

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

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 47</b>		
		3. CONTRACT NUMBER:		
		4. SOLICITATION NUMBER: <b>RM0-08-IFB-041-BY0-RKG</b>		
		5. DATE ISSUED: <b>Wednesday, October 1, 2008</b>		
		6. OPENING/CLOSING TIME: <b>Thursday, October 30, 2008, 2:00 PM</b>		
7. TYPE OF SOLICITATION: N/A <input checked="" type="checkbox"/> INVITATION FOR BID (IFB) <input type="checkbox"/> REQUEST FOR QUOTE (RFQ)		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 Agency Chief Contracting Officer	TELEPHONE NUMBER: <b>202-671-3188</b>	B. E-MAIL ADDRESS: Samuel.Feinberg@dc.gov

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**OFFER (TO BE COMPLETED BY THE CONTRACTOR)**

12. In compliance with the above, the undersigned agrees, if the offer is accepted within 30 calendar days (unless a different period is inserted by the Contractor) from the date for receipt of offers specified above, that with respect to all terms and conditions by the DMH under "AWARD" below, this offer and the provisions of the RFP/IFB will constitute a Formal Contract. All offers are subject to the terms and conditions contained in the solicitation.

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

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

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

**IMPORTANT NOTICE: AWARD WILL BE MADE ON THIS FORM OR BY OTHER AUTHORIZED OFFICIAL WRITTEN NOTICE**

**PART 1: THE SCHEDULE**

**SCHEDULE B**

**SUPPLIES/SERVICES AND PRICE/COSTS**

**SCHEDULE B - PRICING SCHEDULE**

<b>(A) Contract Line Item Number (CLIN)</b>	<b>(B) Services</b>	<b>(C) Maximu m Quantity</b>	<b>(D) Unit</b>	<b>(E) Unit Price</b>	<b>(F) Extended Price</b>
0001	<p><b>Schedule B – Pricing</b>            The Government of the District of Columbia Department of Mental Health Services (DMH), Saint Elizabeths Hospital (SEH) is seeking a qualified vendor to provide technical assistance and training services for its Clinical Staff. The proposed technical assistance and training shall center on the development and training for co-occurring disorders and substance abuse assessments.</p> <p>The selected Contractor shall be awarded a Contract based on immediate ability to meet our needs.</p> <p><b>This is a Firm Fixed Price Contract            The Period of Performance (POP)            under this contract shall be for One            Year from Date of Award.</b></p> <p>Technical Training Consultant.            Training shall be centered co-occurring disorders and substance abuse assessments.</p>	2080	Hours	\$ _____	\$ _____

**TOTAL VALUE:** \$ \_\_\_\_\_

_____ Print Name of Offeror	
_____ Print Name of Authorized Person	
_____ Title	
_____ Signature of Authorized Person	_____ Date

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

**PART 1: THE SCHEDULE**  
**SECTION C**  
**DESCRIPTION/SPECS/WORK STATEMENT**

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**PART 1: THE SCHEUDLE**

**SECTION C**

**DESCRIPTION/SPECIFICATIONS/ STATEMENT OF WORK**

**SECTION C: DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK**

**C.1 BACKGROUND**

- C.1.1** Saint Elizabeths Hospital serves as the District of Columbia’s government-run psychiatric hospital. SEH was created in 1855 and was primarily utilized to treat military personnel. In 1987, control of SEH was transferred from the federal government to the District of Columbia.
- C.1.2** SEH patients are provided care in one of two programs: Civil and Forensics. Civil program patients are patients voluntarily and involuntarily committed and may have civil court involvement. Currently, there are 205 patients in the Civil program.
- C.1.3** The Forensics Program is responsible for providing for patients accused of serious crimes who are undergoing psychiatric examination prior to trial, under treatment who have been found mentally incompetent to stand trial, judged “not guilty by reason of insanity” who are undergoing treatment and rehabilitation after trial, and/or have become mentally ill while serving sentence and have been transferred from a correctional institution to the Hospital for treatment. Currently, there are 197 patients in the Forensics program.
- C.1.4** In 2007, the District of Columbia entered into an Agreement with the Department of Justice (DOJ) to improve care and treatment of patients at the Hospital. Under the DOJ Agreement, the Hospital is required to develop assessments for substance abuse and co-occurring disorders.

**C.2 SCOPE OF SERVICE**

- C.2.1** The Government of the District of Columbia, Department of Mental Health, Saint Elizabeth Hospital (SEH), seeks a qualified vendor to provide technical assistance and training services for its clinical staff. The proposed technical assistance and training shall center on the development and training for co-occurring disorders and substance abuse assessments.

**C.3 GENERAL REQUIREMENTS**

- C.3.1** The Contractor shall provide technical assistance and training services for the SEH Clinical staff on issues related to the development of co-occurring and substance abuse assessments for inpatient consumers. Those services shall include:
  - C.3.1.1** Training on substance abuse assessments to multidisciplinary staff;
  - C.3.1.2** Training on assistance with diagnosing substance abuse, identifying treatment needs and developing appropriate interventions;

- C.3.1.3 Provide technical assistance to the Director of co-occurring disorders with development of a training module ensuring full staff integration of substance abuse treatment needs into treatment planning processes;
- C.3.1.4 Provide written materials for utilization as reference materials subsequent to the training;
- C.3.1.5 The Contractor shall develop a training plan for approval by the Contracting Officer's Technical Representative prior to training; and
- C.3.1.6 The training plan shall outline completion of training for all covered individuals.

**C.4 LOCATION OF SERVICES**

- C.4.1 All services will be performed on the campus of Saint Elizabeth Hospital

**C.5 CONTRACTOR REQUIREMENTS**

- C.5.1 The Contractor shall meet the following minimum requirements:
- C.5.2 Possess a degree in medicine, psychology or social work from an accredited institution of higher learning;
- C.5.3 Possess active professional licensure, preferably medical or mental health, anywhere in the United States;
- C.5.4 Demonstrable experience in providing technical assistance or developing assessments of co-occurring disorders and training multidisciplinary staff in conducting substance abuse assessments;
- C.5.5 Experience training medical and mental health professionals.

**C.6 MISSION AND PHILOSOPHY**

- C.6.1 The purpose of this effort is to provide technical assistance and training services for SEH clinical staff. The proposed training shall be related to the development of co-occurring substance abuse assessments for inpatient consumers.

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

**PART I: THE SCHEDULE**  
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**PART I: THE SCHEDULE**

**SECTION D**

**PACKAGING AND MARKING**

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

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

**PART I: THE SCHEDULE**

**SECTION E**

**INSPECTION AND ACCEPTANCE**

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**PART 1: THE SCHEDULE**

**SECTION E**

**INSPECTION AND ACCEPTANCE**

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

1. The Contractor shall be held to the full performance of the contract. The DMH shall deduct from the Contractor's invoice or otherwise withhold payment for any non-conforming service as specified below.
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.
3. The DMH shall give the Contractor written notice of deductions by providing copies of reports, which summarize the deficiencies for which the determination was made to assess the deduction in payment for unsatisfactory work.

**E-2 Therefore:**

1. In the case of non-performed work, the DMH:
  - (a) Shall deduct from the Contractor's invoice all amounts associated with such non-performed work at the rate set out in Section B or provided by other provisions of the contract.
  - (b) Shall, at its option, afford the Contractor an opportunity to perform the non-performed work within a reasonable period subject to the discretion of the Director, Contracting and Procurement/Agency Chief Contracting Officer and at no additional cost to the DMH.
  - (c) Shall, at its option, perform the services by the DMH personnel or other means.
2. In the case of unsatisfactory work, the DMH:
  - (a) Shall deduct from the Contractor's invoice all amounts associated with such unsatisfactory work at the rates set out in Section B or provided by other provisions of the contract, unless the Contractor is afforded an opportunity to re-perform and satisfactory completes the work;
  - (b) Shall, at its option, afford the Contractor an opportunity to re-perform the unsatisfactory work within a reasonable period subject to the discretion of the Director, Contracting and Procurement/Agency Chief Contracting Officer and at no additional cost to the DMH.

**E-3 TERMINATION FOR CONVENIENCE**

1. The DMH may terminate performance of work under this contract for the convenience of the Government, in whole or, from time to time, in part, if the Director, Contracts and Procurement/Agency Chief Contracting Officer 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 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 bid 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 bids 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-4 TERMINATION FOR DEFAULT**

1. DMH may, subject to the conditions stated below, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:
  - (a) Perform the services within the time specified in this contract or any extension; or
  - (b) Make progress so as to endanger performance of this contract; or

- (c) Perform any of the other material provisions of this contract.
2. DMH's right to terminate this contract may be exercised if the Contractor does not cure such failure within 10 days (or such longer period as authorized in writing by the Contracting Officer) after receipt of the notice to cure from the Contracting Officer specifying the failure.
  3. If DMH terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Director, Contracts and Procurement/Agency Chief Contracting Officer considers appropriate, supplies and services similar to those terminated, and the Contractor shall be liable to DMH for any excess costs for those supplies and services. However, the Contractor shall continue the work not terminated.
  4. Except for default by 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.
  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 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.
  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.
  7. DMH shall pay the contract price or a portion thereof, for fully or partially completed or delivered supplies and services that are accepted by DMH.
  8. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of DMH.
  9. The rights and remedies of DMH in this clause are in addition to any other rights and remedies provided by law or under this agreement.

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

**PART I: THE SCHEDULE**

**SECTION F**

**DELIVERY and PERFORMANCE**

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**PART I - THE SCHEDULE**

**SECTION F**

**DELIVERY AND PERFORMANCE**

**F-1 PERIOD OF PERFORMANCE (POP)**

Performance under this contract shall be in accordance with the terms and conditions set forth herein and by any modification made thereto. The Period of Performance under this contract shall be as indicated on the Pricing Schedule which is for One Year from Date of Award as indicated on the Schedule B Pricing sheet on page 2 of this document.

**F-2 DELIVERY OF DELIVERABLES**

**F-2.1** The Contractor shall provide written monthly status reports to the COTR. The reports are due on the 5<sup>th</sup> day of the following month. The report shall include all projects completed in the prior month, the status of projects yet completed, staff members interviewed, meetings attended and the total number of hours utilized in performance of the work in question.

**F-2.2** In instances where the Contractor develops a self-assessment tool, the time-line for completion of said task shall be mutually agreed upon between the COTR and the Contractor in advance, where practical and appropriate.

**F-2.3** Within thirty (30) days of the execution of this Contract, if not sooner, the Contractor shall work with S E H to develop a written time-line for S E H's development and implementation of the provision of services under this contract which shall include but not be limited to training and tools related to this Contract. The timeline shall be submitted to the COTR.

**F-3 CONTRACTOR NOTICE REGARDING LATE PERFORMANCE**

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

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

**PART I: THE SCHEDULE**

**SECTION G**

**CONTRACT ADMINISTRATION DATA**

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**PART I: THE SCHEDULE**

**SECTION G**

**CONTRACT ADMINISTRATION DATA**

**G-1 CONTRACT ADMINISTRATION**

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

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

**G-2 TYPE OF CONTRACT**

This is a Firm Fixed Price Contract for Consulting Services. The Contractor shall be remunerated according to Schedule B Price Sheet. In the event of termination under this contract, the DMH shall only be liable for the payment of all services accepted during the hours of work actually performed. Pursuant to the Terms and Conditions, of this contract individuals working under this contract for Department of Mental Health (DMH) are not eligible to be paid for holidays and sick leave. However, if you work on a Holiday, you shall be paid at your regular hourly rate.

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

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

**G-3 MODIFICATIONS**

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

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

Funds are not presently available for performance under this contract beyond September 30, 2008. DMH's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the DMH for any payment may arise for performance under this contract beyond September 30, 2008, 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**

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

**Jimmy Moyer, CIA**  
**St. Elizabeths Hospital, Behavioral Studies Building, 2<sup>nd</sup> Fl.**  
**2700 Martin Luther King, Jr. Ave., SE**  
**Washington, DC 20032**  
**(202) 645-8906**  
**Jimmy.Moyer@dc.gov**

**G-6 SUBMISSION OF INVOICE**

The 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 the 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 the Contractor, unless a discount for prompt payment is offered and payment is made within the discount periods. Any invoices deemed improper for payment shall be returned, **UNPAID** and must be resubmitted as indicated in this clause.

**G-7 CERTIFICATION OF INVOICE**

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



**G-8 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 the Contractor for performing the services under this contract at the prices stated in Section B.

**G-9 RESPONSIBILITY FOR AGENCY PROPERTY**

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

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

**PART I: THE SCHEDULE**

**SECTION H**

**SPECIAL CONTRACT REQUIREMENTS**

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## **PART I: THE SCHEDULE**

### **SECTION H**

#### **SPECIAL CONTRACT REQUIREMENTS**

##### **H-1 CONTRACTOR LICENSE/CLEARENCES**

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

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

###### **H.2.1 Definitions**

- (a) "Business Associate" shall mean The Contractor.
- (b) "DMH" shall mean the District of Columbia, Department of Mental Health
- (c) "Confidentiality law" shall mean the requirements and restrictions contained in Federal and District law concerning access to child welfare information, including D.C. Official Code §§ 4-1302.03, 1302.08, 1303.06 and 130-3.07.
- (d) "Designated Record Set" means:
  - 1. A group of records maintained by or for DMH that is:
    - (i) The medical records and billing records about individuals maintained by or for a covered health care provider;
    - (ii) The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
    - (iii) Used, in whole or in part, by or for DMH to make decisions about individuals.
  - 2. For purposes of this paragraph, the term record means any items, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for DMH.
- (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 contract, provided that such use or disclosure would not violate the confidentiality law or privacy rule if done by DMH or the minimum necessary policies and procedures of DMH.
- (b) Except as otherwise limited in this Section H.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 will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- (d) Except as otherwise limited in this Section H.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**

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 April 2003, 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 contract shall be borne by the Contractor. This includes but is not limited to taxes, surcharges, licenses, insurance, transportation, salaries and bonuses.

**H.4 LIQUIDATED DAMAGES**

**H.4.1** When the Contractor fails to perform the tasks required under this Contract, DMH shall assess Liquidated Damages in an amount of \$250.00 per day against the Contractor until such time the Contractor has cured its deficiencies and is able to satisfactorily perform the tasks required under this Contract.

**H.4.2** 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. In addition, if the Contractor is found to be in default of said contract under the Default Clause of the Standard Contract Provisions, the original Contractor is completely liable for any and all total cost differences between their Contract and the new Contract awarded by DMH to the replacement Contractor.

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

**PART II: CONTRACT CLAUSES**

**SECTION I**

**CONTRACT CLAUSES**

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**PART II: CONTRACT CLAUSES**

**SECTION I - CONTRACT CLAUSES**

**I.1 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 contract. The Standard Provisions are attached hereto and can also be retrieved at <http://www.ocp.dc.gov/ocp/site/default.asp>; click on the "OCP Policies" link, and then the link to "Standard Contract Provisions-Supply and Services Contracts."

**I.2 CONTRACTS THAT CROSS FISCAL YEARS**

Continuation of this contract beyond the fiscal year is contingent upon future fiscal appropriations.

**I.3 CONFIDENTIALITY OF INFORMATION**

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

**I.4 TIME**

Time, if stated in a number of days, shall include Saturdays, Sundays, and holidays, unless otherwise stated herein.

**I.5 EQUAL EMPLOYMENT OPPORTUNITY**

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 as Attachment J.3. An award cannot be made to any Prospective Offeror who has not satisfied the equal employment requirements as set forth by the Department of Small and Local Business Development.

**I.6 OTHER CONTRACTORS**

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.7 SUBCONTRACTORS**

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

- 1.7.1** Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor contractor.

## **I.8 INSURANCE**

The Contractor shall procure and maintain at its own cost and expense, during the entire period of performance under this Contract, the types of insurance 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 subcontractors to carry the insurance required herein, or Contractor may, at his option, provide the coverage for any or all subcontractor, 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 30 days prior written notice to be given to the District in the event coverage is substantially changed, canceled or non-renewed. If the insurance provided is not in compliance with all the requirements herein, the District maintains the right to stop work until proper evidence is provided.

Evidence of insurance shall be submitted to:

Samuel J. Feinberg, CPPO, CPPB  
Director, Contracts and Procurement  
Agency Chief Contracting Officer  
Government of the District of Columbia  
Department of Mental Health  
64 New York Avenue, NE, 4<sup>th</sup> Floor  
Washington, DC 20002

### **I.9.1 WORKERS' COMPENSATION INSURANCE**

A policy complying with the requirements of the statutes of the jurisdiction(s) in which the contract work will be performed, covering all employees of the Contractor. Employer's Liability coverage with limits of liability of not less than \$100,000/accident, \$100,000/disease, and \$500,000/disease policy limit shall be included.

### **I.9.2 COMMERCIAL GENERAL LIABILITY INSURANCE**

A policy issued to and covering liability imposed upon the Contractor with respect to all work to be performed and all obligations assumed by the Contractor under the terms of this Contract. Products-completed operations, independent contractors, and contractual liability coverage's are to be included. If any machinery, equipment, storage containers or anything else that has the potential for releasing contaminants (e.g., fuels, lubricants, etc.) into the environment will be brought onto the job site, the policy shall endorsed to provide coverage's for sudden and accidental pollutions. The District is to be designated as an additional insured with respect to

operations to be performed. Coverage under this policy or policies, shall have limits of liability of not less than \$1,000,000 per occurrence, combined single limit for bodily injury (including disease or death), personal injury and property damage (including loss of use) liability.

**I.9.3** All insurance shall be written with responsible companies. Each insurance policy shall be provided for at least thirty (30) days written notice to the District, prior to any termination or material alternation.

**I.10 GOVERNING LAW**

This Contract is governed by the laws of 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 STOP WORK ORDER**

**I.11.1** The Director, Contracts and Procurement/Agency Chief Contracting Officer may, at anytime, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of ninety (90) days after the order is delivered to the Contractor, and for any further period to which the parties may agree.

**I.11.2** The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurring of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Director, Contracts and Procurement/Agency Chief Contracting Officer shall either cancel the stop-work order; or terminate the work covered by the order as provided in the Default or Termination for Convenience clauses in the Standard Contract Provisions (Attachment J-1).

**I.11.3** If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Director, Contracts and Procurement/Agency Chief Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly.

**I.11.4** If the stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and the Contractor asserts its right to the adjustment within thirty (30) days after the end of the period of work stoppage; provided, that, if the Director, Contracts and Procurement/Agency Chief Contracting Officer decides the facts justify the action, the Director, Contracts and Procurement/Agency Chief Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

**I.11.5** 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.11.6** 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.12 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, 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.

“Person,” as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

- I.12.1** “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.12.2** “Prime Contractor” as used in this clause, means a person who has entered into a prime contract with the District.
- I.12.3** “Prime Contractor employee,” as used in this clause, means any officer, partner employee, or agent of a prime Contractor.
- I.12.4** “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.12.5** “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.12.6** “Subcontractor employee,” as used in this clause, means any officer, partner, employee, or agent of a subcontractor.
- I-12.6** The Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58 (the Act), prohibits any person from:
  - I.12.6.1** Providing or attempting to provide or offering to provide any kickback;
  - I.12.6.2** Soliciting, accepting, or attempting to accept any kickback; or
  - I.12.6.3** 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.12.7** 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.12.8** When the Contractor has reasonable grounds to believe that a violation described in paragraph I-10.2 of this clause may have occurred, the Contractor shall promptly report in writing the possible violation to the Director, Contracts and Procurement/Agency Chief Contracting Officer.

**I.12.9** 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.13** **RIGHTS IN DATA**

**I.13.1** "Data," as used herein, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.

**I.13.2** The term "Technical Data", as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.

**I.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 may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.

**I.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** All data first produced in the performance of this Contract shall be the sole property of the District. The Contractor hereby acknowledges that all data, including, without limitation, computer program codes, produced by the Contractor for the District under this contract, are works made for hire and are the sole property of the District; but, to the extent any such data may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the District the ownership copyright in such works, whether published or unpublished. The Contractor agrees to give the District all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District may have released such data to the public. The District shall not unreasonably withhold consent to the Contractor's request to publish or reproduce data in professional and scientific publications.

- 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 will be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:
- I.13.6.1** Use the computer software and all accompanying documentation and manuals or instructional materials with the computer for which or with which it was acquired, including use at any District installation to which the computer may be transferred by the District;
  - I.13.6.2** Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;
  - I.13.6.3** Copy computer programs for safekeeping (archives) or backup purposes; and
  - I.13.6.4** 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.13.7** The restricted rights set forth in section I-5.6 are of no effect unless:
- I.13.7.1** The data is marked by the Contractor with the following legend:

**RESTRICTED RIGHTS LEGEND**

Use, duplication, or disclosure is subject to restrictions stated in Contract  
No. \_\_\_\_\_  
With \_\_\_\_\_ (Contractor's Name); and

- I.13.7.2** If the data is computer software, the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on the computer software indicating restrictions on the District's rights in such software unless the restrictions are set forth in a license or agreement made a part of the contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the District of liability with respect to such unmarked software.
- I.13.8** In addition to the rights granted in Section I-5.9 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-5.9 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 Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the District under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the District any rights necessary to perfect a copyright license of the scope specified in this paragraph.
- I.13.9** Whenever any data, including computer software, are to be obtained from a subcontractor under this contract, the 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 the Contractor's rights in that subcontractor data or computer software which is required for the District.

- I.13.10** For all computer software furnished to the District with the rights specified in Section I-5.5, the Contractor shall furnish to the District a copy of the source code with such rights of the scope specified in Section I-5.5. For all computer software furnished to the District with the restricted rights specified in Section I-5.6, the District, if the Contractor, either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under this contract or any paid-up maintenance agreement, or if Contractor should be declared bankrupt or insolvent by 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 therewith, upon payment to the person in control of the sources code the reasonable cost of making each copy.
- I.13.11** The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses for the following:
- I.13.11.1** 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
- I.13.11.2** Based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.
- I.13.12** Nothing contained in this clause shall imply a license to the District under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.
- I.13.13** Sections I-5.6, I-5.7, I-5.8, I-5.11 and I-5.12 in this clause are not applicable to material furnished to the Contractor by the District and incorporated in the work furnished under contract, provided that such incorporated material is identified by the Contractor at the time of delivery of such work.

**I.14       SUSPENSION OF WORK**

- I.14.1**       The Director, Contracts and Procurement/Agency Chief Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Director, Contracts and Procurement/Agency Chief Contracting Officer determines appropriate for the convenience of the District. If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed or interrupted by an act of the Director, Contracts and Procurement/Agency Chief Contracting Officer in the administration of this contract, or by the Director, Contracts and Procurement/Agency Chief Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly.

- I.14.2** No adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.
- I.14.3** A claim under this clause shall not be allowed for any costs incurred more than twenty (20) days before the Contractor shall have notified the Director, Contracts and Procurement/Agency Chief Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.
- I.15 STOP WORK ORDER**
- I.15.1** The Director, Contracts and Procurement/Agency Chief Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of ninety (90) days after the order is delivered to the Contractor, and for any further period to which the parties may agree.
- I.15.2** The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurring of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Director, Contracts and Procurement/Agency Chief Contracting Officer shall either cancel the stop-work order; or terminate the work covered by the order as provided in the Default or Termination for Convenience clauses in the Standard Contract Provisions (Attachment J-1).
- I.15.3** If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Director, Contracts and Procurement/Agency Chief Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly.
- I.15.4** If the stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and the Contractor asserts its right to the adjustment within thirty (30) days after the end of the period of work stoppage; provided, that, if the Director, Contracts and Procurement/Agency Chief Contracting Officer decides the facts justify the action, the Director, Contracts and Procurement/Agency Chief Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- I.15.5** 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.15.6** 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.16** This Section is Reserved for Future Use

**I.17** This Section is Reserved for Future Use

**I.18 ORDER OF PRECEDENCE**

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

1. Consent Order dated December 12, 2003 in Dixon, et al. v Fenty, et al., CA 74-285 (TFH) (Dixon Consent Order) (Attachment J.1) (if appropriate)
2. Contract Sections A through J of this Contract Number RM-08-IFB-041-BY0-RKG
3. Standard Contract Provisions for the Use with District of Columbia Government Supply and Services Contracts, March 2007 (Attachment J.2)
4. Wage Determination No. 2005-2103 (Revision No. 6, May 29, 2008) (attachment J.3).
5. Best and Final Offer (if appropriate)
6. Bid submission dated January 4, 2008 (if appropriate)
7. Solicitation/Request for Bid Number, as amended (if appropriate).

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 \*\***

**PART III: LIST OF DOCUMENTS, EXHIBITS AND OTHE ATTACHMENTS**

**SECTION J**

**LIST OF ATTACHMENTS**

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J-1	STANDARD CONTRACT PROVISIONS DATED MARCH 2007
J-2	WAGE DETERMINATION NO. 2005-2130, REVISION 6, DATED 5/29/08
J-3	W9 FORM AND FR-500 (NEW VENDORS)
J-4	TAX CERTIFICATION AFFIDAVIT
J-5	DMH <u>MAJOR AND UNUSUAL INCIDENT REPORTING PROCEDURES</u>

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

**ATTACHMENTS SENT SEPARATELY**

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

**PART IV: REPRESENTATIONS AND INSTRUCTIONS**

**SECTION K**

**REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF THE  
CONTRACTOR/OFFEROR**

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**PART IV: REPRESENTATIONS AND INSTRUCTIONS**

**SECTION K**

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

**K.1 TAX CERTIFICATION**

Each Prospective Offeror must submit with its offer, a sworn Tax Certification Affidavit (separate attachment).

**K.2 AUTHORIZED NEGOTIATORS**

The Prospective Offeror represents that the following persons are authorized to negotiate on its behalf with the District in connection with this request for bids: (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 Offeror, 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 Offeror 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 Offeror 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 Offeror recognizes that one of the primary goals of the District government is the creation of job opportunities for bona fide District residents. Consequently, the Prospective Offeror agrees to pursue the District's following goals for utilization of bona fide residents of the District of Columbia with respect to this contract and in compliance with Mayor's Order 83-265 and implementing instructions: (1) at least 51% of all jobs created as a result of this contract are to be performed by employees who are residents of the District of Columbia; and (2) at least 51% of apprentices and trainees shall be residents of the District of Columbia registered in programs approved by the D.C. Apprenticeship Council. The Prospective Offeror also agrees to notify all prospective Sub-offerors, prior to execution of any contractual agreements, that the Sub-offerors are expected to implement Mayor's Order 83-265 in their own employment practices. The Prospective Offeror 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 Offeror 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 Offeror shall use DOES as the first source for recruitment and referral of any new employees. The Prospective Offeror 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 Offeror to hire or train persons it does not consider qualified based on standards the Offeror 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 Offeror for a contract subject to the order. I hereby certify that I am fully aware of the content of the Mayor's Order 85-85 and the Office of Human Rights' regulations, Chapter 11, and agree to comply with them in performance of this contract.

Prospective Offeror \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

Prospective Offeror \_\_\_ has \_\_\_ has not participated in a previous contract or subcontract subject to the Mayor's Order 85-85. Prospective Offeror \_\_\_ has \_\_\_ has not filed all required compliance reports, and representations indicating submission of required reports signed by proposed Sub-Offerors. (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 contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed \$10,000, and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), the following terms and conditions apply:

(a) All representations and stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These representations and stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and handicapped workers may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (41 U.S.C. 40). If your offer is \$10,000, or more, the following information **MUST** be furnished:

(c) Regular Dealer

\_\_\_\_\_ The Prospective Offeror is a Regular Dealer.

\_\_\_\_\_ The Prospective Offeror is not a Regular Dealer.

(d) Manufacturer

\_\_\_\_\_ The Prospective Offeror is a Manufacturer.

\_\_\_\_\_ The Prospective Offeror is not a Manufacturer.

**K.7 BUY AMERICAN CERTIFICATION**

The Prospective Offeror 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 Offeror shall check one of the following:

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

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

\_\_\_\_\_

**K.9 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

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

\_\_\_\_\_  
(insert full name of person(s) in the organization responsible for determining the prices offered in this Contract and the title of his or her position in the Prospective Offeror'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.
- (iii) If the Prospective Offeror deletes or modifies subparagraph (a)(2) above, the Prospective Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

**K.10 ACKNOWLEDGMENT OF AMENDMENTS**

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

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

**\*\* END OF SECTION K\*\***



**PART IV: REPRESENTATIONS AND INSTRUCTIONS**

**SECTION L**

**INSTRUCTIONS CONDITIONS AND NOTICES TO CONTRACTORS**

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**PART IV: REPRESENTATIONS AND INSTRUCTIONS**

**SECTION L**

**INSTRUCTIONS CONDITIONS AND NOTICES TO CONTRACTORS**

**L.1 CONTRACT AWARD**

**L.1.1 Most Advantageous to the District**

The District intends to award a contract resulting from this solicitation to the responsible Prospective Offeror 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 Offeror's best terms from a standpoint of cost or price, technical and other factors.

**L.2 BID SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, AND LATE WITHDRAWALS**

**L.2.1 Bid Submission**

Bids from Offerors must be submitted no later than 2:00 P.M., local time on October 30,, 2008. Bids, modifications to bids, 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 bid 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 bid or modification was sent by mail and it is determined by the CPPO that the late receipt at the location specified in the solicitation was caused solely by mishandling by the District Government.

**L.2.2 Postmarks**

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

### **L.2.3 Late Modifications**

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

### **L.2.4 Late Bids**

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

### **L.3 HAND DELIVERY OR MAILING OF BIDS**

DELIVER OR MAIL TO:

Samuel Feinberg, CPPO, CPPB  
Department of Mental Health  
Contracts and Procurement Administration  
64 New York Avenue, NE, 4<sup>th</sup> Floor  
Washington, D. C. 20002

### **L.4 EXPLANATION TO PROSPECTIVE OFFERORS**

If a Prospective Offeror has any questions relative to this solicitation, the Prospective Offeror shall submit the question in writing to the Contact Person, identified on page one, in writing. The Prospective Offeror shall submit questions no later than seven (7) calendar days prior to the closing date and time indicated for this solicitation. The District shall not consider any questions received less than seven (7) calendar days before the date set for submission of bid. The District shall furnish responses promptly to all other Prospective Offerors. 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 Offerors. Oral explanations or instructions given before the award of the contract shall not be binding.

### **L.5 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 bid in response to this SOLICITATION. If a recipient does not submit an offer and does not notify the Director/CPPO, Department of Mental Health that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

## **L.6 BID PROTESTS**

Any actual or Prospective Offeror, or Offeror who is aggrieved in connection with the solicitation or award of a contract, must file with the D.C. Contract Appeals Board (Board) a protest no later than 10 business days after the basis of protest is known or should have been known, whichever is earlier. A protest based on alleged improprieties in a solicitation which are apparent prior to the time set for receipt of initial bids shall be filed with the Board prior to bid opening or the time set for receipt of initial bids. In procurements in which bids are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into this solicitation, must be protested no later than the next closing time for receipt of bids 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 CPPO for the solicitation.

## **L.7 SIGNING OF OFFERS**

The Prospective Offeror shall sign the offer in **Blue Ink** and print or type the name and title of the Offeror on the **Solicitation, Offer and Award** form in blocks 14, 14A, 15 and 15A of Section A., page one (1)

The Offeror's solicitation submission must be signed in **Blue Ink** by an authorized negotiator as identified in Section K.1 of your submission (in the absence of the owner/CEO)

DMH shall not, under any circumstances, accept a submission with:

- An electronic signature;
- a stamped signature;
- a signature produce from a color copier; or
- any kind of signature that is not original and lacks **Blue Ink**.

Erasures or other changes must be initialed by the person signing the offer. Furthermore, wherever any other part of this solicitation requires the Offeror to submit a document with signature (e.g., Section K.3 – Certification as to Compliance with Equal Opportunity Obligations, Tax Certification Affidavit, First Source Employment Agreement), only an original signature by an authorized negotiator, in **Blue Ink** will be accepted.

## **L.8 UNNECESSARILY ELABORATE BIDS**

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

**L.9 RETENTION OF BIDS**

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

**L.10 BID COSTS**

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

**L.11 ACKNOWLEDGMENT OF AMENDMENTS**

The Prospective Offeror 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 must receive the acknowledgment by the date and time specified for receipt of offers. Prospective Offerors' failure to acknowledge an amendment may result in rejection of the offer.

**L.12 ACCEPTANCE PERIOD**

The Prospective Offeror agrees that its offer remains valid for a period of 90 days from the solicitation's closing date.

**L.13 BEST AND FINAL OFFERS (BAFO)**

If, subsequent to receiving original bids, negotiations are conducted, all Prospective Offerors 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 Bids provision of the solicitation. After receipt of Best and Final Offers, no discussions shall be reopened unless the CPPO 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 Offeror selection and award based on the Best and Final Offers received. If discussions are reopened, the CPPO shall issue an additional request for Best and Final Offers to all Prospective Offerors still within the competitive range.

**L.14 LEGAL STATUS OF OFFEROR**

Each bid must provide the following information:

**L.14.1** Name, Address, Telephone Number, Federal tax identification number and DUNS Number of Offeror;

**L.14.2** District of Columbia, if required by law to obtain such license, registration or certification. If the Prospective Offeror 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.14.3** If the Prospective Offeror is a partnership or joint venture, names of general partners or joint ventures, and copies of any joint venture or teaming agreements.

- L.14.4** The District reserves the right to request additional information regarding the Prospective Offeror's organizational status.

**L.15 STANDARDS OF RESPONSIBILITY**

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

- L.15.1** Furnish evidence of adequate financial resources, credit or the ability to obtain such resources as required during the performance of the contract.
- L.15.2** 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.15.3** Furnish evidence of the necessary organization, experience, operational control, technical skills or the ability to obtain them.
- L.15.4** Furnish evidence of compliance with the applicable District licensing, tax laws and regulations.
- L.15.5** Furnish evidence of a satisfactory performance record, record of integrity and business ethics.
- L.15.6** Furnish evidence of the necessary production, construction and technical equipment and facilities or the ability to obtain them.
- L.15.7** If the Prospective Offeror fails to supply the information requested, the CPPO 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 CPPO shall determine the Prospective Offeror to be non-responsible.

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

**PART IV:  
REPRESENTATION AND INSTRUCTIONS**

**SECTION M  
EVALUATION FACTORS FOR AWARD**

**RESERVED**

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