contract expiration or termination, a successor, either the District Government or another Contractor, at the District's option, shall continue to provide these services. To that end, The Contractor agrees to:

Furnish phase-out, phase-in (transition) training; and exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

I.16 ORDER OF PRECEDENCE

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

- I.16.1 Consent Order dated December 12, 2003 in *Dixon, et al. V Fenty, et al.*, CA 74-285 (TFH) (Dixon Consent Order – Attachment J.3)
- I.16.2 Contract Sections A through J of this Contract Number
- I.16.3 Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts dated March 2007 (J.1)
- I.16.4 (DMH) Policies and Rules
- I.16.5 Solicitation, Request for Quote Number as amended, if appropriate
- I.16.6 Tax Certification Affidavit (J.2)
- I.16.7 EEO Statement and DOES (J.3)
- I.16.8 First Source (J.4)

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

I.16.9 Wage Determination (J.5)

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

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

RM-12-RFQ-010-BY4-MA
OTOLARYNGOLOGY EAR, NOSE AND THROAT MEDICAL SERVICES

PART II: SECTION J

**LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS
AND WEBSITE ADDRESS FOR COMPLIANCE DOCUMENTS:**

- J.1 STANDARD CONTRACT PROVISIONS (JULY 2010) (38 Pages)**
[http://ocp.dc.gov/DC/OCP/Contractor+Support+Center/Solicitation+Attachments/Standard+Contract+Provisions+\(March+2007\)](http://ocp.dc.gov/DC/OCP/Contractor+Support+Center/Solicitation+Attachments/Standard+Contract+Provisions+(March+2007))
- J.2 WAGE DETERMINATION (REVISION 8, MAY 26, 2009) (10 Pages)**
[http://Wage+Determination+-+May+29,+2008.PDF+\(568KB\)](http://Wage+Determination+-+May+29,+2008.PDF+(568KB))
- J.3 CONSENT ORDER DATED DECEMBER 12, 2003 in DIXON, ET AL. V FENTY, ET AL., CA 74-285 (TFH) (DIXON CONSENT ORDER) (18 pages)**
[http://www.\(DMH\).\(DMH\)dc.gov,,cwp,view,a,3,q,639222,\(DMH\)Nav,|31262|.asp](http://www.(DMH).(DMH)dc.gov,,cwp,view,a,3,q,639222,(DMH)Nav,|31262|.asp)
- J.4 EQUAL EMPLOYMENT OPPORTUNITY DOCUMENT**
<http://ocp.dc.gov/DC/OCP/Contractor+Support+Center/Solicitation+Attachments/EEO+Information+and+Mayor+Order+85-85>
- J.5 FIRST SOURCE EMPLOYMENT AGREEMENT (9 Pages)**
<http://ocp.dc.gov/DC/OCP/Contractor+Support+center/Solicitation+Attachments/First+Source+Employment+Agreement>
- J.6 BUDGET PACKAGE (ATTACHMENT ONE) (12 Pages)**
<http://ocp.dc.gov/DC/OCP/Contractor+Support+Center/Solicitation+Attachments/COST+DATA+REQUIREMENTS+Template>
- J.7 TAX CERTIFICATION AFFIDAVIT (Complete and return a copy with your Bid)**
<http://ocp.dc.gov/DC/OCP/Contractor+Support+Center/Solicitation+Attachments/Tax+Certification+Affidavit>
- J.8 LIVING WAGE ACT FACT SHEET (THE WAY TO WORK AMENDMENT ACT OF 2006) (2 Pages)**
<http://ocp.dc.gov/DC/OCP/Publication%20Files/Living%20Wage%20Act%20Fact%20Sheet2010.pdf>