

**16DISTRICT 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 609 H STREET, NE, 4<sup>th</sup> FLOOR WASHINGTON, DC 20002</b>		2. PAGE OF PAGES: <b>1 of 65</b>
		3. CONTRACT NUMBER AND NAME:  <b>Psychiatric Consulting Services for Cognitive Behavioral Therapy Didactics, Supervision and Research Training and Group Supervision</b>
		4. SOLICITATION NUMBER: <b>RM-13-RFP-016-BY4-SDS</b>
		5. DATE ISSUED: <b>8/31/12</b>
		6. OPENING/CLOSING TIME: <b>12:00 Noon on 9/14/2012</b>
7. TYPE OF SOLICITATION: <b>REQUEST FOR PROPOSALS</b>	8. DISCOUNT FOR PROMPT PAYMENT:	
NOTE: IN SEALED BID SOLICITATION "OFFER AND THE CONTRACTOR" MEANS "BID AND BIDDER"		

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

12. In compliance with the above, the undersigned agrees, if the offer is accepted within **120** calendar days (unless a different period is inserted by the Contractor) from the date for receipt of offers specified above, that with respect to all terms and conditions by the DMH under "AWARD" below, this offer and the provisions of the RFP/IFB shall constitute a Formal Contract. All offers are subject to the terms and conditions contained in the Solicitation.

13. ACKNOWLEDGEMENT OF AMENDMENTS (The Contractor acknowledge receipt of amendments to the REQUEST FOR QUOTATION 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)	
<b>ATTN:</b>			<b>EMAIL:</b>	
14A. TELEPHONE NUMBER:			15A. SIGNATURE:	15B. OFFER DATE:
AREA CODE:	PHONE:	EXT:		

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

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

**SECTION B**

**SUPPLIES OR SERVICES AND PRICE**

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**SECTION B**

**SUPPLIES OR SERVICES AND PRICE**

**B.1 PURPOSE OF SOLICITATION**

The Department of Mental Health, on behalf of Saint Elizabeth Hospital (SEH) is seeking a Contractor to provide training for SEH psychiatrists Residents and mental health clinicians in Adult Psychiatry, including best practices in psychiatric diagnosis, treatment planning, psychotherapeutic interventions, social interventions, least restrictive approaches to behavioral emergencies, research methodologies and discharge planning and group and individual psychotherapy supervision.

**B.2 CONTRACT TYPE**

The District of contemplating executing a Labor Hour Contract. 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 Labor Hour Contract shall be from October 1, 2012 until September 30, 2013.**

**B.3 SCHEDULE B – PRICING SCHEDULE**

CONTRACT LINE ITEM NO.: (CLIN)	ITEM DESCRIPTION	QTY	UNIT	UNIT PRICE	AMOUNT
0001	Psychiatric Consulting Services for Cognitive Behavioral Therapy. Interpersonal Therapy and Research Design Didactics, Supervision and Research Training, and Group and Individual Psychotherapy Supervision				
BASE YEAR					
1001	Psychiatric Consulting Services for Cognitive Behavioral Therapy. Interpersonal Therapy and Research Design Didactics, Supervision and Research Training, and Group and Individual Psychotherapy Supervision				
OPTION YEAR ONE					
2001	Psychiatric Consulting Services for Cognitive Behavioral Therapy. Interpersonal Therapy and Research Design Didactics, Supervision and Research Training, and Group and Individual Psychotherapy Supervision				
OPTION YEAR TWO					

**Psychiatric Consulting Services  
 For Cognitive Behavioral Therapy Didactics.  
 Supervision and Research Training and Group Supervision**

**RM-13-RFP-016-BY4-SDS**

3001	Psychiatric Consulting Services for Cognitive Behavioral Therapy. Interpersonal Therapy and Research Design Didactics, Supervision and Research Training, and Group and Individual Psychotherapy Supervision				
OPTION YEAR THREE					
4001	Psychiatric Consulting Services for Cognitive Behavioral Therapy. Interpersonal Therapy and Research Design Didactics, Supervision and Research Training, and Group and Individual Psychotherapy Supervision				
OPTION YEAR FOUR					

**TOTAL CONTRACT VALUE** \$ \_\_\_\_\_

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

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

\_\_\_\_\_  
 Title

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

\_\_\_\_\_  
 Date

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

**SECTION C**

**DESCRIPTION/SPECIFICATIONS/ STATEMENT OF WORK**

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## SECTION C

### **DESCRIPTION/SPECIFICATIONS/ STATEMENT OF WORK**

#### **C.1 BACKGROUND/GENERAL REQUIREMENTS**

The Department of Mental Health (DMH) is a cabinet level agency in the District of Columbia that reports directly to the Mayor. DMH's operational units include Saint Elizabeth's Hospital (SEH). SEH operates as a 290 bed adult inpatient organization providing an extensive array of mental health services for the severely and persistently mentally ill and/ of dually diagnosed patients. SEH is the sponsoring institution for a program of graduate medical education in psychiatry; the "Psychiatry Residency Training Program", that is accredited by the Accreditation Council for Graduate Medical Education (ACGME). The Psychiatry Residency Training Program provides graduate medical education in psychiatry to physicians who have graduated from accredited medical schools (collectively referred to as the "Residents" and each individually as a "Resident").

#### **C.2 SCOPE OF WORK:**

The Government of the District of Columbia Department of Mental Health, Contracts and Procurement Services is seeking a Contractor to provide training for SEH psychiatrists, Residents and mental health clinicians in Adult Psychiatry, including best practices in psychiatric diagnosis, treatment planning, psychotherapeutic interventions, social interventions, least restrictive approaches to behavioral emergencies, research methodologies and discharge planning. In addition the Contractor shall provide supervision of clinical work by Residents by supervising individual and group Psychotherapy provided by the Residents.

#### **C.3 SPECIFIC REQUIREMENTS**

C.3.1 The Contractor shall render services on weekdays (Monday through Friday) during the hours of 7 a.m. to 7 p.m. in accordance with the schedule established by the Director of Psychiatric Residency Training as agreed to by the Contractor.

C.3.2 The Contractor shall be available at least fifteen (15) minutes prior to scheduled sessions and remain at least fifteen (15) minutes after sessions to address specific questions or concerns by Residents.

C.3.3 Contractor shall provide services on average five (5) hours per week. On occasion and only with prior approval of the Contracting Officer's Technical Representative (COTR), the Contractor may work more than five (5) hours. Under no circumstances shall the Contractor be permitted to work more than the total number of hours allocated by the contract.

C.3.4 The Contractor shall teach the principles of Cognitive Behavioral/Interpersonal Therapy and their application to the Psychiatric Residents. The Didactics shall include theoretical basis for selected intervention, selection of patients for whom

this will be an appropriate treatment modality, beginning therapy, structure of sessions, evaluation of progress in therapy, transfer and termination.

- C.3.5 The Contractor shall supervise Residents for ongoing CBT and psychodynamic groups and individual patients throughout the year.
- C.3.6 The Contractor shall teach the ethics of research in psychiatry, data collection, and interpretation with the aim of developing the Residents' capacity to start research projects.
- C.3.7 The Contractor shall teach Research Design, Measurements, Scientific Methodology and Basic Statistics.
- C.3.8 The Contractor shall evaluate Residents for comprehension, understanding and their ability to apply training sessions according to the form approved by the program and submitted in a timely manner.
- C.3.9 Contractor shall inform the District of any Resident deficiencies related to attendance, completion of assignments, documentation, or relations with peers and other professionals.
- C.3.10 The Contractor shall perform other educational/training psychiatric duties as reasonably assigned by the COTR.

C.4 **STANDARD OF PERFORMANCE**

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

C.5 **ADVERTISING AND PUBLICITY**

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 the DMH's logo in any fashion; or use or release information, photographs or other depictions obtained as a result of the performance of services under this contract, for publication, advertising or financial benefit.

C.6 **CONFIDENTIALITY**

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.7 **RIGHTS OF DATA**

C.7.1 Any data first produced in the performance of this contract shall be the sole property of the DMH. 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.7.2 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.

C.7.3 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 \*\*\***



**SECTION D**

**PACKING AND MARKING**

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- 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 \*\*\***

**SECTION E**  
**INSPECTION AND ACCEPTANCE**

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## SECTION E

### CONSEQUENCES OF CONTRACTOR'S FAILURE TO PERFORM REQUIRED SERVICES

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

**E.1.1** The Contractor will be held to the full performance of the contract. The DMH will deduct from the Contractor's invoice, or otherwise withhold payment for any non-conforming service as specified below.

**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

**E.1.3** The DMH will 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

**E.1.4** In case of non-performed work, DMH will:

**E.1.4.1** 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** DMH may, at its option, afford the Contractor an opportunity to perform the non-performed work with a reasonable period subject to the discretion of the Director, Contracts and Procurement Agency Chief Contracting Officer and at no additional cost to the DMH.

**E.1.4.3** DMH may, at its option, perform the contracted services by the DMH personnel or other means.

**E.1.5** In the case of unsatisfactory work, DMH:

**E.1.5.1** Will 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 satisfactorily completes 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, Contracts and Procurement Agency Chief Contracting Officer and at no additional cost to the DMH.

#### 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 a 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.

**E.2.2** 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:

**E.2.2.1** Stop work as specified in the notice

**E.2.2.2** Place no further subcontracts or orders except as necessary to complete the continued portion of the contract.

**E.2.2.3** Terminate all applicable subcontracts and cancel or divert applicable commitments covering personal services that extend beyond the effective date of termination.

**E.2.2.4** 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 will have the right to settle or pay any termination settlement proposal arising out of those terminations.

**E.2.2.5** 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 will be final for purposes of this clause.

**E.2.2.6** 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 (ii) completed or partially completed plans, drawings, and information.

**E.2.2.7** Complete performance of the work not terminated

**E.2.2.8** 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 listed below, by written notice of default to the contractor, terminate the contract in whole or in part if the contractor fails to:

**E.3.1.1** Perform the services within the time specified in the contract or any extension; or

**E.3.1.2** Make progress as to endanger performance of the contract; or

**E.3.1.3** Perform any of the other material provisions of the contract.

- E.3.2** The DMH's right to terminate the contract may be exercised if the Contractor does not cure such failure within ten (10) days, or such longer period as authorized in writing by the contracting Officer (CO) after receipt of the notice to cure from the CO, specifying the failure.
- E.3.3.** If DMH terminates the 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 will be liable to DMH for any excess costs for those supplies and services. However, the Contractor will continue the work not terminated.
- E.3.4** Except for default by subcontractors at any tier, the Contractor will 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 issues include (i) acts of God, (ii) fires or floods, (iii) strikes, and (iv) 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 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 will 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 the 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 DMH has an interest.
- E.3.7** DMH will 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 will be the same as if the termination had been issued for 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 the Contract.

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

**SECTION F**

**DELIVERY AND PERFORMANCE**

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## 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 from Date of Award through One (1) Calendar Year with Four (4) – One (1) Year Options.

#### **F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT**

The Director, Contracts and Procurement Agency Chief Contracting Officer can exercise each of the Four (4) One-Year options at the sole and absolute discretion of DMH based upon appropriated funding and satisfactory performance of the Contract during the Period of Performance. The total duration this contract, including the exercise of any options under the contract, shall not exceed Five (5) Years.

**F.2.1** The District can exercise the term of the contract for a period of Four (4) One-Year option periods, or successive fractions therefore, by written notice to the Contractor before the expiration of the Contract; provided that the Director, Contracts and Procurement Agency Chief Contracting Officer shall give the Contractor a preliminary written notice of its intent to extend, at least thirty (30) days before the expiration of the contract. The preliminary notice does not commit the District to an extension. The exercise of the option is at the sole and absolute discretion of DMH based on the satisfactory performance of the Contractor by their being in full compliance with the Scope of Work, along with the Terms and Conditions of the Contract and subject to the availability of funds at the time of the Exercise of the Option Period. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Director/ACCO prior to the expiration of the Contract.

**F.2.2** If the District exercises this Option, the extended Contract shall be considered to include this Option Period provision.

**F.2.3** The price for the Option Period shall be as specified in each Section B 4, (B-4 Part I and B-4 Part II) of the Contract.



**F.3 DELIVERY OF DELIVERABLES**

The Contractor shall provide the following deliverables within the specified time:

<b>Deliverable</b>	<b>Format/Method of Delivery</b>	<b>Quantity</b>	<b>Due Date</b>
Timeline for SEH’s development and implementation of the provision of services under the contract.	Deliver to COTR	One (1)Electronic copy/Two (2)Hard Copies	Fourteen (14) days from the execution of the contract.
Record of each training session noting the date, time, and names of trainees attending the session	Form prescribed by the Director of Psychiatry Residency Training.	One (1)Electronic copy/Two (2)Hard Copies	Monthly, with invoice.
Evaluation forms to be completed for each trainee at least twice a year. Competence in meeting the goals & objectives of the CBT, Research Design & Group Therapy training	Form prescribed by the Director of the Psychiatry Residency Training Program or Online evaluation.	One (1)Electronic copy/Two (2)Hard Copies	January 31, and July 31, or, if the training session is less than 6 months, at the end of the session.

**F.4 CONTRACTOR 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 requirements set forth in the 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 \*\*\***

**SECTION G**  
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## SECTION G

### CONTRACT ADMINISTRATION DATA

#### G.1 INVOICE PAYMENT

G.1.1 Shall be based upon fixed unit rates and services provided as specified in Section B (Price Schedules) and Section F (Deliverables)

#### G.2 SUBMISSION OF INVOICE

G.2.1 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, 6<sup>th</sup> Floor Washington, DC 20002 or by e-mail to [dmh.ap@dc.gov](mailto:dmh.ap@dc.gov). The invoice shall then be forwarded by the Accounts Payable Office to the 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 Thirty (30) days after the Accounts Payable Office receives a proper and certified invoice, 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 (CLIN Lines) 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 corrected and resubmitted as indicated in this clause.**

G.2.2 To constitute a proper invoice, the Contractor shall submit the following information on the invoice:

G.2.2.1 Contractor's name, federal tax ID and invoice date (date invoices as of the date of mailing or transmittal);

G.2.2.2 Contract number and invoice number;

G.2.2.3 Description, price, quantity and the date(s) that the supplies or services were delivered or performed;

G.2.2.4 Other supporting documentation or information, as required by the Contracting Officer;

G.2.2.5 Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;

G.2.2.6 Name, title, phone number of person preparing the invoice;

**G.2.2.7** Name, title, phone number and mailing address of person (if different from the person identified in G.2.2.6 above) to be notified in the event of a defective invoice; and

**G.2.2.8** Authorized signature.

**G.2.3 CERTIFICATION OF INVOICE**

Contracting Officer's Technical Representative (COTR) shall perform certification of each of the Contractor's invoices. The invoices shall be logged in by the Accounts Payable Office and forwarded to the COTR to review for accuracy and to perform certification for payment. The certified invoice shall be forwarded to the Chief Financial Officer within Five (5) working days after receipt of a satisfactory invoice.

**G.3 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT**

**G.3.1** For Contracts subject to the 51% District Residents New Hires Requirements and First Source Employment Agreement requirements, final request for payment must be accompanied by the report or a waiver of compliance discussed in section H.5.5.

**G.3.2** No final payment shall be made to the Contractor until the agency CFO has received the

Director/ACCO's final determination or approval of waiver of the Contractor's compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement requirements.

**G.4 PAYMENT**

**G.4.1** 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.

**G.4.2** 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.5 ASSIGNMENT OF CONTRACT PAYMENTS**

**G.5.1** In accordance with 27 DCMR 3250, the Contractor may assign to a bank, trust company, or other financing institution funds due or to become due as a result of the performance of this Contract.

**G.5.2** Any assignment shall cover all unpaid amounts payable under this Contract, and shall not be made to more than one party.

**G.5.3** Notwithstanding an assignment of contract payments, 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)

**G.6 QUICK PAYMENT CLAUSE**

**G.6.1 Interest Penalties to Contractors**

**G.6.1.1** The District shall pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code §2-221.01 *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. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item, of property or service is made on or before:

- a) the 3<sup>rd</sup> day after the required payment date for meat or a meat product;
- b) the 5<sup>th</sup> day after the required payment date for an agricultural commodity; or
- c) the 15<sup>th</sup> day after the required payment date for any other item.

**G.6.1.2** Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

**G.6.2 Payments To Subcontractors**

**G.6.2.1** The Contractor must take one of the following actions within seven (7) days of receipt of any amount paid to the Contractor by the District for work performed by any subcontractor under this Contract.

- a) Pay the subcontractor for the proportionate share of the total payment received from the District that is attributable to the subcontractor for work performed under the Contract; or
- b) Notify the District and the subcontractor, in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

**G.6.2.2** The Contractor must pay any subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid on the following if payment for the

completed delivery of the item, of property or service is made on or before:

- a) the 3<sup>rd</sup> day after the required payment date for meat or a meat product;
- b) the 5<sup>th</sup> day after the required payment date for an agricultural commodity; or
- c) the 15<sup>th</sup> day after the required payment date for any other item.

**G.6.2.3** Any amount of an interest penalty which remains unpaid by the Contractor at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.

**G.6.2.4** A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District of Columbia is a party. The District of Columbia may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

### **G.6.3 SUBCONTRACTOR REQUIREMENTS**

**G.6.3.1** The Contractor shall include in each subcontract under this Contract a provision requiring the subcontractor to include in its Contract with any lower-tier sub-contractor or supplier the payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code §2-221.02(d).

### **G.7 DIRECTOR, CONTRACTS AND PROCUREMENT/AGENCY CHIEF CONTRACTING OFFICER (DIRECTOR/ACCO)**

Contracts shall be entered into and signed on behalf of the DMH only by the DMH Director/ACCO. The contact information for the DMH Director/ACCO is as follows:

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

### **G.8 AUTHORIZED CHANGES BY THE DIRECTOR/ACCO**

**G.8.1** The Director/ACCO is the only person authorized to approve changes in any of the requirements of this Contract.

**G.8.2** The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of the Contract, unless issued in writing and signed by the Director/ACCO.

**G.8.3** In the event the Contractor effects any change at the instruction or request of any person other than the Director/ACCO, the change shall be considered to have been made without authority and no adjustment shall be made in the Contract price to cover any cost increase incurred as a result thereof.

**G.9 THE CONTRACTING OFFICER’S TECHNICAL REPRESENTATIVE (COTR)**

**G.9.1** The COTR is responsible for general administration of the Contract and advising the Director/ACCO as to the Contractor’s compliance or noncompliance with the Contract. The COTR has the responsibility of ensuring the work conforms to the requirements of the Contract and such other responsibilities and authorities as may be specified in the Contract. These include:

**G.9.1.1** Keeping the Director/ACCO informed of any technical or contractual difficulties encountered during the performance period and advising the Director/ACCO of any potential problem areas under the Contract;

**G.9.1.2** Coordinating site entry for Contractor personnel, if applicable;

**G.9.1.3** Reviewing invoices for completed work and recommending approval by the Director/ACCO if the Contractor’s costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the Rate of Expenditure;

**G.9.1.4** Reviewing and approving invoice submissions for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices in accordance with the District’s payment provisions; and

**G.9.1.5** Maintaining a file that includes all Contract correspondence, modifications, records of inspections (site, data, equipment).

**G.9.2** The address and telephone number of the COTR is:

**Dr. Farooq Mohyuddin**  
**Director of Psychiatry Services**  
**St. Elizabeth’s Hospital**  
**2700 Martin Luther King Jr., Ave., SE**  
**Washington, DC 20032**  
**Phone: (202)645-8777**  
**E-mail: [Farooq.Mohyuddin@dc.gov](mailto:Farooq.Mohyuddin@dc.gov)**

**G.9.3** The COTR shall NOT have the authority to:

1. Award, agree to, or sign any Contract, delivery order or task order. Only the Director/ACCO shall make contractual agreements, commitments or modifications;

2. Grant deviations from or waive any of the terms and conditions of the Contract;
3. Increase the dollar limit of the Contractor or authorize work beyond the dollar limit of the Contract;
4. Authorize the expenditure of funds by the Contractor;
5. Change the Period of Performance; or
6. Authorize the use of District property, except as specified under the Contract.

**G.9.4** The Contractor shall be fully responsible for any changes not authorized in advance, in writing, by the Director/ACCO compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

## **G.10 TYPE OF CONTRACT**

**G.10.1** This is a Firm Fixed Contract for Consulting Services. The Contractor shall be remunerated according to Schedule B Price Sheet for services performed. 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.

**G.10.2** 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 COTR as is necessary to ensure accomplishment of the contract objectives.

**G.10.3** 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.



**G.11 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.

In the event that the Contractor effects any change at the instruction or request of any person other than the Contracting Officer, the change shall be considered to have been made without authority and no adjustment shall be made in the contract price to cover any cost increase incurred as a result thereof.

**G.12 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 \*\*\***

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

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## SECTION H

### SPECIAL CONTRACT REQUIREMENTS

#### H.1 CONTRACTOR LICENSE/CLEARENCE

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 1303.07.
- (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.5 LIQUIDATED DAMAGES**

**H.5.1** When the Contractor fails to perform the tasks required under this Contract, DMH shall notify the Contractor in writing of the specific task deficiencies with a scheduled meeting and a Notice to Cure document with a cure period of Not To Exceed Ten (10) Business Days. Upon receiving the Notice to cure document, the Contractor shall provide DMH with their assessment of the identified deficiencies in order to reach an agreement on a proactive plan to resolve the matter. The assessment of Liquidated Damages as determined by the Director, Contracts and Procurement/Agency Chief Contracting officer shall be in an amount of \$300.00 per day against the Contractor until such time that the Contractor has cured its deficiencies and is able to satisfactorily perform the tasks required under this Contract.

**H.5.2** 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 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.6 35% SMALL BUSINESS ENTERPRISE SUBCONTRACTING SET-ASIDE FOR CONTRACTS OVER \$250,000**

For contracts in excess of \$250,000, at least 35% of the contract shall be subcontracted to certified small business enterprises (CSBE);

To search for responsible certified subcontractors click on <http://dslbd.d.gov>; on the left side of the page select “doing Business in the District of Columbia.” scroll down list, select “Request for CBE Firms Listing,” this shall take bidders/offerors to a form (see attached) to complete and submit on line to begin a search. Request may take up to 24-72 hours depending on the scope of work categories needed. Subcontracting information may also be obtained from the above link for the Bidder/Offeror Certification Form.

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



**SECTION I**

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

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## SECTION I

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

#### 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 in Section J.1.

**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 in Section J.4. 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 subcontract 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  
Department of Mental Health  
609 H Street, NE – 4<sup>th</sup> Floor  
Washington, DC 20002

## **I.9 WORKERS' COMPENSATION INSURANCE**

A policy complying with the requirements of the statutes of the jurisdiction(s) in which the contract work shall 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 shall 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:

- I.12.1 "Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contractor in connection with a subcontract relating to a prime contract.
- I.12.2 "Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.
- I.12.3 "Prime contract," as used in this clause, means a contract or contractual action entered into by the District for the purpose of obtaining supplies, materials, equipment, or services of any kind.
- I.12.4 "Prime Contractor" as used in this clause, means a person who has entered into a prime contract with the District.
- I.12.5 "Prime Contractor employee," as used in this clause, means any officer, partner employee, or agent of a prime Contractor.
- I.12.6 "Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.
- I.12.7 "Subcontractor," as used in this clause, means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and includes any person who offers to

furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

**I.12.8** “Subcontractor employee,” as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

**I-12.7** The Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58 (the Act), prohibits any person from:

**I.12.7.1** Providing or attempting to provide or offering to provide any kickback;

**I.12.7.2** Soliciting, accepting, or attempting to accept any kickback; or

**I.12.7.3** 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.12.8** 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.12.9** 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.12.10** 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 unreasonable 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 shall be furnished with restricted rights, provided however, not withstanding 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 if competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under this 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. 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.15.1** 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.15.2** Wage Determination (Attachment J.2)

**I.15.3** Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts dated March 2007 (Attachment J.1)

**I.15.4** Contract Sections A through M of this Contract Number: RM-13-RFP-016-BY4-SDS.

**I.15.5** DMH Policies and Rules (Attachment J.9)

**I.15.6** Best and Final Offer Dated: \_\_\_\_\_(RFP)

**I.15.7** RFP Proposal Dated: \_\_\_\_\_

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

**SECTION J**

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

Attachment Number	Document
J.1	<b>STANDARD CONTRACT PROVISIONS:</b> Government of the District of Columbia Standard Contract Provisions For Use With District of Columbia Supplies and Services Contracts dated March 2007 <a href="http://ocp.dc.gov/DC/OCP/Vendor+Support+Center/Solicitation+Attachments/Standard+Contract+Provisions+(March+2007)">http://ocp.dc.gov/DC/OCP/Vendor+Support+Center/Solicitation+Attachments/Standard+Contract+Provisions+(March+2007)</a>
J. 2	<b>WAGE DETERMINATION:</b> U.S. Department of Labor Wage Determination Under the Service Contract Act – <i>WD05-2103 Revision12 dated 06/13/2012</i> (See Attachment)
J. 3	<b>CONSENT ORDER DATE DECEMBER 12, 2003 IN DIXON, ET AL. V FENTY, ET AL., CA 74-285 (TFH) (DIXON CONSENT ORDER).</b> <a href="http://www.dmh.dc.gov/dmh/cwp/view,a,3,q,639222,dmhNav,31262.asp">http://www.dmh.dc.gov/dmh/cwp/view,a,3,q,639222,dmhNav,31262.asp</a>
J. 4	<b>EQUAL EMPLOYMENT OPPORTUNITY INFORMATION AND MAYOR ORDER 85-85</b> <a href="http://ocp.dc.gov/DC/OCP/Vendor+Support+Center/Solicitation+Attachments/EEO+Information+and+Mayor+Order+85-85">http://ocp.dc.gov/DC/OCP/Vendor+Support+Center/Solicitation+Attachments/EEO+Information+and+Mayor+Order+85-85</a>
J. 5	<b>FIRST SOURCE EMPLOYMENT AGREEMENT</b> (See Attachment)
J.6	<b>TAX CERTIFICATION AFFIDAVIT</b> <a href="http://ocp.dc.gov/DC/OCP/Vendor+Support+Center/Solicitation+Attachments/Tax+Certification+Affidavit">http://ocp.dc.gov/DC/OCP/Vendor+Support+Center/Solicitation+Attachments/Tax+Certification+Affidavit</a>
J.7	<b>LIVING WAGE ACT FACT SHEET (THE WAY TO WORK AMENDMENT ACT OF 2006)</b> (Attached)
J.8	<b>COST/PRICE DISCLOSURE CERTIFICATION</b> <a href="http://ocp.dc.gov/DC/OCP/Vendor+Support+Center/Solicitation+Attachments/Cost-Price+Disclosure+Certification">http://ocp.dc.gov/DC/OCP/Vendor+Support+Center/Solicitation+Attachments/Cost-Price+Disclosure+Certification</a>
J.9	<b>DEPARTMENT OF MENTAL HEALTH POLICIES AND RULES</b> (New) <a href="http://www.dmh.dc.gov/dmh/cwp/view,a,3,q,621393,dmhNav,%7C31262%7C.asp">http://www.dmh.dc.gov/dmh/cwp/view,a,3,q,621393,dmhNav,%7C31262%7C.asp</a>
J.10	<b>PROCUREMENT PRACTICES REFORM ACT (PPRA);</b> <a href="http://ocp.dc.gov/DC/OCP/e-Library/Procurement+Practices+Reform+Act+of+2010">http://ocp.dc.gov/DC/OCP/e-Library/Procurement+Practices+Reform+Act+of+2010</a>

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

**SECTION K**

**REPRESENTATIONS, CERTIFICATIONS AND OTHER  
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**SECTION K**

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

**K.1 TAX CERTIFICATION**

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

**K.2 AUTHORIZED NEGOTIATORS**

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

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**K.3 TYPE OF BUSINESS ORGANIZATION**

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

(a) It operates as:

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

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

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

**K.4 EMPLOYMENT AGREEMENT**

For all offers over \$100,000, except for those in which the Prospective Contractor is located outside the Washington Metropolitan Area and shall perform no work in the Washington Metropolitan Area, the following certification is required (see Clause 28 of the Standard Contract Provisions). The Prospective Contractor recognizes that one of the

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

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

Name \_\_\_\_\_ Title \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

**K.5 CERTIFICATION TO COMPLIANCE WITH EQUAL OPPORTUNITY**

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

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

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature \_\_\_\_\_

Prospective Contractor \_\_\_\_ has \_\_\_\_ has not participated in a previous Contract or Subcontract subject to the Mayor's Order 85-85. Prospective Contractor \_\_\_\_ has

\_\_\_\_\_ has not filed all required compliance reports, and representations indicating submission of required reports signed by proposed Subcontractors. (The above representations need not be submitted in connection with Contracts or SubContracts, which are exempt from the Mayor’s Order.)

**K.6 WALSH-HEALY ACT**

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

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

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

(c) Regular Dealer

- \_\_\_\_\_ The Prospective Contractor is a Regular Dealer.
- \_\_\_\_\_ The Prospective Contractor is not a Regular Dealer.

(d) Manufacturer

- \_\_\_\_\_ The Prospective Contractor is a Manufacturer.
- \_\_\_\_\_ The Prospective Contractor is not a Manufacturer.

**K.7 BUY AMERICAN CERTIFICATION**

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

\_\_\_\_\_ EXCLUDED END PRODUCTS

\_\_\_\_\_ COUNTRY OF ORIGIN

**K.8 OFFICERS NOT TO BENEFIT CERTIFICATION**

Each Prospective Contractor shall check one of the following:

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

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

\_\_\_\_\_

\_\_\_\_\_

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

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



- (i) As an authorized agent, does certify that the principals named in subdivision (b)(2)(I) above have not participated, and shall not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and
  - (ii) As an agent, has not participated, and shall not participate, in any action contrary to subparagraphs (a) (1) through (a) (3) above.
- (f) If the Prospective Contractor deletes or modifies subparagraph (a) (2) above, the Prospective Contractor shall furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

**K.10 ACKNOWLEDGMENT OF AMENDMENTS**

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

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

**\*\*\*\*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 Contract to the responsible 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 Contract considered.

##### L.1.2 Initial Offers

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

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

One original and three (3) copies of the written Proposals shall be submitted in two (2) separate sealed envelopes, with one titled "Technical Proposal" and the other titled "Price Proposal", which are then placed together into one large envelope. Each page shall be numbered, and labeled to include the Solicitation number and name of the Prospective Contractor, Stapled or bound technical Proposal shall be submitted with a minimum of five (5) pages and not to exceed the maximum of ten (10) pages, additional pages only for cost Proposal and supporting documentation. Proposals shall be typewritten in single space, single page, Times New Roman: twelve (12) point font size on 8.5" by 11" bond paper. **Telephonic, telegraphic and Facsimile Proposals shall "NOT" be accepted.** Each Proposal shall be submitted in a sealed envelope conspicuously marked:

***"Proposal in Response to Solicitation No. RM-13-EFP-016-BY4-SDS  
Psychiatric Consulting Services for Cognitive Behavioral Therapy Didactics.  
Name of Prospective Contractor)"***

The Prospective Contractor shall respond to each factor in a way that shall allow the District to determine the best and reasonable value selection of the Prospective Contractor's response. The Prospective Contractor shall submit information in a clear, concise, factual and logical manner providing a comprehensive description of program services and service delivery. The information requested below for the technical proposal shall facilitate the best value source selection for all Proposals. The Technical Proposal must contain sufficient detail to provide a clear and concise representation of the requirements in the statement of work.

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

**L.3 OPTIONAL PRE-PROPOSAL CONFERENCE**

An optional pre-proposal conference will be held on *Thursday, September 6, 2012 from 11:00 am until 12:00 noon at the Department of Mental Health located at 609 h street, ne, Washington, dc 20012 in the fourth (4<sup>th</sup>) floor conference room C #402.* All prospective Offerors are invited to attend.

**L.4 PROPOSAL SUBMISSION DATE AND TIME, LATE SUBMISSIONS, LATE MODIFICATIONS, AND LATE WITHDRAWALS**

**L.3.1 PROPOSAL SUBMISSION**

Proposals must be submitted no later than 12:00 NOON (EST) on September 14, 2012 to the Department of Mental Health Contracts and Procurement Section, 609 H Street, NE, Fourth Floor, Washington, DC 20002. Proposals, modifications to Proposals, or requests for withdrawals that are received in the designated District office after the exact local time specified above, are "late" and shall be considered only if they are received before the award is made and one (1) or more of the following circumstances apply:

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

**L.4.2 POSTMARKS**

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

**L.4.3 LATE MODIFICATIONS**

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

**L.4.4 LATE SUBMISSIONS**

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

**L.4.5 WITHDRAWAL OR MODIFICATION OF OFFERS**

An Offeror may modify or withdraw its proposal upon written, telegraphic or facsimile transmission if received at the location designated in the solicitation for submission of offers, but not later than the closing date and time for receipt of proposals.

**L.4.6 HAND DELIVERY OR MAILING OF PROPOSALS TO:**

Samuel J. Feinberg, CPPO, CPPB  
Director, Contracts and Procurement  
Agency Chief Contracting Officer  
Department of Mental Health  
609 H Street, NE – 4<sup>th</sup> Floor  
Washington, DC 20002

**L.5 QUESTIONS**

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

**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  
609 H Street, NE – 4<sup>th</sup> Floor  
Washington, DC 20002  
(202) 671.3188 – Office  
(202) 671-3395 - Fax  
Email: [Samuel.feinberg@dc.gov](mailto:Samuel.feinberg@dc.gov)

**L.6 FAILURE TO SUBMIT OFFERS**

Recipients of this Solicitation not responding with an offer should not return this Solicitation. Instead, they should advise the Director, Contracting and Procurement/ Agency Chief Contracting Officer, Samuel J. Feinberg, CPPO, CPPB, 609 H Street, NE, 4th Floor, Washington, DC, 20002, 202-671-3188, by letter or postcard whether they

want to receive future solicitations for similar requirements. It is also requested that such recipients advise the Agency Chief Contracting Officer, Department of Mental Health of the reason for not submitting a Proposal in response to this Contract. If a recipient does not submit an offer and does not notify the Director/ACCO, Department of Mental Health that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

#### **L.7 PROPOSAL PROTESTS**

Any actual or Prospective Contractor, or Contractor who is aggrieved in connection with the solicitation or award of a contract, 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 Proposals shall be filed with the Board prior to bid opening or the time set for receipt of initial Proposals.

In procurements in which Proposals are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into this Solicitation, must be protested no later than the next closing time for receipt of Proposals following the incorporation. The protest shall be filed in writing, with the Contract Appeals Board, 717 14th Street, N.W., Suite 430, Washington, D.C. 20004. The aggrieved person shall also mail a copy of the protest to the Director/ACCO for the solicitation.

#### **L.8 SIGNING OF OFFERS**

The Offeror shall sign the Offer in **Blue Ink** and print or type the name of the Offeror and the name and title of the person authorized to sign the Offer in blocks 14, 14A, 15 and 15A of Section A, Solicitation, Offer and Award form, page one of this solicitation. The Offeror's solicitation submission must be **signed in Blue Ink** by an authorized negotiator as identified in Section K.1 of your submission. DMH shall not under any circumstances accept a submission signed by someone other than an authorized negotiator, nor submitted with either an electronic signature, a signature stamp, a color copy of a signature, or anything other than an original signature in **Blue Ink** by an authorized negotiator. Furthermore, wherever any other part of the solicitation requires you to submit a document with a 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** shall be accepted by DMH. Erasures or other changes must be initialed by the person signing the Offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the Director/ACCO.

#### **L.9 UNNECESSARILY ELABORATE PROPOSALS**

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this Solicitation are **not** desired and may be construed as an indication of the Prospective Contractor's lack of cost consciousness.

Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor desired

**L.10 RETENTION OF PROPOSALS**

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

**L.11 PROPOSAL COSTS**

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

**L.12 ACKNOWLEDGMENT OF AMENDMENTS**

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

**L.13 ACCEPTANCE PERIOD**

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

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

If, subsequent to receiving original Proposals, negotiations are conducted, all Prospective Contractors within the competitive range shall be so notified and shall be provided an opportunity to submit written best and final offers at the designated date and time. Best and Final Offers shall be subject to Late Submissions, Late Modifications and Late Withdrawals of Proposals provision of the solicitation. After receipt of Best And Final Offers, no discussions shall be reopened unless the ACCO determines that it is clearly in the Government's best interest to do so, e.g., it is clear that information available at that time is inadequate to reasonably justify Contractor selection and award based on the Best And Final Offers received. If discussions are reopened, the ACCO shall issue an additional request for Best And Final Offers to all Prospective Contractors still within the competitive range.

**L.15 LEGAL STATUS OF CONTRACTOR**

Each Proposal must provide the following information:

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

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

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

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

**L.16 STANDARDS OF RESPONSIBILITY**

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

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

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

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

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

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

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

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

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



**PART IV: REPRESENTATIONS AND INSTRUCTIONS**

**SECTION M – EVALUATION FACTORS FOR AWARD**

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**PART IV: REPRESENTATIONS AND INSTRUCTIONS**

**SECTION M – EVALUATION FACTORS FOR AWARD**

**SECTION M - EVALUATION FACTORS**

**M.1 EVALUATION FOR AWARD**

The Contract(s) shall be awarded to the responsible Offeror(s) whose offer(s) is most advantageous to the District, based upon the Evaluation Criteria specified below. While the points in the Evaluation Criteria indicate their relative importance, the total scores shall not necessarily be determinative of the award. Rather the total scores shall guide the District in making an intelligent award decision based upon the Evaluation Criteria.

**M.2 TECHNICAL RATING**

The Technical Rating Scale is as follows:

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

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

**M. 3 EVALUATION CRITERIA**

The Evaluation Criteria set forth below have been developed by agency technical personnel and has been tailored to the requirements of this particular solicitation. The criteria serve as the standard against which all proposals shall be evaluated and serve to identify the significant matters which the Offeror should specifically address in complying with the requirements of this solicitation.

The Offeror’s Technical Proposal and Price Proposal shall be evaluated separately.

### **M.3.1 TECHNICAL EVALUATION FACTORS**

#### **M.3.1.1 Evaluation Factor: Technical Understanding of the requirement and approach. (30 Points)**

Demonstrate a clear understanding of the work to be performed. Includes an explanation of the technical approach and how the technical approach shall meet the requirements of Section C. The Offeror shall provide the following information:

- (a) A statement describing demonstrated overall capability to ensure all deliverables are met
- (b) A statement describing any demonstrated past similar experiences that the Offeror had had within, preferably, a hospital setting providing training in Cognitive Behavioral/Interpersonal Therapy and Research Mentoring.
- (c) A statement describing and confirming a full understanding of the requirements contained in this Solicitation, along with ensuring compliance with the terms and conditions set forth in this Solicitation.

#### **M.3.1.2 Evaluation Factor: Credentials (40 Points)**

The Offeror shall demonstrate a solid base of relevant experience with the organization, staffing, and management of “like” projects or tasks as defined in Section C. Resume included with educational background, recent experience and specific accomplishments with evidence of the following:

- (a) Completed training from an accredited Psychiatry/Psychology training program
- (b) Hold an unrestricted license to practice psychology/psychiatry in the District of Columbia
- (c) Evidence of Scholarly activity as demonstrated by current peer-reviewed research grants in psychiatry, other medical disciplines, psychology or the social sciences, participation/ presentations or other leadership in national/regional organizations.
- (d) Current faculty appointment in psychiatry, other medical disciplines, psychology, or other social sciences at an academic institution.
- (e) Have taught graduate level courses in individual and group psychotherapy.
- (f) Have at least ten (10) years of experience teaching Psychiatry Residents
- (g) Have at least ten (10) years experience in the assessment, diagnosis and treatment of Psychiatric patients.

**M.3.1.2 Evaluation Factor: Past Performance/References (20 Points)**

The Offeror shall list at least three (3) similar positions held in the past five (5) years; each shall be accompanied by verifiable references that include:

- (a) The location of the appointment
- (b) Contact Person, name and telephone number
- (c) Description of the work performed by the Offeror, including comparisons to the work of this Solicitation
- (d) Duration of appointment

**M.3.2 PRICE/COST CRITERIA (10 Points)**

The Price valuation shall be objective. The Provider with the lowest cost/price shall receive the maximum price points. All other proposals shall receive a proportionately lower total score. The following formula shall be used to determine each Provider's evaluated cost/price score:

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

**M.3.3 TOTAL (100 Points)**

The maximum combined total points for the Technical and Price Proposals is One Hundred (100) points.

**M.3.4 PREFERENCE POINTS AWARDED (12 Points Maximum)**

Contractors who are Certified Business Enterprises (CBE) in the District of Columbia shall be awarded points in accordance with the categories that apply, as certified by the Department of Small AND Local Business Development (DSLBD), up to a maximum of 12 Preference Points.

**M.3.5 TOTAL POINTS (112 Points Maximum)**

Total points shall be the cumulative total of the Offeror's technical criteria points, price criterion points, and preference points, if any.

**M.4 EVALUATION OF OPTION YEARS**

The District will evaluate offers for award purposes by evaluating the total price for all options as well as the base year. Evaluation of options shall not obligate the District to exercise them. The total District's requirements may change during the option years. Quantities to be awarded will be determined at the time each option is exercised.

**M.5. PREFERENCES FOR CERTIFIED BUSINESS ENTERPRISES –APPLICATION OF PREFERENCES**

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

**M.5.1 Preferences For Local Businesses, Disadvantaged Businesses, Resident Owned Business, Business Operation In An Enterprise Zone, Long Time Resident Business, and Veteran Owned Business**

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

- M.5.1.1** Any prime contractor that is a small business enterprise (SBE) certified by the Department of Small and Local Business Development (DSLBD) will receive the addition of three points on a 100-point scale added to the overall score for proposals submitted by the SBE in response to this Request for Proposals (RFP).
- M.5.1.2** Any prime contractor that is a resident-owned business (ROB) certified by DSLBD will receive the addition of five points on a 100-point scale added to the overall score for proposals submitted by the ROB in response to this RFP.
- M.5.1.3** Any prime contractor that is a longtime resident business (LRB) certified by DSLBD will receive the addition of five points on a 100-point scale added to the overall score for proposals submitted by the LRB in response to this RFP.
- M.5.1.4** Any prime contractor that is a local business enterprise (LBE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the LBE in response to this RFP.
- M.5.1.5** Any prime contractor that is a local business enterprise with its principal offices located in an enterprise zone (DZE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the DZE in response to this RFP.
- M.5.1.6** Any prime contractor that is a disadvantaged business enterprise (DBE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the DBE in response to this RFP.
- M.5.1.7** Any prime contractor that is a veteran-owned business (VOB) certified by DSLBD will receive the addition of two points on a 100-point scale

added to the overall score for proposals submitted by the VOB in response to this RFP.

**M.5.1.8** Any prime contractor that is a local manufacturing business enterprise (LMBE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the LMBE in response to this RFP.

#### **M.5.2 Maximum Preference Awarded**

Notwithstanding the availability of the preceding preferences, the maximum total preference to which a certified business enterprise is entitled under the Act is the equivalent of twelve (12) points on a 100-point scale for proposals submitted in response to this RFP. There will be no preference awarded for subcontracting by the prime contractor with certified business enterprises.

#### **M.5.3 Preferences for Certified Joint Ventures**

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

#### **M.5.4 Verification of Offeror's Certification as a Certified Business Enterprise**

**M.5.4.1** Any vendor seeking to receive preferences on this solicitation must be certified at the time of submission of its proposal. The contracting officer will verify the offeror's certification with DSLBD, and the offeror should not submit with its proposal any documentation regarding its certification as a certified business enterprise.

**M.5.4.2** Any vendor seeking certification or provisional certification in order to receive preferences under this solicitation should contact the:

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

**M.5.4.3** All vendors are encouraged to contact DSLBD at (202) 727-3900 if additional information is required on certification procedures and requirements.

#### **M.5.5 Preferences for Subcontracting in Open Market Solicitations with No LBE, DBE, ROB Subcontracting Set Aside**

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

- M.5.5.1** If the prime Contractor is not a certified LBE, certified DBE, certified ROB or a business located in the enterprise in an enterprise zone, the District shall award the above-stated preferences by reducing the bid price or by increasing the points proportionally based on the total dollar value of the bid or proposal that is designated by the prime Contractor for subcontracting with a certified LBE, DBE, ROB or business located in an enterprise zone.
- M.5.5.2** If the prime Contractor is a joint venture that is not a certified LBE, certified DBE or certified ROB joint venture, or if the prime Contractor is a joint venture that includes a business in an enterprise zone but such business located in an enterprise zone does not own and control at least fifty-one percent (51%) of the joint venture, the District shall award the above-stated preferences by reducing the bid price or by increasing the points proportionally in the proposal based on the total dollar value of the bid or proposal that is designated by the prime Contractor for a certified LBE, DBE, ROB or business located in an enterprise zone, for participation in the joint venture.

**FOR EXAMPLE:**

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

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

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

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

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

**M.5.6 Preferences for Open Market Solicitation with LBE, DBE, ROB  
Subcontracting Set Aside**

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

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

**M.5.7 Preferences for Certified Joint Ventures Including Local Or Disadvantaged Businesses Or Resident Business Ownerships**

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

**M.5.8 Preferences for Joint Ventures Including Businesses Located in an Enterprise Zone**

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

1. Vendor Submission for Preferences

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

- (a) Evidence of the vendor's, subcontractors, or joint venture partner's certification or self-certification as a LBE, DBE, or ROB, to include either:
  - (1) A copy of all relevant letters of certification from the Local Business Opportunity Commission (LBOC); or
  - (2) A copy of the sworn notarized Self-Certification Form prescribed by the LBOC, along with an acknowledgement letter issued by the Director of the LBOC. Businesses with principal offices located



outside of the District of Columbia shall first be certified as LBEs before qualifying for self-certification.

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

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

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

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

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

#### **M.5.6 PENALTIES FOR MISREPRESENTATION**

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

#### **M.5.7 LOCAL, SMALL, AND DISADVANTAGED BUSINESS ENTERPRISE SUBCONTRACTING**

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

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

# ATTACHMENT J.1

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**STANDARD CONTRACT PROVISIONS**

**FOR USE WITH**

**DISTRICT OF COLUMBIA GOVERNMENT  
SUPPLIES AND SERVICES CONTRACTS**

**March 2007**

**OFFICE OF CONTRACTING AND PROCUREMENT  
SUITE 700 SOUTH  
441 4<sup>th</sup> STREET, NW  
WASHINGTON, DC 20001**

**STANDARD CONTRACT PROVISIONS**  
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**1. Covenant Against Contingent Fees:**

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the District will have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of the commission, percentage, brokerage, or contingent fee.

**2. Shipping Instructions – Consignment:**

Unless otherwise specified in this Invitation for Bids/Request for Proposals, each case, crate, barrel, package, etc., delivered under this contract must be plainly stencil marked or securely tagged, stating the Contractor's name, contract number and delivery address as noted in the contract. In case of carload lots, the Contractor shall tag the car, stating Contractor's name and contract number. Any failure to comply with these instructions will place the material at the Contractor's risk. Deliveries by rail, water, truck or otherwise, must be within the working hours and in ample time to allow for unloading and if necessary, the storing of the materials or supplies before closing time. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the contact person identified in the contract at the delivery point.

**3. Patents:**

The Contractor shall hold and save the District, its officers, agents, servants, and employees harmless from liability of any nature or kind, including costs, expenses, for or on account of any patented or unpatented invention, article, process, or appliance, manufactured or used in the performance of this contract, including their use by the District, unless otherwise specifically stipulated in the contract.

**4. Quality:**

Contractor's workmanship shall be of the highest grade, and all materials provided under this Contract shall be new, of the best quality and grade, and suitable in every respect for the purpose intended.

**5. Inspection Of Supplies:**

- (a) Definition. "Supplies," as used in this clause, includes, but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.
- (b) The Contractor shall be responsible for the materials or supplies covered by this contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notification of rejection. Upon the Contractor's failure to cure within ten (10) days after date of notification, the District may return the rejected materials or supplies to the Contractor at the Contractor's risk and expense.
- (c) The Contractor shall provide and maintain an inspection system acceptable to the District covering supplies under this contract and shall tender to the District for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the

system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the District during contract performance and for as long afterwards as the contract requires. The District may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under this contract.

- (d) The District has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The District will perform inspections and tests in a manner that will not unduly delay the work. The District assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in the contract.
- (e) If the District performs inspection or test on the premises of the Contractor or subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the District will bear the expense of District inspections or tests made at other than Contractor's or subcontractor's premises; provided, that in case of rejection, the District will not be liable for any reduction in the value of inspection or test samples.
  - (1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.
  - (2) Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes re-inspection or retest
- (f) The District has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or otherwise not in conformity with contract requirements. The District may reject nonconforming supplies with or without disposition instructions.
- (g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and when required, shall disclose the corrective action taken.
- (h) If the Contractor fails to remove, replace, or correct rejected supplies that are required to be replaced or corrected within ten (10) days, the District may either (1) by contract or otherwise, remove, replace or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

- (i) If this contract provides for the performance of District quality assurance at source, and if requested by the District, the Contractor shall furnish advance notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract, and (ii) when the supplies will be ready for District inspection.
- (j) The District request shall specify the period and method of the advance notification and the District representative to whom it shall be furnished. Requests shall not require more than 2 business days of advance notification if the District representative is in residence in the Contractor's plant, nor more than 7 business days in other instances.
- (k) The District will accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. District failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability upon the District, for non-conforming supplies.
- (l) Inspections and tests by the District do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.
- (m) If acceptance is not conclusive for any of the reasons in subparagraph (l) hereof, the District, in addition to any other rights and remedies provided by law, or under provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or noncompliance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the District will have the right to return the rejected materials at Contractor's risk and expense or contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the District thereby.

**6. Inspection Of Services:**

- (a) Definition. "Services" as used in this clause includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the District covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the District during contract performance and for as long afterwards as the contract requires.

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- (c) The District has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The District will perform inspections and tests in a manner that will not unduly delay the work.
- (d) If the District performs inspections or tests on the premises of the Contractor or subcontractor, the Contractor shall furnish, without additional charge, all reasonable facilities and assistance for the safety and convenient performance of these duties.
- (e) If any of the services do not conform to the contract requirements, the District may require the Contractor to perform these services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by performance, the District may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect value of services performed.
- (f) If the Contractor fails to promptly perform the services again or take the necessary action to ensure future performance in conformity to contract requirements, the District may (1) by contract or otherwise, perform the services and charge the Contractor any cost incurred by the District that is directly related to the performance of such services, or (2) terminate the contract for default.

**7. Waiver:**

The waiver of any breach of the contract will not constitute a waiver of any subsequent breach thereof, or a waiver of the contract.

**8. Default:**

- (a) The District may, subject to the provisions of paragraph (c) below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:
  - (1) If the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or
  - (2) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.
- (b) In the event the District terminates this contract in whole or in part as provided in paragraph (a) of this clause, the District may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or service similar to those so terminated, and the Contractor shall be liable to the District for any excess costs for similar supplies or services; provided, that the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.



- (c) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the District or Federal Government in either their sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without fault or negligence of the Contractor. If the failure to perform is caused by the default of the subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess cost for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.
- (d) If this contract is terminated as provided in paragraph (a) of this clause, the District, in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the District, in the manner and to the extent directed by the Contracting Officer, (i) completed supplies, and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures plans, drawing information, and contract rights (hereinafter called "manufacturing materials") as the Contractor has specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Contractor shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the District has an interest. Payment for completed supplies delivered to and accepted by the District will be at the contract price. Payment for manufacturing materials delivered to and accepted by the District will be at the contract price. Payment for manufacturing materials delivered to and accepted by the District and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and Contracting Officer; failure to agree to such amount shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes". The District may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sum as the Contracting Officer determines to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders.
- (e) If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination of convenience of the District, be the same as if the notice of termination had been issued pursuant to such clause. See Clause 20 for Termination for Convenience of the District.
- (f) The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.
- (g) As used in paragraph (c) of this clause, the terms "subcontractor(s) means subcontractor(s) at any tier.

**9. Indemnification:**

The Contractor agrees to defend, indemnify and hold harmless the District, its officers, agencies, departments, agents, and employees (collectively the "District") from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorneys' fees), resulting from, arising out of, or in any way connected to activities or work performed by the Contractor, Contractor's officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor in performance of this Contract. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed in performance of this Contract. The Contractor shall also repair or replace any District property that is damaged by the Contractor, Contractor's officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor while performing work hereunder.

The indemnification obligation under this section shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Contract. The District agrees to give Contractor written notice of any claim of indemnity under this section. Additionally, Contractor shall have the right and sole authority to control the defense or settlement of such claim, provided that no contribution or action by the District is required in connection with the settlement. Monies due or to become due the Contractor under the contract may be retained by the District as necessary to satisfy any outstanding claim which the District may have against the Contractor.

**10. Transfer:**

No contract or any interest therein shall be transferred by the parties to whom the award is made; such transfer will be null and void and will be cause to annul the contract.

**11. Taxes:**

(a) The Government of the District of Columbia is exempt from and will not pay Federal Excise Tax, Transportation Tax, and the District of Columbia Sales and Use Taxes.

(b) Tax exemption certificates are no longer issued by the District for Federal Excise Tax. The following statement may be used by the supplier when claiming tax deductions for Federal Excise Tax exempt items sold to the District.

"The District of Columbia Government is Exempt from Federal Excise Tax – Registration No. 52-73-0206-K, Internal Revenue Service, Baltimore, Maryland."

Exempt From Maryland Sales Tax, Registered With The Comptroller Of The Treasury As Follows:

a) Deliveries to Glenn Dale Hospital – Exemption No. 4647

b) Deliveries to Children's Center – Exemption No. 4648

c) Deliveries to other District Departments or Agencies – Exemption No. 09339

"The District of Columbia Government is Exempt from Sales and Use Tax – Registration No. 53-600, The District of Columbia Office of Tax and Revenue."

**12. Appointment of Attorney:**

- (a) The bidder/offeror or contractor (whichever the case may be) does hereby irrevocably designate and appoint the Clerk of the District of Columbia Superior Court and his successor in office as the true and lawful attorney of the Contractor for the purpose of receiving service of all notices and processes issued by any court in the District of Columbia, as well as service of all pleadings and other papers, in relation to any action or legal proceeding arising out of or pertaining to this contract or the work required or performed hereunder.
- (b) The bidder/offeror or contractor (whichever the case may be) expressly agrees that the validity of any service upon the said Clerk as herein authorized shall not be affected either by the fact that the contractor was personally within the District of Columbia and otherwise subject to personal service at the time of such service upon the said Clerk or by the fact that the contractor failed to receive a copy of such process, notice or other paper so served upon the said Clerk provided the said Clerk shall have deposited in the United States mail, registered and postage prepaid, a copy of such process, notice, pleading or other paper addressed to the bidder/offeror or contractor at the address stated in this contract.

**13. District Employees Not To Benefit:**

Unless a determination is made as provided herein, no officer or employee of the District will be admitted to any share or part of this contract or to any benefit that may arise therefrom, and any contract made by the Contracting Officer or any District employee authorized to execute contracts in which they or an employee of the District will be personally interested shall be void, and no payment shall be made thereon by the District or any officer thereof, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit. A District employee shall not be a party to a contract with the District and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the procuring agency that there is a compelling reason for contracting with the employee, such as when the District's needs cannot reasonably otherwise be met. (DC Procurement Practices Act of 1985, D.C. Law 6-85, D.C. Official Code, section 2-310.01, and Chapter 18 of the DC Personnel Regulations)

The Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants not to employ any person having such known interests in the performance of the contract.

**14. Disputes:**

- A. All disputes arising under or relating to this contract shall be resolved as provided herein.
- B. Claims by a Contractor against the District.

Claim, as used in Section B of this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that

contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

- (a) All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the Contracting Officer for a decision. The contractor's claim shall contain at least the following:
  - (1) A description of the claim and the amount in dispute;
  - (2) Any data or other information in support of the claim;
  - (3) A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and
  - (4) The Contractor's request for relief or other action by the Contracting Officer.
- (b) The Contracting Officer may meet with the Contractor in a further attempt to resolve the claim by agreement.
- (c) For any claim of \$50,000 or less, the Contracting Officer shall issue a decision within sixty (60) days from receipt of a written request from a Contractor that a decision be rendered within that period.
- (d) For any claim over \$50,000, the Contracting Officer shall issue a decision within ninety (90) days of receipt of the claim. Whenever possible, the Contracting Officer shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.
- (e) The Contracting Officer's written decision shall do the following:
  - (1) Provide a description of the claim or dispute;
  - (2) Refer to the pertinent contract terms;
  - (3) State the factual areas of agreement and disagreement;
  - (4) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
  - (5) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
  - (6) Indicate that the written document is the contracting officer's final decision; and
  - (7) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- (f) Any failure by the Contracting Officer to issue a decision on a contract claim within the required time period will be deemed to be a denial of the claim, and will authorize the commencement of an appeal to the Contract Appeals Board as authorized by D.C. Official Code § 2-309.04.

- (g) (1) If a Contractor is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Contractor's claim.
- (2) Liability under paragraph (g)(1) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.
- (h) The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D. C. Official Code § 2-309.04.
- (i) Pending final decision of an appeal, action, or final settlement, a Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

C. Claims by the District against a Contractor

- (a) Claim as used in Section C of this clause, means a written demand or written assertion by the District seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.
- (b) (1) All claims by the District against a Contractor arising under or relating to a contract shall be decided by the Contracting Officer.
- (2) The Contracting Officer shall send written notice of the claim to the Contractor. The Contracting Officer's written decision shall do the following:
  - (a) Provide a description of the claim or dispute;
  - (b) Refer to the pertinent contract terms;
  - (c) State the factual areas of agreement and disagreement;
  - (d) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
  - (e) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
  - (f) Indicate that the written document is the Contracting Officer's final decision; and
  - (g) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

- (3) The decision shall be supported by reasons and shall inform the Contractor of its rights as provided herein.
- (4) The authority contained in this clause shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle, or determine.
- (5) This clause shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.
- (c) The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D.C. Official Code §2-309.04.
- (d) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

**15. Changes:**

The Contracting Officer may, at any time, by written order, and without notice to the surety, if any, make changes in the contract within the general scope hereof. If such change causes an increase or decrease in the cost of performance of this contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment under this paragraph must be asserted within ten (10) days from the date the change is offered; provided, however, that the Contracting Officer, if he or she determines that the facts justify such action, may receive, consider and adjust any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in the Disputes clause at Section 18. Nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

**16. Termination For Convenience Of The District:**

- (a) The District may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the District's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and effective date.
- (b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
  - (1) Stop work as specified in the notice.
  - (2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
  - (3) Terminate all contracts to the extent they relate to the work terminated.

- (4) Assign to the District, as directed by the Contracting Officer, all rights, title and interest of the Contractor under the subcontracts terminated, in which case the District will have the right to settle or pay any termination settlement proposal arising out of those terminations.
  - (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts. The approval or ratification will be final for purposes of this clause.
  - (6) As directed by the Contracting Officer, transfer title and deliver to the District (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other materials produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract has been completed, would be required to be furnished to the District.
  - (7) Complete performance of the work not terminated.
  - (8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the District has or may acquire an interest.
  - (9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the District under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.
- (c) After the expiration of ninety (90) days (or such longer period as may be agreed to) after receipt by the Contracting Officer of acceptable inventory schedules, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality of termination inventory not previously disposed of excluding items authorized for disposition by the Contracting Officer. The Contractor may request the District to remove those items or enter into an agreement for their storage. Within fifteen (15) days, the District will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within forty five (45) days from submission of the list, and shall correct the list, as necessary, before final settlement.
- (d) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this one year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be

received and acted on after one year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due to the Contractor because of the termination and shall pay the amount determined.

- (e) Subject to paragraph (d) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) below, exclusive of costs shown in subparagraph (f)(3) below, may not exceed the total contract price as reduced by (1) the amount of payment previously made and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (f) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.
- (f) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (e) above:
  - (1) The contract price for completed supplies or services accepted by the District (or sold or acquired under subparagraph (b)(9) above) not previously paid for, adjusted for any saving of freight and other charges.
  - (2) The total of :
    - (i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (f)(1) above;
    - (ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (f)(1) above; and
    - (iii) A sum, as profit on subparagraph f(1) above, determined by the Contracting Officer to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subparagraph (iii) and shall reduce the settlement to reflect the indicated rate of loss.
  - (3) The reasonable cost of settlement of the work terminated, including-
    - (i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
    - (ii) The termination and settlement of subcontractors (excluding the amounts of such settlements); and



- (iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.
- (g) Except for normal spoilage, and except to the extent that the District expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f) above, the fair value as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the District or to a buyer.
- (h) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraphs (d), (f) or (j), except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) or (j), and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (d), (f) or (j), the District will pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.
- (i) In arriving at the amount due the Contractor under this clause, there shall be deducted:
  - (1) All unliquidated advances or other payments to the Contractor under the termination portion of the contract;
  - (2) Any claim which the District has against the Contractor under this contract; and
  - (3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the District.
- (j) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within ninety (90) days from the effective date of termination unless extended in writing by the Contracting Officer.
- (k) (1) The District may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor shall be entitled.
  - (2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the District upon demand together with interest computed at the rate of 10 percent (10%) per year. Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess payment is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or

other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

- (l) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the District, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, micrographs, or other authentic reproductions may be maintained instead of original records and documents.

**17. Recovery Of Debts Owed The District:**

The Contractor hereby agrees that the District may use all or any portion of any consideration or refund due the Contractor under the present contract to satisfy, in whole or part, any debt due the District.

**18. Retention and Examination Of Records:**

The Contractor shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the District under the contract that results from this solicitation.

The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of three (3) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of three (3) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract.

The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the Contracting Officer.

The Contracting Officer, the Inspector General and the District of Columbia Auditor, or any of their duly authorized representatives shall, until three years after final payment, have the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions related to the contract.

**19. Non-Discrimination Clause:**

- (a) The Contractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human Rights Act, approved December 13, 1977, as amended (D. C. Law 2-38; D. C. Official Code §2-1402.11) (2001 Ed.) ("Act" as used in this Section). The Contractor shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, Contractor agrees and any subcontractor shall agree to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause as provided in Section 251 of the Act.

(b) Pursuant to rules of the Office of Human Rights, published on August 15, 1986 in the D. C. Register, Mayor's Order 2002-175 (10/23/02), 49 DCR 9883 and Mayor's Order 2006-151 (11/17/06), 52 DCR 9351, the following clauses apply to this contract:

- (1) The Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act.
- (2) The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business.

The affirmative action shall include, but not be limited to the following:

- (a) employment, upgrading or transfer;
  - (b) recruitment, or recruitment advertising;
  - (c) demotion, layoff, or termination;
  - (d) rates of pay, or other forms of compensation; and
  - (e) selection for training and apprenticeship.
- (3) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Agency, setting forth the provisions in subsections (b)(1) and (b)(2) concerning non-discrimination and affirmative action.
  - (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection (b)(2).
  - (5) The Contractor agrees to send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of that contractor's commitments under this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (6) The Contractor agrees to permit access to his books, records and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of Human Rights or designee, for purposes of investigation to ascertain compliance with this chapter, and to require under terms of any subcontractor agreement each subcontractor to permit access of such subcontractors' books, records, and accounts for such purposes.
- (7) The Contractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the District of Columbia adopted by the Director of the Office of Human Rights, or any authorized official.
- (8) The Contractor shall include in every subcontract the equal opportunity clauses, subsections (b)(1) through (b)(9) of this section, so that such provisions shall be binding upon each subcontractor or vendor.
- (9) The Contractor shall take such action with respect to any subcontract as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the District to enter into such litigation to protect the interest of the District.

**20. Definitions:**

The terms Mayor, Chief Procurement Officer, Contract Appeals Board and District will mean the Mayor of the District of Columbia, the Chief Procurement Officer of the District of Columbia or his/her alternate, the Contract Appeals Board of the District of Columbia, and the Government of the District of Columbia respectively. If the Contractor is an individual, the term Contractor shall mean the Contractor, his heirs, his executor and his administrator. If the Contractor is a corporation, the term Contractor shall mean the Contractor and its successor.

**21. Health And Safety Standards:**

Items delivered under this contract shall conform to all requirements of the Occupational Safety and Health Act of 1970, as amended ("OSHA"), and Department of Labor Regulations under OSHA, and all Federal requirements in effect at time of bid opening/proposal submission.

**22. Appropriation Of Funds:**

The District's liability under this contract is contingent upon the future availability of appropriated monies with which to make payment for the contract purposes. The legal liability on the part of the District for the payment of any money shall not arise unless and until such appropriation shall have been provided.

**23. Buy American Act:**

- (a) The Buy American Act (41 U.S.C. §10a) provides that the District give preference to domestic end products.

“Components,” as used in this clause, means those articles, materials, and supplies incorporated directly into the end products.

“Domestic end product,” as used in this clause, means, (1) an unmanufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States, exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as the products referred to in paragraphs (b)(2) or (3) of this clause shall be treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

“End products,” as used in this clause, means those articles, materials, and supplies to be acquired for public use under this contract.

- (b) The Contractor shall deliver only domestic end products, except those-
  - (1) For use outside the United States;
  - (2) That the District determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;
  - (3) For which the District determines that domestic preference would be inconsistent with the public interest; or
  - (4) For which the District determines the cost to be unreasonable.

#### **24. Service Contract Act of 1965:**

- (a) Definitions. “Act,” as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. §351, *et seq.*).
  - (1) “Contractor,” as used in this clause, means the prime Contractor or any subcontractor at any tier.
  - (2) “Service employee,” as used in this clause, means any person (other than a person employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR 541) engaged in performing a District contract not exempted under 41 U.S.C. §356, the principal purpose of which is to furnish services in the United States, as defined in section 22.1001 of the Federal Acquisition Regulation. It includes all such persons regardless of the actual or alleged contractual relationship between them and a contractor.
- (b) Applicability. To the extent that the Act applies, this contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (20 CFR part 4). All interpretations of the Act in Subpart C of 29 CFR 4 are incorporated in this contract by reference. This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. §356, as interpreted in Subpart C of 29 CFR 4.
- (c) Compensation.

- (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or the Secretary's authorized representative, as specified in any wage determination attached to this contract.
- (2) If a wage determination is attached to this contract, the Contractor shall classify any class of service employees not listed in it, but to be employed under this contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph. This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee.
  - (a) The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration (ESA), Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary;
  - (b) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contracting Officer with a written copy of such determination or it shall be posted as a part of the wage determination;
  - (c) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General

Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed;

- (d) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds to a contract under which the classification in question was previously conformed pursuant to this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (*i.e.*, adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in this clause need not be followed;
  - (e) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;
  - (f) The wage rate and fringe benefits finally determined under this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract;
  - (g) Upon discovery of failure to comply with this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.
- (3) If the term of this contract is more than 1 year, the minimum wages and fringe benefits required for service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by ESA.
  - (4) The Contractor can discharge the obligation to furnish fringe benefits specified in the attachment or determined under paragraph (2) of this clause by furnishing any equivalent combinations of bona fide fringe

benefits, or by making equivalent or differential cash payments, in accordance with Subpart B and C of 29 CFR 4.

- (d) Minimum wage: In the absence of a minimum wage attachment for this contract, the Contractor shall not pay any service or other employees performing this contract less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §206). Nothing in this clause shall relieve the Contractor of any other legal or contractual obligation to pay a higher wage to any employee.
- (e) Successor contracts: If this contract succeeds a contract subject to the Act under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then, in the absence of a minimum wage attachment to this contract, the Contractor may not pay any service employee performing this contract less than the wages and benefits, including those accrued and any prospective increases, provided for under that agreement. No Contractor may be relieved of this obligation unless the limitations of 29 CFR 4.1c(b) apply or unless the Secretary of Labor or the Secretary's authorized representative:
  - (1) Determines that the agreement under the predecessor was not the result of arms-length negotiations; or
  - (2) Finds, after a hearing under 29 CFR 4.10, that the wages and benefits provided for by that agreement vary substantially from those prevailing for similar services in the locality or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and 4.11 and parts 6 and 8 that some or all of the wages and fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.
- (f) Notification to employees: The Contractor shall notify each service employee commencing work on this contract of a minimum wage and any fringe benefits required to be paid, or shall post a notice of these wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.



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- (g) Safe and sanitary working conditions: The Contractor shall not permit services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor that are unsanitary, hazardous, or dangerous to the health or safety of service employees. The Contractor shall comply with the health standards applied under 29 CFR Part 1925.
- (h) Records: The Contractor shall maintain for 3 years from the completion of work, and make available for inspection and transcription by authorized ESA representatives, a record of the following:
  - (1) For each employee subject to the Act:
    - (a) Name and address;
    - (b) Work classification or classifications, rate or rates of wages and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;
    - (c) Daily and weekly hours worked; and
    - (d) Any deductions, rebates, or refunds from total daily or weekly compensation.
  - (2) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by ESA under the terms of paragraph (c)(3) of this clause. A copy of the report required by paragraph (e) of this clause will fulfill this requirement.
  - (3) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by this clause. The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division. Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases. The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.
- (i) Pay periods: The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.
- (j) Withholding of payments and termination of contract: The Contracting Officer shall withhold from the prime Contractor under this or any other District contract

with the prime contractor any sums the Contracting Officer, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination for default. In such event, the District may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

- (k) Subcontracts: The Contractor agrees to insert this clause in all subcontracts.
- (l) Contractor's report:
  - (1) If there is a wage determination attachment to this contract and any classes of service employees not listed on it are to be employed under the contract, the Contractor shall report promptly to the Contracting Officer the wages to be paid and the fringe benefits to be provided each of these classes, when determined under paragraph (c) of this clause.
  - (2) If wages to be paid or fringe benefits to be furnished any service employees under the contract are covered in a collective bargaining agreement effective at any time when the contract is being performed, the Contractor shall provide to the Contracting Officer a copy of the agreement and full information on the application and accrual of wages and benefits (including any prospective increases) to service employees working on the contract. The Contractor shall report when contract performance begins, in the case of agreements then in effect, and shall report subsequently effective agreements, provisions, or amendments promptly after they are negotiated.
- (m) Contractor's Certification: By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded District contracts by virtue of the sanctions imposed under section 5 of the Act. No part of this contract shall be subcontracted to any person or firm ineligible for award of a District contract under section 5 of the Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. §1001.
- (n) Variations, tolerances, and exemptions involving employment: Notwithstanding any of the provisions in paragraphs (c) through (l) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions authorized by the Secretary of Labor.
  - (1)(i) In accordance with regulations issued under Section 14 of the Fair Labor Standards Act of 1938 by the Administrator of the Wage and Hour Division, ESA (29 CFR 520, 521, 524, and 525), apprentices, student learners, and workers whose earning capacity is impaired by age or by physical or mental deficiency or injury, may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1)

of the Service Contract Act, without diminishing any fringe benefits or payments in lieu of these benefits required under section 2(a)(2) of the Act.

- (ii) The Administrator will issue certificates under the Act for employing apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages, but without changing requirements concerning fringe benefits or supplementary cash payments in lieu of these benefits.
  - (iii) The Administrator may also withdraw, annul, or cancel such certificates under 29 CFR 525 and 528.
- (2) An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips shall be credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with regulations in 29 CFR 531. However, the amount of credit shall not exceed 40 percent of the minimum rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 as amended.

**25. Cost and Pricing Data:**

- (a) This paragraph and paragraphs b through e below shall apply to contractors or offerors in regards to: (1) any procurement in excess of \$100,000, (2) any contract awarded through competitive sealed proposals, (3) any contract awarded through sole source procurement, or (4) any change order or contract modification. By entering into this contract or submitting this offer, the Contractor or offeror certifies that, to the best of the Contractor's or offeror's knowledge and belief, any cost and pricing data submitted was accurate, complete and current as of the date specified in the contract or offer.
- (b) Unless otherwise provided in the solicitation, the offeror or Contractor shall, before entering into any contract awarded through competitive sealed proposals or through sole source procurement or before negotiating any price adjustments pursuant to a change order or modification, submit cost or pricing data and certification that, to the best of the Contractor's knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of the date of award of this contract or as of the date of negotiation of the change order or modification.
- (c) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified by the Contractor, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified by the Contractor, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

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- (d) Any reduction in the contract price under paragraph c above due to defective data from a prospective subcontractor that was not subsequently awarded, the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided that the actual subcontract price was not itself affected by defective cost or pricing data.
- (e) Cost or pricing data includes all facts as of the time of price agreement that prudent buyers and sellers would reasonably expect to affect price negotiations significantly. Cost or pricing data are factual, not judgmental, and are therefore verifiable. While they do not indicate the accuracy of the prospective Contractor's judgment about estimated future costs or projections, cost or pricing data do include the data forming the basis for that judgment. Cost or pricing data are more than historical accounting data; they are all the facts that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of determinations of costs already incurred.
- (f) The following specific information should be included as cost or pricing data, as applicable:
  - (1) Vendor quotations;
  - (2) Nonrecurring costs;
  - (3) Information on changes in production methods or purchasing volume;
  - (4) Data supporting projections of business prospects and objectives and related operations costs;
  - (5) Unit – cost trends such as those associated with labor efficiency;
  - (6) Make or buy decisions;
  - (7) Estimated resources to attain business goals;
  - (8) Information on management decisions that could have a significant bearing on costs.
- (g) If the offeror or contractor is required by law to submit cost or pricing data in connection with pricing this contract or any change order or modification of this contract, the Contracting Officer or representatives of the Contracting Officer shall have the right to examine all books, records, documents and other data of the Contractor (including computations and projections) related to negotiating, pricing, or performing the contract, change order or modification, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. Contractor shall make available at its office at all reasonable times the materials described above for examination, audit, or reproduction until three years after the later of:
  - (1) final payment under the contract;

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- (2) final termination settlement; or
- (3) the final disposition of any appeals under the disputes clause or of litigation or the settlement of claims arising under or relating to the contract.

**26. Multiyear Contract:**

If this contract is a multiyear contract, then the following provision is made part of this contract:

If funds are not appropriated or otherwise made available for the continued performance in a subsequent year of a multiyear contract, the contract for the subsequent year shall be terminated, either automatically or in accordance with the termination clause of the contract. Unless otherwise provided for in the contract, the effect of termination is to discharge both the District and the Contractor from future performance of the contract, but not from the existing obligations. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the contract.

**27. Termination Of Contracts For Certain Crimes And Violations:**

- (a) The District may terminate without liability any contract and may deduct from the contract price or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid in violation of this title if:
  - (1) The Contractor has been convicted of a crime arising out of or in connection with the procurement of any work to be done or any payment to be made under the contract; or
  - (2) There has been any breach or violation of:
    - (A) Any provision of the Procurement Practices Act of 1985, as amended, or
    - (B) The contract provision against contingent fees.
- (b) If a contract is terminated pursuant to this section, the Contractor:
  - (1) May be paid only the actual costs of the work performed to the date of termination, plus termination costs, if any; and
  - (2) Shall refund all profits or fixed fees realized under the Contract.
- (c) The rights and remedies contained in this are in addition to any other right or remedy provided by law, and the exercise of any of them is not a waiver of any other right or remedy provided by law.

# ATTACHMENT J.2

WD 05-2103 (Rev.-12) was first posted on www.wdol.gov on 06/19/2012

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REGISTER OF WAGE DETERMINATIONS UNDER		U.S. DEPARTMENT OF LABOR
THE SERVICE CONTRACT ACT		EMPLOYMENT STANDARDS ADMINISTRATION
By direction of the Secretary of Labor		WAGE AND HOUR DIVISION
		WASHINGTON D.C. 20210

Diane C. Koplewski	Division of		Wage Determination No.: 2005-2103
Director	Wage Determinations		Revision No.: 12
			Date Of Revision: 06/13/2012

States: District of Columbia, Maryland, Virginia

Area: District of Columbia Statewide  
Maryland Counties of Calvert, Charles, Frederick, Montgomery, Prince  
George's, St Mary's  
Virginia Counties of Alexandria, Arlington, Fairfax, Falls Church, Fauquier,  
King George, Loudoun, Prince William, Stafford

\*\*Fringe Benefits Required Follow the Occupational Listing\*\*

OCCUPATION CODE - TITLE	FOOTNOTE	RATE
01000 - Administrative Support And Clerical Occupations		
01011 - Accounting Clerk I		15.08
01012 - Accounting Clerk II		16.92
01013 - Accounting Clerk III		22.30
01020 - Administrative Assistant		31.41
01040 - Court Reporter		21.84
01051 - Data Entry Operator I		14.38
01052 - Data Entry Operator II		15.69
01060 - Dispatcher, Motor Vehicle		17.87
01070 - Document Preparation Clerk		14.21
01090 - Duplicating Machine Operator		14.21
01111 - General Clerk I		14.88
01112 - General Clerk II		16.24
01113 - General Clerk III		18.74
01120 - Housing Referral Assistant		25.29
01141 - Messenger Courier		13.62
01191 - Order Clerk I		15.12
01192 - Order Clerk II		16.50
01261 - Personnel Assistant (Employment) I		18.15
01262 - Personnel Assistant (Employment) II		20.32
01263 - Personnel Assistant (Employment) III		22.65
01270 - Production Control Clerk		22.03
01280 - Receptionist		14.43
01290 - Rental Clerk		16.55
01300 - Scheduler, Maintenance		18.07
01311 - Secretary I		18.07
01312 - Secretary II		20.18
01313 - Secretary III		25.29
01320 - Service Order Dispatcher		16.98
01410 - Supply Technician		28.55
01420 - Survey Worker		20.03
01531 - Travel Clerk I		13.29
01532 - Travel Clerk II		14.36
01533 - Travel Clerk III		15.49
01611 - Word Processor I		15.63
01612 - Word Processor II		17.67
01613 - Word Processor III		19.95
05000 - Automotive Service Occupations		

05005 - Automobile Body Repairer, Fiberglass	25.26
05010 - Automotive Electrician	23.51
05040 - Automotive Glass Installer	22.15
05070 - Automotive Worker	22.15
05110 - Mobile Equipment Servicer	19.04
05130 - Motor Equipment Metal Mechanic	24.78
05160 - Motor Equipment Metal Worker	22.15
05190 - Motor Vehicle Mechanic	24.78
05220 - Motor Vehicle Mechanic Helper	18.49
05250 - Motor Vehicle Upholstery Worker	21.63
05280 - Motor Vehicle Wrecker	22.15
05310 - Painter, Automotive	23.51
05340 - Radiator Repair Specialist	22.15
05370 - Tire Repairer	14.44
05400 - Transmission Repair Specialist	24.78
07000 - Food Preparation And Service Occupations	
07010 - Baker	13.85
07041 - Cook I	12.55
07042 - Cook II	14.60
07070 - Dishwasher	10.11
07130 - Food Service Worker	10.66
07210 - Meat Cutter	18.08
07260 - Waiter/Waitress	9.70
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	19.86
09040 - Furniture Handler	14.06
09080 - Furniture Refinisher	20.23
09090 - Furniture Refinisher Helper	15.52
09110 - Furniture Repairer, Minor	17.94
09130 - Upholsterer	19.86
11000 - General Services And Support Occupations	
11030 - Cleaner, Vehicles	10.54
11060 - Elevator Operator	10.54
11090 - Gardener	17.52
11122 - Housekeeping Aide	11.83
11150 - Janitor	11.83
11210 - Laborer, Grounds Maintenance	13.07
11240 - Maid or Houseman	11.26
11260 - Pruner	11.58
11270 - Tractor Operator	16.04
11330 - Trail Maintenance Worker	13.07
11360 - Window Cleaner	12.85
12000 - Health Occupations	
12010 - Ambulance Driver	20.41
12011 - Breath Alcohol Technician	20.27
12012 - Certified Occupational Therapist Assistant	23.11
12015 - Certified Physical Therapist Assistant	21.43
12020 - Dental Assistant	17.18
12025 - Dental Hygienist	44.75
12030 - EKG Technician	27.67
12035 - Electroneurodiagnostic Technologist	27.67
12040 - Emergency Medical Technician	20.41
12071 - Licensed Practical Nurse I	19.07
12072 - Licensed Practical Nurse II	21.35
12073 - Licensed Practical Nurse III	24.13
12100 - Medical Assistant	15.01
12130 - Medical Laboratory Technician	18.04
12160 - Medical Record Clerk	17.42
12190 - Medical Record Technician	19.50
12195 - Medical Transcriptionist	18.77
12210 - Nuclear Medicine Technologist	37.60



12221 - Nursing Assistant I	10.80
12222 - Nursing Assistant II	12.14
12223 - Nursing Assistant III	13.98
12224 - Nursing Assistant IV	15.69
12235 - Optical Dispenser	20.17
12236 - Optical Technician	15.80
12250 - Pharmacy Technician	18.12
12280 - Phlebotomist	15.69
12305 - Radiologic Technologist	31.11
12311 - Registered Nurse I	27.64
12312 - Registered Nurse II	33.44
12313 - Registered Nurse II, Specialist	33.44
12314 - Registered Nurse III	40.13
12315 - Registered Nurse III, Anesthetist	40.13
12316 - Registered Nurse IV	48.10
12317 - Scheduler (Drug and Alcohol Testing)	21.73
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	19.86
13012 - Exhibits Specialist II	24.61
13013 - Exhibits Specialist III	30.09
13041 - Illustrator I	20.48
13042 - Illustrator II	25.38
13043 - Illustrator III	31.03
13047 - Librarian	33.88
13050 - Library Aide/Clerk	14.21
13054 - Library Information Technology Systems Administrator	30.60
13058 - Library Technician	19.89
13061 - Media Specialist I	18.73
13062 - Media Specialist II	20.95
13063 - Media Specialist III	23.36
13071 - Photographer I	16.65
13072 - Photographer II	18.90
13073 - Photographer III	23.67
13074 - Photographer IV	28.65
13075 - Photographer V	33.76
13110 - Video Teleconference Technician	20.39
14000 - Information Technology Occupations	
14041 - Computer Operator I	18.92
14042 - Computer Operator II	21.18
14043 - Computer Operator III	23.60
14044 - Computer Operator IV	26.22
14045 - Computer Operator V	29.05
14071 - Computer Programmer I	(see 1) 26.36
14072 - Computer Programmer II	(see 1)
14073 - Computer Programmer III	(see 1)
14074 - Computer Programmer IV	(see 1)
14101 - Computer Systems Analyst I	(see 1)
14102 - Computer Systems Analyst II	(see 1)
14103 - Computer Systems Analyst III	(see 1)
14150 - Peripheral Equipment Operator	18.92
14160 - Personal Computer Support Technician	26.22
15000 - Instructional Occupations	
15010 - Aircrew Training Devices Instructor (Non-Rated)	36.47
15020 - Aircrew Training Devices Instructor (Rated)	44.06
15030 - Air Crew Training Devices Instructor (Pilot)	52.81
15050 - Computer Based Training Specialist / Instructor	36.47
15060 - Educational Technologist	35.31
15070 - Flight Instructor (Pilot)	52.81
15080 - Graphic Artist	26.80
15090 - Technical Instructor	25.08

15095 - Technical Instructor/Course Developer	30.67
15110 - Test Proctor	20.20
15120 - Tutor	20.20
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations	
16010 - Assembler	9.88
16030 - Counter Attendant	9.88
16040 - Dry Cleaner	12.94
16070 - Finisher, Flatwork, Machine	9.88
16090 - Presser, Hand	9.88
16110 - Presser, Machine, Drycleaning	9.88
16130 - Presser, Machine, Shirts	9.88
16160 - Presser, Machine, Wearing Apparel, Laundry	9.88
16190 - Sewing Machine Operator	13.78
16220 - Tailor	14.66
16250 - Washer, Machine	10.88
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	21.14
19040 - Tool And Die Maker	23.38
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	18.02
21030 - Material Coordinator	22.03
21040 - Material Expediter	22.03
21050 - Material Handling Laborer	13.83
21071 - Order Filler	15.09
21080 - Production Line Worker (Food Processing)	18.02
21110 - Shipping Packer	15.09
21130 - Shipping/Receiving Clerk	15.09
21140 - Store Worker I	11.72
21150 - Stock Clerk	16.86
21210 - Tools And Parts Attendant	18.02
21410 - Warehouse Specialist	18.02
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	27.21
23021 - Aircraft Mechanic I	25.83
23022 - Aircraft Mechanic II	27.21
23023 - Aircraft Mechanic III	28.53
23040 - Aircraft Mechanic Helper	17.54
23050 - Aircraft, Painter	24.73
23060 - Aircraft Servicer	19.76
23080 - Aircraft Worker	21.01
23110 - Appliance Mechanic	21.75
23120 - Bicycle Repairer	14.43
23125 - Cable Splicer	26.02
23130 - Carpenter, Maintenance	21.40
23140 - Carpet Layer	20.49
23160 - Electrician, Maintenance	27.98
23181 - Electronics Technician Maintenance I	24.94
23182 - Electronics Technician Maintenance II	26.47
23183 - Electronics Technician Maintenance III	27.89
23260 - Fabric Worker	19.13
23290 - Fire Alarm System Mechanic	22.91
23310 - Fire Extinguisher Repairer	17.62
23311 - Fuel Distribution System Mechanic	22.81
23312 - Fuel Distribution System Operator	19.38
23370 - General Maintenance Worker	21.43
23380 - Ground Support Equipment Mechanic	25.83
23381 - Ground Support Equipment Servicer	19.76
23382 - Ground Support Equipment Worker	21.01
23391 - Gunsmith I	17.62
23392 - Gunsmith II	20.49
23393 - Gunsmith III	22.91

23410 - Heating, Ventilation And Air-Conditioning Mechanic	23.89
23411 - Heating, Ventilation And Air Contditioning Mechanic (Research Facility)	25.17
23430 - Heavy Equipment Mechanic	22.91
23440 - Heavy Equipment Operator	22.91
23460 - Instrument Mechanic	22.59
23465 - Laboratory/Shelter Mechanic	21.75
23470 - Laborer	14.98
23510 - Locksmith	21.90
23530 - Machinery Maintenance Mechanic	23.12
23550 - Machinist, Maintenance	22.91
23580 - Maintenance Trades Helper	18.27
23591 - Metrology Technician I	22.59
23592 - Metrology Technician II	23.80
23593 - Metrology Technician III	24.96
23640 - Millwright	28.19
23710 - Office Appliance Repairer	22.96
23760 - Painter, Maintenance	21.75
23790 - Pipefitter, Maintenance	24.63
23810 - Plumber, Maintenance	22.29
23820 - Pneudraulic Systems Mechanic	22.91
23850 - Rigger	22.91
23870 - Scale Mechanic	20.49
23890 - Sheet-Metal Worker, Maintenance	22.91
23910 - Small Engine Mechanic	20.49
23931 - Telecommunications Mechanic I	29.95
23932 - Telecommunications Mechanic II	31.55
23950 - Telephone Lineman	27.41
23960 - Welder, Combination, Maintenance	22.91
23965 - Well Driller	22.91
23970 - Woodcraft Worker	22.91
23980 - Woodworker	17.62
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	12.79
24580 - Child Care Center Clerk	17.77
24610 - Chore Aide	10.57
24620 - Family Readiness And Support Services Coordinator	16.90
24630 - Homemaker	18.43
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	27.30
25040 - Sewage Plant Operator	20.84
25070 - Stationary Engineer	27.30
25190 - Ventilation Equipment Tender	19.49
25210 - Water Treatment Plant Operator	20.84
27000 - Protective Service Occupations	
27004 - Alarm Monitor	20.57
27007 - Baggage Inspector	12.71
27008 - Corrections Officer	22.80
27010 - Court Security Officer	24.72
27030 - Detection Dog Handler	20.57
27040 - Detention Officer	22.80
27070 - Firefighter	24.63
27101 - Guard I	12.71
27102 - Guard II	20.57
27131 - Police Officer I	26.52
27132 - Police Officer II	29.67
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	13.59
28042 - Carnival Equipment Repairer	14.63

28043 - Carnival Equipment Worker	9.24
28210 - Gate Attendant/Gate Tender	13.01
28310 - Lifeguard	11.59
28350 - Park Attendant (Aide)	14.56
28510 - Recreation Aide/Health Facility Attendant	10.62
28515 - Recreation Specialist	18.04
28630 - Sports Official	11.59
28690 - Swimming Pool Operator	18.21
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	23.13
29020 - Hatch Tender	23.13
29030 - Line Handler	23.13
29041 - Stevedore I	21.31
29042 - Stevedore II	24.24
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist, Center (HFO) (see 2)	39.92
30011 - Air Traffic Control Specialist, Station (HFO) (see 2)	26.84
30012 - Air Traffic Control Specialist, Terminal (HFO) (see 2)	29.56
30021 - Archeological Technician I	20.19
30022 - Archeological Technician II	22.60
30023 - Archeological Technician III	27.98
30030 - Cartographic Technician	27.98
30040 - Civil Engineering Technician	26.41
30061 - Drafter/CAD Operator I	20.19
30062 - Drafter/CAD Operator II	22.60
30063 - Drafter/CAD Operator III	25.19
30064 - Drafter/CAD Operator IV	31.00
30081 - Engineering Technician I	22.92
30082 - Engineering Technician II	25.72
30083 - Engineering Technician III	28.79
30084 - Engineering Technician IV	35.64
30085 - Engineering Technician V	43.61
30086 - Engineering Technician VI	52.76
30090 - Environmental Technician	27.41
30210 - Laboratory Technician	23.38
30240 - Mathematical Technician	28.94
30361 - Paralegal/Legal Assistant I	21.36
30362 - Paralegal/Legal Assistant II	26.47
30363 - Paralegal/Legal Assistant III	32.36
30364 - Paralegal/Legal Assistant IV	39.16
30390 - Photo-Optics Technician	27.98
30461 - Technical Writer I	21.93
30462 - Technical Writer II	26.84
30463 - Technical Writer III	32.47
30491 - Unexploded Ordnance (UXO) Technician I	24.74
30492 - Unexploded Ordnance (UXO) Technician II	29.93
30493 - Unexploded Ordnance (UXO) Technician III	35.88
30494 - Unexploded (UXO) Safety Escort	24.74
30495 - Unexploded (UXO) Sweep Personnel	24.74
30620 - Weather Observer, Combined Upper Air Or (see 2)	25.19
Surface Programs	
30621 - Weather Observer, Senior (see 2)	27.98
31000 - Transportation/Mobile Equipment Operation Occupations	
31020 - Bus Aide	14.32
31030 - Bus Driver	20.85
31043 - Driver Courier	13.98
31260 - Parking and Lot Attendant	10.07
31290 - Shuttle Bus Driver	15.66
31310 - Taxi Driver	13.98
31361 - Truckdriver, Light	15.66
31362 - Truckdriver, Medium	17.90

31363 - Truckdriver, Heavy	19.18
31364 - Truckdriver, Tractor-Trailer	19.18
99000 - Miscellaneous Occupations	
99030 - Cashier	10.03
99050 - Desk Clerk	11.58
99095 - Embalmer	23.05
99251 - Laboratory Animal Caretaker I	11.30
99252 - Laboratory Animal Caretaker II	12.35
99310 - Mortician	31.73
99410 - Pest Controller	17.69
99510 - Photofinishing Worker	13.20
99710 - Recycling Laborer	18.50
99711 - Recycling Specialist	22.71
99730 - Refuse Collector	16.40
99810 - Sales Clerk	12.09
99820 - School Crossing Guard	13.43
99830 - Survey Party Chief	21.94
99831 - Surveying Aide	13.63
99832 - Surveying Technician	20.85
99840 - Vending Machine Attendant	14.43
99841 - Vending Machine Repairer	18.73
99842 - Vending Machine Repairer Helper	14.43

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$3.71 per hour or \$148.40 per week or \$643.07 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year, New Year's Day, Martin Luther King Jr's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4174)

THE OCCUPATIONS WHICH HAVE NUMBERED FOOTNOTES IN PARENTHESES RECEIVE THE FOLLOWING:

1) COMPUTER EMPLOYEES: Under the SCA at section 8(b), this wage determination does not apply to any employee who individually qualifies as a bona fide executive, administrative, or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than \$27.63 (or on a salary or fee basis at a rate not less than \$455 per week) an hour would likely qualify as exempt computer professionals, (29 C.F.R. 541.400) wage rates may not be listed on this wage determination for all occupations within those job families. In addition, because this wage determination may not list a wage rate for some or all occupations within those job families if the survey data indicates that the prevailing wage rate for the occupation equals or exceeds \$27.63 per hour conformances may be necessary for certain nonexempt employees. For example, if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer

occupations for which this wage determination does not specify an SCA wage rate, then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally, because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the application of the computer professional exemption. Therefore, the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

(1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;

(2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

(3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties, the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am.

If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives.

Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

\*\* UNIFORM ALLOWANCE \*\*

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at <http://www.dol.gov/esa/whd/> or through the Wage Determinations On-Line (WDOL) Web site at <http://wdol.gov/>.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.



# ATTACHMENT J.4

# YOUR LETTERHEAD

## EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY STATEMENT

\_\_\_\_\_ SHALL NOT DISCRIMINATE AGAINST ANY EMPLOYEE OR APPLICANT FOR EMPLOYMENT BECAUSE OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS.

\_\_\_\_\_ AGREES TO AFFIRMATIVE ACTION TO ENSURE THAT APPLICANTS ARE EMPLOYED, AND THAT EMPLOYEES ARE TREATED DURING EMPLOYMENT WITHOUT REGARD TO THEIR ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. THE AFFIRMATIVE ACTION SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: (A) EMPLOYMENT, UPGRADING, OR TRANSFER; (B) RECRUITMENT OR RECRUITMENT ADVERTISING; (C) DEMOTION, LAYOFF, OR TERMINATION; (D) RATES OF PAY, OR OTHER FORMS OR COMPENSATION; AND (E) SELECTION FOR TRAINING AND APPRENTICESHIP.

\_\_\_\_\_ AGREES TO POST IN CONSPICUOUS PLACES THE PROVISIONS CONCERNING NON-DISCRIMINATION AND AFFIRMATIVE ACTION.

\_\_\_\_\_ SHALL STATE THAT ALL QUALIFIED APPLICANTS WILL RECEIVE CONSIDERATION FOR EMPLOYMENT PURSUANT TO SUBSECTION 1103.2 THROUGH 1103.10 OF MAYOR'S ORDER 85-85; "EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS IN CONTRACTS."

\_\_\_\_\_ AGREES TO PERMIT ACCESS TO ALL BOOKS PERTAINING TO ITS EMPLOYMENT PRACTICES, AND TO REQUIRE EACH SUBCONTRACTOR TO PERMIT ACCESS TO BOOKS AND RECORDS.

\_\_\_\_\_ AGREES TO COMPLY WITH ALL GUIDELINES FOR EQUAL EMPLOYMENT OPPORTUNITY APPLICABLE IN THE DISTRICT OF COLUMBIA.

\_\_\_\_\_ SHALL INCLUDE IN EVERY SUBCONTRACT THE EQUAL OPPORTUNITY CLAUSES, SUBSECTION 1103.2 THROUGH 1103.10 SO THAT SUCH PROVISIONS SHALL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR.

\_\_\_\_\_  
AUTHORIZED OFFICIAL AND TITLE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
AUTHORIZED SIGNATURE  
NAME

\_\_\_\_\_  
FIRM/ORGANIZATION

# YOUR LETTERHEAD

## ASSURANCE OF COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

MAYOR'S ORDER 85-85, EFFECTIVE JUNE 10, 1985, AND THE RULES IMPLEMENTING MAYORS ORDER 85-85, 33 DCR 4952, (PUBLISHED AUGUST 15, 1986), "ON COMPLIANCE WITH EQUAL OPPORTUNITY REQUIREMENTS IN DISTRICT GOVERNMENT CONTRACTS," ARE HEREBY INCLUDED AS PART OF THIS BID/PROPOSAL. THEREFORE, EACH BIDDER/OFFEROR SHALL INDICATE BELOW THEIR WRITTEN COMMITMENT TO ASSURE COMPLIANCE WITH MAYOR'S ORDER 85-85 AND THE IMPLEMENTING RULES. FAILURE TO COMPLY WITH THE SUBJECT MAYOR'S ORDER AND THE IMPLEMENTING RULES SHALL RESULT IN REJECTION OF THE RESPECTIVE BID/PROPOSAL.

I, \_\_\_\_\_, THE AUTHORIZED REPRESENTATIVE OF \_\_\_\_\_, HEREINAFTER REFERRED TO AS "THE CONTRACTOR," CERTIFY THT THE CONTRATOR IS FULLY AWARE OF ALL OF THE PROVISIONS OF MAYOR'S ORDER 85-85, EFFECTIVE JUNE 10, 1985, AND OF THE RULES IMPLEMENTING MAYOR'S ORDER 85-85, 33 DCR 4952. I FURTHER CERTIFY AND ASSURE THAT THE CONTRACTOR WILL FULLY COMPLY WITH ALL APPLICABLE PROVISIONS OF THE MAYOR'S ORDER AND IMPLEMENTING RULES IF AWARDED THE D.C. GOVERNMENT REFERENCED BY THE CONTRACT NUMBER ENTERED BELOW. FURTHER, THE CONTRACTOR ACKNOWLEDGES AND UNDERSTANDS THAT THE AWARD OF SAID CONTRACT AND ITS CONTINUATION ARE SPECIFICALLY CONDITIONED UPON THE CONTRACTOR'S COMPLIANCE WITH THE ABOVE-CITED ORDER AND RULES.

\_\_\_\_\_  
CONTRACTOR

\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
CONTRACT NUMBER

\_\_\_\_\_  
DATE

# EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER INFORMATION REPORT

<b>GOVERNMENT OF THE DISTRICT OF COLUMBIA</b> DC Office of Contracting and Procurement Employer Information Report (EEO)	Reply to: Office of Contracting and Procurement 441 4 <sup>th</sup> Street, NW, Suite 700 South Washington, DC 20001
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**Instructions:**  
 Two (2) copies of DAS 84-404 or Federal Form EEO-1 shall be submitted to the Office of Contracting and Procurement.  
 One copy shall be retained by the Contractor.

### Section A – TYPE OF REPORT

1. Indicate by marking in the appropriate box the type of reporting unit for which this copy of the form is submitted (MARK ONLY ONE BOX)

<b>Single Establishment Employer</b> (1) Single-establishment Employer Report	<b>Multi-establishment Employer:</b> (2) <input type="checkbox"/> Consolidated Report (3) <input type="checkbox"/> Headquarters Report (4) <input type="checkbox"/> Individual Establishment Report (submit one for each establishment with 25 or more employees) (5) <input type="checkbox"/> Special Report
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1. Total number of reports being filed by this Company. \_\_\_\_\_

### Section B – COMPANY IDENTIFICATION *(To be answered by all employers)*

1. Name of Company which owns or controls the establishment for which this report is filed OFFICIAL USE ONLY

Address (Number and street)	City or Town	Country	State	Zip Code	b.
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b. Employer Identification No.

2. Establishment for which this report is filed. OFFICIAL USE ONLY

a. Name of establishment c.

Address (Number and street)	City or Town	Country	State	Zip Code	d.
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b. Employer Identification No.

3. Parent of affiliated Company

a. Name of parent or affiliated Company b. Employer Identification No.

Address (Number and Street)	City or Town	Country	State	Zip Code
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### Section C - ESTABLISHMENT INFORMATION

1. Is the location of the establishment the same as that reported last year? Yes    No    Did not report last year    Report on combined basis	2. Is the major business activity at this establishment the same as that reported last year? Yes    No    No report last year    Reported on combined basis	OFFICIAL USE ONLY
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2. What is the major activity of this establishment? (Be specific, i.e., manufacturing steel castings, retail grocer, wholesale plumbing supplies, title insurance, etc. Include the specific type of product or service provided, as well as the principal business or industrial activity. e.

3. MINORITY GROUP MEMBERS: Indicate if you are a minority business enterprise (50% owned or 51% controlled by minority members).  
Yes    No

**SECTION D – EMPLOYMENT DATA**

Employment at this establishment – Report all permanent, temporary, or part-time employees including apprentices and on-the-job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered as zero. *In columns 1, 2, and 3, include ALL employees in the establishment including those in minority groups*

JOB CATEGORIES	TOTAL EMPLOYEES IN ESTABLISHMENT			MINORITY GROUP EMPLOYEES								
	Total Employees Including Minorities (1)	Total Male Including Minorities (2)	Total Female Including Minorities (3)	MALE				FEMALE				
				Black (4)	Asian (5)	American Indian (6)	Hispanic (7)	Black (8)	Asian (9)	American Indian (10)	Hispanic (11)	
Officials and Managers												
Professionals												
Technicians												
Sales Workers												
Office and Clerical												
Craftsman (Skilled)												
Operative (Semi-Skilled)												
Laborers (Unskilled)												
Service Workers												
TOTAL												
Total employ reported in previous report												

(The trainee below should also be included in the figures for the appropriate occupation categories above)

Formal On-The-Job Trainee	White collar	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
	Production											

- |  |  |
|--|--|
| 1. How was information as to race or ethnic group in Section D obtained? | 2. Dates of payroll period used                                      |
| a. Visual Survey   | c. Other Specify _____   |
| b. Employment Record _____   | 3. Pay period of last report submitted for this establishment. _____ |

**Section E – REMARKS** Use this Item to give any identification data appearing on last report which differs from that given above, explain major changes in composition or reporting units, and other pertinent information.

**Section F - CERTIFICATION**

- Check One
- All reports are accurate and were prepared in accordance with the instructions (check on consolidated only)
  - This report is accurate and was prepared in accordance with the instructions.

Name of Authorized Official	Title	Signature	Date
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Name of person contact regarding This report (Type of print)	Address (Number and street)
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Title	City and State	Zip Code	Telephone Number	Extension
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INFORMATION CITED HEREIN SHALL BE HELD IN CONFIDENCE.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT  
CONTRACT COMPLIANCE DIVISION

SUBCONTRACT SUMMARY FORM

This SUMMARY form is to be completed by the PRIME contractor.

BID NO. \_\_\_\_\_ CCB NUMBER: \_\_\_\_\_ of \_\_\_\_\_ pages

\* NOTE: The standard for minority subcontracting is 25% of the TOTAL contract dollar amount to be subcontracted.

AMOUNT OF PRIME CONTRACT: \$ \_\_\_\_\_  
AMOUNT OF ALL SUBCONTRACTS: \$ \_\_\_\_\_ equals \_\_\_\_\_% OF THE PRIME CONTRACT.

NAME OF PRIME CONTRACTOR:

ADDRESS:

TELEPHONE NO.:

PROJECT NAME:  
ADDRESS:

PROJECT DESCRIPTIONS:

WARD NO.: \_\_\_\_\_

**SECTION II LIST ALL SUBCONTRACTORS THAT WILL BE UTILIZED ON THE ABOVE PROJECT**

1. NAME OF SUBCONTRACTOR 2. ADDRESS 3. CONTACT PERSON 4. MBOC CERT. NO.                      5. PHONE NO.	1. IS THIS A *MINORITY SUB? ____ YES ____ NO 2. TRADE OR BUSINESS PRODUCT THAT SUB WILL PROVIDE.	1. \$ AMOUNT OF SUBCONTRACT equals( = ) 2. _____% (percent) OF TOTAL PRIME CONTRACT.
1. _____ 2. _____ 3. _____ 4. _____                      5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO 2. _____	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____                      5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO 2. _____	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____                      5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO 2. _____	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____                      5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO 2. _____	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____                      5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO 2. _____	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____                      5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO 2. _____	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____                      5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO 2. _____	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____                      5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO 2. _____	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____                      5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO 2. _____	1. \$ _____ equals( = ) 2. _____%
1. _____ 2. _____ 3. _____ 4. _____                      5. _____	1. MINORITY SUBCONTRACTOR ____ YES ____ NO 2. _____	1. \$ _____ equals( = ) 2. _____%

TOTAL DOLLAR AMOUNT SUBCONTRACTED TO \*MINORITY BUSINESS ENTERPRISES. \$ \_\_\_\_\_

PERCENT OF PRIME CONTRACT. \_\_\_\_\_%

SOLICITATION NO: \_\_\_\_\_

**PROJECTED GOALS AND TIMETABLES FOR FUTURE HIRING**

MINORITY GROUP EMPLOYES GOALS					TIMETABLES				
JOB CATEGORIES	MALE				FEMALE				
	BLACK	ASIAN	AMERICAN INDIAN	HISPANIC	BLACK	ASIAN	AMERICAN INDIAN	HISPANIC	
OFFICIALS & MANAGERS									
PROFESSIONALS									
TECHNICIANS									
SALES WORKERS									
OFFICE AND CLERICAL									
CRAFTSMANS (SKILLELD)									
OPERATIVE (SEMI-SKILLED)									
LABORERS (UNSKILLED)									
SERVICE WORKERS									
TOTALS									
NAME OF AUTHORIZED OFFICIAL:				TITLE:			SIGNATURE:		
FIRM NAME:					TELEPHONE NO:		DATE:		
INDICATE IF THE PRIME UTILIZES A <u>“MINORITY FINANCIAL INSTITUTION”</u> _____ Yes      _____ No  NAME:  ADDRESS:  TYPE OF ACCOUNT/S:									

**District of Columbia Register**  
**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

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**ADMINISTRATIVE ISSUANCE SYSTEM**

SUBJECT: Compliance with Equal Opportunity Obligations in Contracts

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by Section 422 of the District of Columbia self-government and Government Reorganization Act of 1973 as amended, D.C. Code section 1-242 (1981-Ed.), it is hereby ORDERED that Commissioner's Order No. 73-51, dated February 28, 1973, is hereby rescinded and reissued in its entirety to read as follows:

1. Establishment of Policy: There is established a policy of the District of Columbia Government to:
  - (a) provide equal opportunity in employment for all persons with respect to any contract by and with the Government of the District of Columbia.
  - (b) prohibit discrimination in employment because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap;
  - (c) provide equal opportunity to all persons for participation in all District of Columbia Government contracts, including but not limited to lease agreements, Industrial Revenue Bond financing, and Urban Development Action grants;
  - (d) provide equal opportunity to minority business enterprises in the performance of District of Columbia Government contracts in accordance with Mayor's Orders, District of Columbia laws, and rules and regulations promulgated by the Minority Business Opportunity Commission; and
  - (e) promote the full realization of equal employment through affirmative, continuing programs by contractors and subcontractors in the performance of contracts with the District of Columbia Government.
2. Delegation of Authority: The Director of the Office of Human Rights (hereinafter "Director") is delegated the authority vested in the Mayor to implement the provisions of this order as set forth herein, and any rules, regulations, guidelines, and procedures adopted pursuant thereto.
3. Responsibilities: The Director of the Office of Human Rights shall be responsible for establishing and ensuring agency compliance with the policy set forth in this Order, any rules, regulations, and procedures that may be adopted by the Office of Human Rights pursuant to this Order, and any other equal opportunity provisions as may be added as a part of any contract.
4. Powers and Duties: The Director of the Office of Human Rights shall have the following powers and duties:
  - (a) to establish standards and procedures by which contractors and subcontractors who perform under District of Columbia Government contracts shall comply with the equal opportunity provisions of their contracts; to issue all orders, rules, regulations, guidelines, and procedures the Director may deem necessary and proper for carrying out and implementing the purposes of this Order;
  - (b) to assume equal opportunity compliance jurisdiction over any matter pending before a contracting agency where the Director considers it necessary or appropriate for the achievement of the purposes of



this Order, keep the contracting agency informed of all actions taken, and act through the contracting agency to the extent appropriate and practicable;

- (c) to examine the employment practices of any District of Columbia Government contractor or subcontractor, or initiate the examination by the appropriate contracting agency to determine whether or not the contractual provisions specified in any rules and regulations adopted pursuant to this Order have been violated, and notify the contracting agency of any action taken or recommended;
- (d) to monitor and evaluate all District of Columbia Government agencies, including those independent agencies and commissions not required to submit the Affirmative Action Programs of their contractors to the Office of Human Rights for approval, to ensure compliance with the equal opportunity obligations in contracts;
- (e) to use his or her best efforts to cause any labor union engaged in work under District of Columbia Government contracts, any referral, recruiting or training agency, or any other representative of workers who are or may be engaged in work under contracts and subcontracts to cooperate in and to comply with the implementation of the purposes of this Order;
- (f) to notify, when appropriate, the concerned contracting agencies, the Office of Federal Contract Compliance Programs, the U.S. Department of Justice, or other appropriate Federal, State, and District agencies, whenever the Director has reason to believe that practices of any contractor, labor organization, lending institution, insurance firm, or agency violate provisions of Federal, State, or District, laws;
- (g) to enter, where the determinations are made by Federal, State, or District agencies, into reciprocal agreements with those agencies to receive the appropriate information;
- (h) to hold hearings, public or private, as necessary to obtain compliance with any rules, regulations, and procedures promulgated pursuant to this Order, and to issue orders relating thereto. No order to terminate or cancel a contract, or to withhold from any contractor further District of Columbia Government contractors shall be issued without affording the contractor an opportunity for a hearing. Any order to terminate or cancel a contract or to withhold from any contractor further District of Columbia Government contracts shall be issued in accordance with rules, and regulations pursuant to the Administrative Procedure Act, as amended and;
- (i) to grant waivers from the minimum standards for the employment of minorities and women in Affirmative Action Programs in exceptional cases, as circumstances may warrant.

5. Duties of Contracting Agencies: Each contracting agency shall have the following duties:

- (a) the initial responsibility for ensuring that contractors and subcontractors are in compliance with any rules, regulations, and procedures promulgated pursuant to this Order;
- (b) to examine the employment practices of contractors and subcontractors in accordance with procedures established by the Office of Human Rights, and report any compliance action to the Director of the Office of Human Rights;
- (c) to comply with the terms of this Order and of the orders, rules, regulations, guidelines, and procedures of the Office of Human Rights issued pursuant thereto in discharging their responsibility for securing contract compliance; and
- (d) to secure compliance with any rules, regulations, and procedures promulgated pursuant to this Order before or after the execution of a contract by methods, of conference, conciliation and persuasion. No enforcement proceedings shall be initiated, nor shall a contract be cancelled or terminated in whole or in part, unless such methods have first been attempted.

6. Procedures: The procedures to be followed in implementing this Order shall be those set forth in

Orders, rules, regulations, and guidelines as may be promulgated by the Office of Human Rights.

7. Severability: If any section, subsection, sentence, clause, phrase, or portion of the provisions in this Order is for any reason declared by any court of competent jurisdiction to be invalid or unconstitutional, such section, subsection, sentence, clause, phrase, or portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining provisions of this order.
8. Effective Date: This Order shall become effective immediately.

Signed by Marion Barry, Jr.  
Mayor

ATTEST: Signed by Clifton B. Smith  
Secretary of the District of Columbia

**OFFICE OF HUMAN RIGHTS**

**NOTICE OF FINAL RULEMAKING**

The Director of the Office of Human Rights hereby gives notice of the adoption of the following final rules governing standards and procedures for equal employment opportunity applicable to contractors and subcontractors under District of Columbia Government Contracts. Notice of Proposed Rulemaking was published for public comment in the D.C. Register on April 11, 1986 at 33 DCR 2243. Based on some the comments received and upon further review by the Office of Human Rights, minor revisions were made in the rules at the following subsections: 1104.1, 1104.2, 1104.4, 1104.13, 1104.17(e) (5), 1104.28, 1107.1, 1199.1, and at page 15 the definition of minority was written out in addition to citing its D.C. Code. None of the revisions change the intent of the proposed final rules. Final action to adopt these final rules was taken on August 4, 1986, and will be effective upon publication of this notice in the Register.

**CHAPTER 11 EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS IN CONTRACTS**

1100. PURPOSE

1100.1 These rules shall govern standards and procedures to be followed by contractors and subcontractors performing under District of Columbia Government contracts for goods and services, including construction contracts, for the purpose of assuring equal employment opportunity for minorities and women.

1100.2 These rules establish requirements for contractors and subcontractors regarding their commitment to observe specific standards for the employment of minorities and women and to achieve affirmative action obligations under District of Columbia contracts. These rules are not intended nor shall be used to discriminate against any qualified applicant for employment or employee.

1101 SCOPE

1101.1 Except as hereinafter exempted, the provisions of this chapter shall apply to all District of Columbia Government contracts subject to Mayor's Order No. 85-85, and any rules, regulations, and procedures promulgated pursuant to that Mayor's Order.

1102 COVERAGE

1102.1 The provisions of this chapter shall govern the processing of any matter before the Office Human Rights involving the following:

- (a) Discrimination in employment on grounds of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap by any District of Columbia Government contractor; and
- (b) Achievement of affirmative action obligations under District of Columbia contracts.

1103 CONTRACT PROVISIONS

1103.1 Each contract for goods and services, including construction contracts, except construction subcontracts for standard commercial supplies or raw materials, shall include as express contractual provisions the language contained in subsections 1103.2 through 1103.10.

1103.2 The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap.

- 1103.3 The contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap. The affirmative action shall include, but not be limited to the following:
- (a) Employment, upgrading, or transfer;
  - (b) Recruitment or recruitment advertising;
  - (c) Demotion, layoff, or termination;
  - (d) Rates of pay, or other forms of compensation; and
  - (e) Selection for training and apprenticeship.
- 1103.4 The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Agency, setting forth the provisions in subsections 1103.2 and 1103.3 concerning non-discrimination and affirmative action.
- 1103.5 The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection 1103.2
- 1103.6 The contractor agrees to send to each labor union or representative of workers with which it has a collective bargaining agreement, or other contract or understanding, a notice to be provided by the Contracting Agency, advising each labor union or workers' representative of the contractor's commitments under this chapter, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 1103.7 The contractor agrees to permit access to all books, records, and accounts, pertaining to its employment practices, by the Director and the Contracting Agency for purposes of investigation to ascertain compliance with this chapter, and to require under terms of any subcontractor agreement each subcontractor to permit access of such subcontractors, books, records, and accounts for such purposes.
- 1103.8 The contractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the District of Columbia adopted by the Director, or any authorized official.
- 1103.9 The prime contractor shall include in every subcontract the equal opportunity clauses, subsections 1103.2 through 1103.10 of this section, so that such provisions shall be binding upon each subcontractor or vendor.
- 1103.10 The prime contractor shall take such action with respect to any subcontractor as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for non-compliance; provided, however, that in the event the prime contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the prime contractor may request the District to enter into such litigation to protect the interest of the District.
- 1104 **AFFIRMATIVE ACTION PROGRAM**
- 1104.1 Each apparent low bidder for a construction contract shall complete and submit to the Contracting Agency, prior to the execution of any contract in the amount of twenty-five thousand dollars (\$25,000) or more, and each contractor covered under subsection 1105.1, an Affirmative Action Program to ensure equal opportunity which shall include specific standards for the utilization of minorities and women in the trades, crafts and skills to be used by the contractor in the performance of the contract.

- 1104.2 Each apparent low bidder or offeror for a non-construction contract shall complete and submit to the Contracting Agency, prior to the execution of any contract in the amount of ten thousand dollars (\$10,000) or more, and each contractor covered under subsection 1105.2 , an Affirmative Action Program to ensure equal opportunity which shall include specific standards for the utilization of minorities in the job categories specified in subsection 1108.4.
- 1104.3 To ensure equal opportunity each Affirmative Action Program shall include the following commitments:
- (a) With respect to construction contracts, each contractor shall certify that it will comply with the provisions of this chapter, and submit a personnel utilization schedule for all the trades the contractor is to utilize, indicating the actual numbers of minority and female workers that are expected to be a part of the workforce performing under the contract; and
  - (b) With respect to non-construction contracts, each contractor shall certify that it will comply with the provisions of this chapter, and shall submit a personnel utilization schedule indicating by craft and skill, the minority composition of the workforce related to the performance of the work under the contract. The schedule shall include all workers located in the facility from which the goods and services are produced and shall include the same information for other facilities which have a significant relationship to the performance of work under the contract.
- 1104.4 If the experience of the contractor with any local union from which it will secure employees indicates that the union will not refer sufficient minorities or women to meet minority or female employment commitments, the contractor shall, not less than ten (10) days prior to the employment of any person on the project subject to the jurisdiction of that local union, do the following:
- (a) Notify the District of Columbia Department of Employment Services and at least two (2) minority and two (2) female referral organizations of the contractor's personnel needs, and request referral of minority and female workers; and
  - (b) Notify any minority and female workers who have been listed with the contractors as awaiting vacancies.
- 1104.5 If, within five (5) working days prior to commencement of work, the contractor determines that the Department of Employment Services or the minority or female referral organizations are unable to refer sufficient minorities or women to meet its commitments, the contractor may take steps to hire, by referral or otherwise, from the local union membership to fill the remaining job openings, provided that it notifies the local union of its personnel needs and of its employment commitments. Evidence of the notification shall be provided to the Contracting Agency.
- 1104.6 The contractor shall have standing requests for additional referrals of minority and female workers with the local union, the Department of Employment Services, and the other referral sources, until such time as the contractor has met its minority and female employment commitments.
- 1104.7 If the contractor desires to lay off some of its employees in a given trade on a construction site, it shall ensure that the required number of minority and female employees remain on the site to meet the minority and female commitments.
- 1104.8 No contractor shall refuse employment to any individual who has minimal facility to speak English except where the contractor can demonstrate that the facility to speak English is necessary for the performance of the job.

- 1104.9 No union with which the contractor has a collective bargaining agreement shall refuse to refer minority and female employees to such contractor.
- 1104.10 To the extent that contractors have delegated the responsibility for some of their employment practices to some other organization or agency which prevents them from meeting their equal opportunity obligations, those contractors shall not be considered to be in compliance with this chapter.
- 1104.11 The obligations of the contractor shall not be reduced, modified, or subject to any provision in any collective bargaining agreement with labor organization which provides that the labor organizations shall have the exclusive or primary opportunity to refer employees.
- 1104.12 When any contractor employs a minority person or woman in order to comply with this chapter, those persons shall be advised of their right to seek union membership, the contractor shall provide whatever assistance may be appropriate to enable that person to obtain membership, and the contractor shall notify the appropriate union of that person's employment.
- 1104.13 The contractor shall not discharge, refuse to employ, or otherwise adversely affect any minority person or woman because of any provision in any collective bargaining agreement, or any understanding, written or oral that the contractor may have with any labor organization.
- 1104.14 If at any time, because of lack of cooperation or overt conduct, a labor organization impedes or interferes with the contractor's Affirmative Action Program, the contractor shall notify the Contracting Agency and the Director immediately, setting forth the relevant circumstances.
- 1104.15 In any proceeding involving a disagreement between a labor organization and the contractor over the implementation of the contractor's Affirmative Action Program, the Contracting Agency and the Office of Human Rights may become a party to the proceeding.
- 1104.16 In determining whether or not a contractor is utilizing minorities and females pursuant to Section 1108, consideration shall be given to the following factors:
- (a) The proportion of minorities and women employed in the trades and as laborers in the construction industry within the District of Columbia;
  - (b) The proportion of minorities and women employed in the crafts or as operatives in non-construction industries within the District of Columbia;
  - (c) The number and ratio of unemployed minorities and women to total unemployment in the District of Columbia;
  - (d) The availability of qualified and qualifiable minorities and women for employment in any comparable line of work, including where they are now working and how they may be brought into the contractor's workforce;
  - (e) The effectiveness of existing training programs in the area, including the number who complete training, the length and extent of training, employer experience with trainees, and the need for additional or expanded training programs; and
  - (f) The number of additional workers that could be absorbed into each trade or line of work without displacing present employees, including consideration of present employee shortages, projected growth of the trade or line of work, and projected employee turnover.
- 1104.17 The contractor's commitment to specific standards for the utilization of minorities and females as required under this chapter shall include a commitment to make every good faith effort to meet

those standards. If the contractor has failed to meet the standards, a determination of “good faith” shall be based upon the contractor’s documented equal opportunity efforts to broaden its equal employment program which shall include, but may not necessarily be limited to, the following requirements:

- (a) The contractor shall notify the community organizations that the contractor has employment opportunities available and shall maintain records of the organizations’ responses;
- (b) The contractor shall maintain a file of the names and addresses of each minority and female worker referred to it and what action was taken with respect to each referred worker. If that worker was not sent to the union hiring hall for referral or if the worker was not employed by the contractor, the contractor’s file shall be documented and the reasons therefore;
- (c) The contractor shall notify the Contracting Agency and the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority or female worker originally sent to the union by the contractor for union registration, or the contractor has other information that the union referral process has impeded the contractor’s efforts to meet its goals;
- (d) The contractor shall participate in training programs related to its personnel needs;
- (e) The contractor shall disseminate its EEO policy internally by doing the following:
  - (1) Including it in any organizational manual;
  - (2) Publicizing it in company newspapers, annual report, etc.;
  - (3) Conducting staff, employee, and union representatives meetings to explain and discuss the policy;
  - (4) Posting; and
  - (5) Reviewing the policy with minority and female employees.
- (f) The contractor shall disseminate its EEO policy externally by doing the following:
  - (1) Informing and discussing it with all recruitment sources;
  - (2) Advertising in news media, specifically including news media directed to minorities and women;
  - (3) Notifying and discussing it with all known minority and women’s organizations; and
  - (4) Notifying and discussing it with all subcontractors and suppliers.

1104.18 The contractor shall make specific recruitment efforts, both written and oral, directed at all minority and women’s training organizations within the contractor’s recruitment area.

1104.19 The contractor shall encourage present employees to assist in the recruitment of minorities and women for employment.

1104.20 The contractor shall validate all qualifications, selection requirements, and tests in accordance with the guidelines of the Equal Employment Opportunity Commission.

- 1104.21 The contractor shall make good faith efforts to provide after school, summer and vacation employment to minority youths and young women.
- 1104.22 The contractor shall develop on-the-job training opportunities, and participate and assist in any association or employer group training programs relevant to the contractor's employee needs.
- 1104.23 The contractor shall continually inventory and evaluate all minority and female personnel for promotion opportunities.
- 1104.24 The contractor shall make sure that seniority practices, job classifications, qualifications, etc. do not have a discriminatory effect on minorities and women.
- 1104.25 The contractor shall make certain that all facilities and company activities are nonsegregated.
- 1104.26 The contractor shall continually monitor all personnel activities to ensure that its EEO policy is being carried out.
- 1104.27 The contractor may utilize minority banking facilities as depositories for funds which may be involved, directly or indirectly, in the performance of the contract.
- 1104.28 The contractor shall employ minority and female workers without respect to union membership in sufficient numbers to meet the minority and female employment standards, if the experience of the contractor with any labor union from which it will secure employees does not indicate that it will refer sufficient minorities and females to meet its minority and female employment standards.
- 1104.29 The contractor shall ensure that all of its employees as well as those of its subcontractors are made knowledgeable about the contractor's equal opportunity policy.
- 1104.30 [Reserved]
- 1104.31 Each contractor shall include in all bid invitations or other pre-bid communications, written or otherwise, with respect to prospective subcontractors, the standards, as applicable, which are required under this chapter.
- 1104.32 Whenever a contractor subcontracts a portion of the work in any trade, craft or skill it shall include in the subcontract, its commitment made under this chapter, as applicable, which shall be adopted by its subcontractors who shall be bound thereby and by the regulations of this chapter to the full extent as if it were the prime contractor.
- 1104.33 The prime contractor shall give notice to the Director and the Contracting Agency of any refusal or failure of any subcontractor to fulfill its obligations under this chapter.
- 1104.34 Failure of compliance by any subcontractor shall be treated in the same manner as a failure by the prime contractor.
- 1105 EXEMPTIONS
- 1105.1 Prospective construction contractors shall be exempt from submitting Affirmative Action Programs for contracts amounting to less than twenty-five thousand dollars (\$25,000); provided, that when a construction contractor accumulates contracts amounting to twenty-five thousand dollars (\$25,000) or more within a period of twelve (12) months that contractor shall be required to submit an Affirmative Action Program for each contract executed thereafter.
- 1105.2 Prospective non-construction contractors shall be exempt from submitting Affirmative Action Programs for contracts amounting to less than ten thousand dollars (\$10,000); provided, that when



a non-construction contractor accumulates contracts amounting to ten thousand dollars (\$10,000) or more during a period of twelve (12) months that contractor shall be required to submit an Affirmative Action Program for each contract executed thereafter.

#### 1106 NONRESPONSIBLE CONTRACTORS

1106.1 If a bidder or offeror fails either to submit a complete and satisfactory Affirmative Action Program or to submit a revised Affirmative Action Program that meets the approval of the Director, as required pursuant to this chapter, the Director may direct the Contracting Officer to declare the bidder or offeror to be nonresponsible and ineligible for award of the contract.

1106.2 Any untimely submission of an Affirmative Action Program may, upon order of the Director, be rejected by the Contracting Officer.

1106.3 In no case shall there be any negotiation over the provision of specific utilization standards submitted by the bidder or offeror after the opening of bids or receipt of offer and prior to award.

1106.4 If any directive or order relating to nonresponsibility is issued under this section, the Director shall afford the bidder or offeror a reasonable opportunity to be heard in opposition to such action in accordance with subsection 1118.1, or in support of a request for waiver under section 1109.

#### 1107 NOTICE OF COMPLIANCE

1107.1 Each Contracting Agency shall include, or require the contract bidder or offeror to include, in the invitation for bids or other solicitation used for a D.C. Government-involved contract, a notice stating that to be eligible for consideration, each bidder or offeror shall be required to comply with the provisions of this chapter for the trades, crafts and skills to be used during the term of the performance of the contract whether or not the work is subcontracted.

#### 1108 MINIMUM STANDARDS FOR MINORITY AND FEMALE EMPLOYMENT

1108.1 The minimum standards for the utilization of minorities in the District of Columbia Government construction contracts shall be forty-two percent (42%) in each trade for each project, and an aggregate workforce standard of six and nine-tenths percent (6.9%) for females in each project. Any changes in Federal standards pertaining to minority group and female employment in Federally-involved construction contracts shall be taken into consideration in any review of these requirements.

1108.2 The construction contractor's standards established in accordance with subsection 1108.1 shall express the contractor's commitment of the forty-two percent (42%) of minority personnel who will be working in each specified trade on each of the contractor's District of Columbia Government projects, and the aggregate standard of six and nine-tenths percent (6.9%) for the employment of females in each District of Columbia Government contract.

1108.3 The hours for minority and female workers shall be substantially uniform throughout the entire length of the construction contract for each trade used, to the effect that the same percentage of minority workers in the trades used shall be working throughout the length of work in each trade on each project, and the aggregate percentage in each project for females.

1108.4 The minimum standard for the utilization of minorities in non-construction contracts shall be twenty-five percent (25%) in each of the following nine (9) job categories:

- (a) Officials and managers;
- (b) Professionals;

- (c) Technicians;
- (d) Sales workers;
- (e) Office and clerical workers;
- (f) Craftpersons (Skilled);
- (g) Operative (Semi-skilled);
- (h) Laborers (Unskilled); and
- (i) Service workers.

1108.5 With respect to non-construction contracts the contractor's standards established in accordance with subsection 1108.4 shall express the contractor's commitment of the twenty-five percent (25%) of minority personnel who will be working in each specified craft or skill in each contract.

1109 WAIVERS

1109.1 The Director may grant a waiver to a prospective contractor from the requirement to submit a set of minimum standards for the employment of minorities and women in a particular contract, if before the execution of the contract and approval of the Affirmative Action Program, the contractor can document and otherwise prove it is unable to meet the standards in the performance of the contract.

1110 SOLICITATION OF CONTRACT

1110.1 Each solicitation for contract covered by section 1104 shall contain a statement that contractors shall comply with the minimum standards established pursuant to these rules for ensuring equal opportunity.

1110.2 The contract solicitation shall require that each bidder or offeror certify that it intends to meet the applicable minimum standards in section 1108 in order to be considered for the contract.

1111 PRIOR TO EXECUTION OF CONTRACT

1111.1 Upon being designated the apparent low bidder or offeror, that contractor shall submit a detailed Affirmative Action Program that sets forth the following:

- (1) The composition of its current total workforce; and
- (2) The composition of the workforce by race, color, national origin, and sex to be used in the performance of the contract and that of all known subcontractors that will be utilized to perform the contract.

1111.2 The apparent low bidder or offeror shall submit an Affirmative Action Program in accordance with section 1104 describing the actions it will take to ensure compliance with this chapter which shall be subject, prior to the execution of any contract, to the approval of the Director.

1111.3 If the Office of Human Rights does not act within ten (10) working days after the receipt of the Affirmative Action Program sent for approval, the Contracting Agency may proceed on its own determination to execute the contract.

- 1111.4 The apparent low bidder or offeror shall submit an Affirmative Action Program within a period of time to specified by each Contracting Agency, but which shall not exceed ten (10) working days after becoming the apparent contractor.
- 1111.5 The apparent low bidder or offeror shall furnish all information and reports to the Contracting Agency as required by this chapter, and shall permit access to all books or records pertaining to its employment practices or worksites.
- 1111.6 No contract subject to section 1104 shall be executed by the Contracting Agency, if the apparent low bidder or offeror does not submit an Affirmative Action Program, or if the Program has been disapproved in writing by the Director.
- 1111.7 If there is disagreement between the contractor and the Contracting Officer as to the adequacy of the Affirmative Action Program, the matter shall be referred to the Director for a decision.
- 1112 AFTER EXECUTION OF CONTRACT
- 1112.1 Each contractor shall maintain throughout the term of the contract the minimum standards for the employment of minorities and women, as set forth in the approved Affirmative Action Program.
- 1112.2 Each contractor shall require that each subcontractor, or vendor under the contract comply with the provision of the contract and the Affirmative Action Program.
- 1112.3 Each contractor shall furnish all information as required by this chapter, and permit access to all books and records pertaining to the contractor's employment practices and work sites by the Director and the Contracting Agency for purposes of investigation to ascertain compliance with this chapter.
- 1113 MONITORING AND EVALUATION
- 1113.1 The Director shall, from time to time, monitor and evaluate all District of Columbia Government agencies, including those independent agencies and commissions not required to submit the Affirmative Action Program of their contractors, to ensure compliance with the equal opportunity obligations in contracts, as provided for in this chapter.
- 1114 AFFIRMATIVE ACTION TRAINING PROGRAM
- 1114.1 Each contractor, in fulfilling its affirmative action responsibilities under a contract with the District of Columbia Government, shall be required to have, as part of its Affirmative Action Program, an existing training program for the purpose of training, upgrading, and promotion of minority and female employees or to utilize existing programs. Those programs shall include, but not be limited to, the following:
- (a) To be consistent with its personnel requirements, the contractor shall make full use of the applicable training programs, including apprenticeship, on-the job training, and skill refinement training for journeymen. Recruitment for the program shall be designed to provide for appropriate participation by minority group members and women;
  - (b) The contractor may utilize a company-operated skill refinement training program. This program shall be formal and shall be responsive to the work to be performed under the contract;
  - (c) The contractor may utilize formal private training institutions that have as their objective training and skill refinement appropriate to the classification of the workers employed. When training is provided by a private organization the following information shall be supplied:

- (1) The name of the organization;
- (2) The name, address, social security number, and classification of the initial employees and any subsequent employees chosen during the course of the contract; and
- (3) The identity of the trades, and crafts or skills involved in the training.

1114.2 If the contractor relies, in whole or in part, upon unions as a source of its workforce, the contractor shall use its best efforts, in cooperation with unions, to develop joint training programs aimed toward qualifying more minorities and females for membership in the union, and increasing the skills of minority and female employees so that they may qualify for higher paying employment.

1114.3 Approval of training programs by the Contracting Agency shall be predicated, among other things, upon the quality of training, numbers of trainees and trades, crafts or skills involved, and whether the training is responsive to the policies of the District of Columbia and the needs of the minority and female community. Minority and female applicants for apprenticeship or training should be selected in sufficient numbers as to ensure an acceptable level of participation sufficient to overcome the effects of past discrimination.

#### 1115 COMPLIANCE REVIEW

1115.1 The Director and the Contracting Agency shall review the contractor's employment practices during the performance of the Contract. Routine or special reviews of contractors shall be conducted by the Contracting Agency or the Director in order to ascertain the extent to which the policy of Mayor's Order No. 85-85, and the requirements in this chapter are being implemented and to furnish information that may be useful to the Director and the Contracting Agency in carrying out their functions under this chapter.

1115.2 A routine compliance review shall consist of a general review of the practices of the contractor to ascertain compliance with the requirements of this chapter, and shall be considered a normal part of contract administration.

1115.3 A special compliance review shall consist of a comprehensive review of the employment practices of the contractor with respect to the requirements of this chapter, and shall be conducted when warranted.

#### 1116 ENFORCEMENT

1116.1 If the contractor does not comply with the equal opportunity clauses in a particular contract, including subsections 1103.2 through 1103.10 of this chapter, that contract may be cancelled in whole or in part, and the contractor may be declared by the Director or the Contracting Officer to be ineligible for further District of Columbia Government Contracts subject to applicable laws and regulations governing debarment.

1116.2 If the contractor meets its goals or if the contractor can demonstrate that it has made every good faith effort to meet those goals, the contractor will be presumed to be in compliance with this chapter, and no formal sanction shall be instituted unless the Director otherwise determines that the contractor is not providing equal employment opportunity.

1116.3 When the Director proceeds with a formal hearing she or he has the burden of proving that the contractor has not met the requirements of this chapter, but the contractor's failure to meet its goals shall shift to it the requirement to come forward with evidence to show that it has met the good faith requirements of this chapter.

1117 COMPLAINTS

1117.1 The Director may initiate investigations of individual instances and patterns of discriminatory conduct, initiate complaints thereupon and keep the Contracting Agency informed of those actions.

1117.2 If the investigation indicates the existence of an apparent violation of the non-discrimination provisions of the contract required under section 1103 of this chapter the matter may be resolved by the methods of conference, conciliation, mediation, or persuasion.

1117.3 If an apparent violation of the non-discrimination provisions of the contract required under section 1103 of this chapter is not resolved by methods of conference, conciliation, mediation, or persuasion, the Director of the Contracting Officer may issue a notice requiring the contractor in question to show cause, within thirty (30) days, why enforcement proceedings or other appropriate action should not be initiated.

1117.4 Any employee of any District of Columbia Government contractor or applicant for employment who believes himself or herself to be aggrieved may, in person or by an authorized representative, file in writing, a complaint of alleged discrimination with the Director.

1118 HEARINGS

1118.1 In the event that a dispute arises between a bidder, offeror or prospective contractor and the Director or the Contracting Officer as to whether the proposed program of affirmative action for providing equal employment opportunity submitting by such bidder, offeror or prospective contractor complies with the requirements of this chapter and cannot be resolved by the methods of conference, conciliation, mediation, or persuasion, the bidder, offeror or prospective contractor in question shall be afforded the opportunity for a hearing before the Director.

1118.2 If a case in which an investigation by the Director or the Contracting Agency has shown the existence of an apparent violation of the non-discrimination provisions of the contract required under section 1103 is not resolved by the methods specified in subsection 1117.2, the Director may issue a notice requiring the contractor in question to show cause, within thirty (30) days, why enforcement proceedings or other appropriate action should not be initiated. The contractor in question shall also be afforded the opportunity for a hearing before the Director.

1118.3 The Director may hold a hearing on any complaint or violation under this chapter, and make determinations based on the facts brought before the hearing.

1118.4 Whenever the Director holds a hearing it is to be held pursuant to the Human Rights Act of 1977, a notice of thirty (30) working days for the hearing shall be given by registered mail, return receipt requested, to the contractor in question. The notice shall include the following:

- (a) A convenient time and place of hearing;
- (b) A statement of the provisions in this chapter or any other laws or regulations pursuant to which the hearing is to be held; and
- (c) A concise statement of the matters to be brought before the hearing.

1118.5 All hearings shall be open to the public and shall be conducted in accordance with rules, regulations, and procedures promulgated pursuant to the Human Rights Act of 1977.

1119 SANCTIONS

- 1119.1 The Director, upon finding that a contractor has failed to comply with the non-discrimination provisions of the contract required under section 1103, or has failed to make a good faith effort to achieve the utilization standards under an approved Affirmative Action Program, may impose sanctions contained in this section in addition to any sanction or remedies as may be imposed or invoked under the Human Rights Act of 1977.
- 1119.2 Sanctions imposed by the Director may include the following:
- (a) Order that the contractor be declared ineligible from consideration for award of District of Columbia Government contracts or subcontracts until such time as the Director may be satisfied that the contractor has established and will maintain equal opportunity policies in compliance with this chapter; and
  - (b) Direct each Contracting Officer administering any existing contract to cancel, terminate, or suspend the contract or any portion thereof, and to deny any extension, modification, or change, unless the contractor provides a program of future compliance satisfactory to the Director.
- 1119.3 Any sanction imposed under this chapter may be rescinded or modified upon reconsideration by the Director.
- 1119.4 An appeal of any sanction imposed by order of the Director under this chapter may be taken pursuant to applicable clauses of the affected contract or provisions of law and regulations governing District of Columbia Government contracts.
- 1120 NOTIFICATIONS
- 1120.1 The Director shall forward in writing notice of his or her findings of any violations of this chapter to the Contracting Officer for appropriate action under the contract.
- 1120.2 Whenever it appears that the holder of or an applicant for a permit, license or franchise issued by any agency or authority of the Government of the District of Columbia is a person determined to be in violation of this chapter the Director may, at any time he or she deems that action the Director may take or may have taken under the authority of this chapter, refer to the proper licensing agency or authority the facts and identities of all persons involved in the violation for such action as the agency or authority, in its judgement, considers appropriate based upon the facts thus disclosed to it.
- 1120.3 The Director may publish, or cause to be published, the names of contractors or unions which have been determined to have complied or have failed to comply with the provisions of the rules in this chapter.
- 1121 DISTRICT ASSISTED PROGRAMS
- 1121.1 Each agency which administers a program involving leasing of District of Columbia Government owned or controlled real property, or the financing of construction under industrial revenue bonds or urban development action grants, shall require as a condition for the approval of any agreement for leasing, bond issuance, or development action grant, that the applicant undertake and agree to incorporate, or cause to be incorporated into all construction contracts relating to or assisted by such agreements, the contract provisions prescribed for District of Columbia Government contracts by section 1103, preserving in substance the contractor's obligation under those provision.
- 1199 DEFINITIONS

1199.1

The following words and phrases set forth in this section, when used in this chapter, shall have the following meanings ascribed:

**Contract** – any binding legal relationship between the District of Columbia and a contractor for supplies or services, including but not limited to any District of Columbia Government or District of Columbia Government assisted construction or project, lease agreements, Industrial Revenue Bond financing, and Urban Development Action grant, or for the lease of District of Columbia property in which the parties, respectively, do not stand in the relationship of employer and employee.

**Contracting Agency** – any department, agency, or establishment of the District of Columbia which is authorized to enter into contracts.

**Contracting Officer** – any official of a contracting agency who is vested with the authority to execute contracts on behalf of said agency.

**Contractor** – any prime contractor holding a contract with the District of Columbia Government. The term shall also refer to subcontractors when the context so indicates.

**Director** – the Director of the Office of Human Rights, or his or her designee.

**Dispute** – any protest received from a bidder or prospective contractor relating to the effectiveness of his or her proposed program of affirmative action for providing equal opportunity.

**Minority** – Black Americans, Native Americans, Asian Americans, Pacific Islander Americans, and Hispanic Americans. In accordance with D.C. Code, Section 1-1142(1) (Supp. 1985).

**Subcontract** – any agreement made or executed by a prime contractor or a subcontractor where a material part of the supplies or services, including construction, covered by an agreement is being obtained for us in the performance of a contract subject to Mayor's Order No. 85-85, and any rules, regulations, and procedures issued pursuant thereto.

**Subcontractor** – any contractor holding a contract with a District prime contractor calling for supplies or services, including construction, required for the performance of a contract subject to Mayor's Order No. 85-85, and any rules, regulations, and procedures promulgated pursuant thereto.

# ATTACHMENT J.5





**Government of the District of Columbia  
FIRST SOURCE EMPLOYMENT AGREEMENT**



Contract Number: \_\_\_\_\_

Employer Name: \_\_\_\_\_

Project Contract Amount: \_\_\_\_\_

Employer Contract Award: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_ Ward: \_\_\_\_\_

Nonprofit Organization with 50 Employees or Less:  Yes  No

This First Source Employment Agreement, in accordance with The First Source Employment Agreement Act of 1984 (codified in D.C. Official Code §§ 2-219.01 – 2.219.05), The Apprenticeship Requirements Amendment Act of 2004 (Codified in D.C. Official Code §§ 2-219.03 and 32-1431) for recruitment, referral, and placement of District of Columbia residents, is between the District of Columbia Department of Employment Services, hereinafter referred to as “DOES”, and \_\_\_\_\_, hereinafter, referred to as EMPLOYER. Under this Employment Agreement, the EMPLOYER will use DOES as its first source for recruitment, referral, and placement of new hires or employees for all new jobs created by the Project. The Employer will hire 51% District of Columbia residents for all new jobs created by the Project, and 35 % of all apprenticeship hours be worked by DC residents employed by EMPLOYER in connection with the Project shall be District residents registered in programs approved by the District of Columbia Apprenticeship Council.

**I. GENERAL TERMS**

- A. Subject to the terms and conditions set forth herein, the EMPLOYER will use DOES as its first source for the recruitment, referral and placement for jobs created by the Project.
- B. The EMPLOYER will require all Project contractors with contracts totaling \$100,000 or more, and Project subcontractors with subcontracts totaling \$100,000 or more, to enter into a First Source Employment Agreement with DOES.
- C. DOES will provide recruitment, referral and placement services to the EMPLOYER, which are subject to the limitations set out in this Agreement.
- D. The participation of DOES in this Agreement will be carried out by the Office of Employer Services, which is responsible for referral and placement of employees, or such other offices or divisions designated by the Office of the Director, of DOES.
- E. This Agreement will take effect when signed by the parties below and will be fully effective for the duration of the Project contract and any extensions or modification to the Project contract.

- F. This Agreement will not be construed as an approval of the EMPLOYER'S bid package, bond application, lease agreement, zoning application, loan, or contract/subcontract for the Project.
- G. DOES and the EMPLOYER agree that, for purposes of this Agreement, new hires and jobs created for the Project (both union and nonunion) include all EMPLOYER'S job openings and vacancies in the Washington Standard Metropolitan Statistical Area created for the Project as a result of internal promotions, terminations, and expansions of the EMPLOYER'S workforce, as a result of this project, including loans, lease agreements, zoning applications, bonds, bids, and contracts.
- H. This Agreement includes apprentices as defined and as amended, in D.C. Law 2-156. D.C. Official Code §§ 32-1401- 1431.
- I. The EMPLOYER, prime subcontractors and subcontractors who contract with the District of Columbia government to perform construction, renovation work, or information technology work with a single contract, or cumulative contracts, of at least \$500,000, let within a 12-month period will be required to register an apprenticeship program with the District of Columbia Apprenticeship Council; and this includes but is not limited to, any construction or renovation contract or subcontract signed as the result of, a loan, bond, grant, Exclusive Right Agreement, street or alley closing, or a leasing agreement of real property for one (1) year or more. In furtherance of the foregoing, the EMPLOYER shall enter into an agreement with its contractors, including the general contractor, that requires that such contractors and subcontractors for the Project participate, in apprenticeship programs for the Project that: (i) meet the standards set forth in Chapter 11 of Title 7 of the District of Columbia Municipal Regulations, and (ii) have an apprenticeship program registered with the District of Columbia's Apprenticeship Council.

## **II. RECRUITMENT**

- A. The EMPLOYER will complete the attached Employment Plan, which will indicate the number of new jobs projected to be created on the Project, salary range, hiring dates, residency status, ward information, new hire justification and union requirements.
- B. The Employer will post all job vacancies in the DOES' Virtual One-Stop (VOS) at [www.jobs.dc.gov](http://www.jobs.dc.gov) within five (5) days of executing the Agreement. Should you need assistance posting job vacancies, please contact Job Bank at (202) 698-6001.
- C. The EMPLOYER will notify DOES, by way of the First Source Office of its Specific Need for new employees for the Project, within at least five (5) business days (Monday - Friday) upon Employers identification of the Specific Need. This must be done before using any other referral source. Specific Needs shall include, at a minimum, the number of employees needed by job title, qualifications, hiring date, rate of pay, hours of work, duration of employment, and work to be performed.
- D. Job openings to be filled by internal promotion from the EMPLOYER'S current workforce do not need to be referred to DOES for placement and referral. However, EMPLOYER shall notify DOES of such promotions.

- E. The EMPLOYER will submit to DOES, prior to commencing work on the Project, the names, residency status and ward information of all current employees, including apprentices, trainees, and laid-off workers who will be employed on the Project.

### **III. REFERRAL**

- A. DOES will screen applicants and provide the EMPLOYER with a list of applicants according to the Notification of Specific Needs supplied by the EMPLOYER as set forth in Section II (B).
- B. DOES will notify the EMPLOYER, prior to the anticipated hiring dates, of the number of applicants DOES will refer.

### **IV. PLACEMENT**

- A. The EMPLOYER will make all decisions on hiring new employees but will, in good faith, use reasonable efforts to select its new hires or employees from among the qualified persons referred by DOES.
- B. In the event that DOES is unable to refer qualified personnel meeting the Employer's established qualifications, within five (5) business days (Monday - Friday) from the date of notification, from the EMPLOYER, the EMPLOYER will be free to directly fill remaining positions for which no qualified applicants have been referred. Notwithstanding, the EMPLOYER will still be required to hire 51% District residents for all new jobs created by the Project.
- C. After the EMPLOYER has selected its employees, DOES will not be responsible for the employees' actions and the EMPLOYER hereby releases DOES, and the Government of the District of Columbia, the District of Columbia Municipal Corporation, and the officers and employees of the District of Columbia from any liability for employees' actions.

### **V. TRAINING**

- A. DOES and the EMPLOYER may agree to develop skills training and on-the-job training programs; the training specifications and cost for such training will be mutually agreed upon by the EMPLOYER and DOES and will be set forth in a separate Training Agreement.

### **VI. CONTROLLING REGULATIONS AND LAWS**

- A. To the extent that this Agreement is in conflict with any federal labor laws or governmental regulations, the federal laws or regulations shall prevail.
- B. DOES will make every effort to work within the terms of all collective bargaining agreements to which the EMPLOYER is a party.
- C. The EMPLOYER will provide DOES with written documentation that the EMPLOYER has provided the representative of any collective bargaining unit involved

with this Project a copy of this Agreement and has requested comments or objections. If the representative has any comments or objections, the EMPLOYER will promptly provide them to DOES.

## **VII. EXEMPTIONS**

- A. All contracts, subcontracts or other forms of government-assistance less than \$100,000.
- B. Employment openings the contractor will fill with individuals already employed by the company.
- C. Job openings to be filled by laid-off workers according to formally established recall procedures and rosters.
- D. Construction or renovation contracts or subcontracts in the District of Columbia totaling less than \$500,000 are exempt from the requirements of Section I(H) and I(I) of the General Terms hereof.
- E. Non-profit organization with 50 or less employees are exempt from the requirements.

## **VIII. AGREEMENT MODIFICATIONS, RENEWAL, MONITORING, AND PENALTIES**

- A. If, during the term of this Agreement, the EMPLOYER should transfer possession of all or a portion of its business concerns affected by this Agreement to any other party by lease, sale, assignment, merger, or otherwise this First Source Agreement shall remain in full force and effect and transferee shall remain subject to all provisions herein. In addition, the EMPLOYER as a condition of transfer shall:
  - 1. Notify the party taking possession of the existence of this EMPLOYER'S First Source Employment Agreement.
  - 2. Notify DOES within seven (7) business days of the transfer. This advice will include the name of the party taking possession and the name and telephone of that party's representative.
- B. DOES will monitor EMPLOYER'S performance under this Agreement. The EMPLOYER will cooperate with the DOES monitoring and will submit a Contract Compliance Form to DOES monthly.
- C. To assist DOES in the conduct of the monitoring review, the EMPLOYER will make available to DOES, upon request, payroll and employment records for the review period indicated for the Project.
- D. The Employer will provide DOES additional information upon request.
- E. With the submission of the final request for payment from the District, the EMPLOYER shall:

1. Document in a report to DOES its compliance with the requirement that 51% of the new employees hired by the EMPLOYER for the Project be District residents; or
  2. Submit to DOES a request for a waiver of compliance of the requirement that 51% of the new employees hired by the EMPLOYER the Project be District residents which will include the following documentation:
    - a. Documentation supporting EMPLOYERS good faith effort to comply;
    - b. Referrals provided by DOES and other referral sources; and
    - c. Advertisement of job openings listed with DOES and other referral sources.
- F. The DOES may waive the requirement that 51% of the new employees hired by the EMPLOYER for the Project be District residents, if DOES finds that:
1. A good faith effort to comply is demonstrated by the EMPLOYER; or
  2. The EMPLOYER is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area:
 

The Washington Standard Metropolitan Statistical Area includes the District of Columbia, the Virginia Cities of Alexandria, Falls Church, Manassas, Manassas Park, Fairfax, and Fredericksburg; the Virginia Counties of Fairfax, Arlington, Prince William, Loudon, Stafford, Clarke, Warren, Fauquier, Culpeper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.
  3. The EMPLOYER enters into a special workforce development training or placement arrangement with DOES; or
  4. DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the EMPLOYER for the positions created as a result of the Project. No failure by Employer to request a waiver under any other provision hereunder shall be considered relevant to a requested waiver under this Subsection.
- G. Willful breach of the First Source Employment Agreement by the EMPLOYER, failure to submit the Contract Compliance Report, or deliberate submission of falsified data, may be enforced by the DOES through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract for the positions created by EMPLOYER.
- H. The parties acknowledge that the provisions of E and F of Article VIII apply only to First Source hiring.
- I. Nonprofit organizations with 50 or less employees are exempt from the requirement that 51% of the new employees hired by the EMPLOYER on the Project be District residents.

- J. The EMPLOYER and DOES, or such other agent as DOES may designate, may mutually agree to modify this Agreement.
- K. The EMPLOYER's noncompliance with the provisions of this Agreement may result in termination.

**IX. LOCAL, SMALL, DISADVANTAGES BUSINESS ENTERPRISE**

- A. Is your firm a certified Local, Small, Disadvantaged Business Enterprise (LSDBE)?  
 YES    NO

If yes, certification number: \_\_\_\_\_

**X. APPRENTICESHIP PROGRAM**

- A. Do you have a registered Apprenticeship program with the D.C. Apprenticeship Council?  YES    NO

If yes, D.C. Apprenticeship Council Registration Number: \_\_\_\_\_

**XI. SUBCONTRACTOR**

- A. Is your firm a subcontractor on this project?  YES    NO

If yes, name of prime contractor: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
Signature Dept. of Employment Services

\_\_\_\_\_  
Signature of Employer

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
E-mail

## EMPLOYMENT PLAN

NAME OF EMPLOYER: \_\_\_\_\_

ADDRESS OF EMPLOYER: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_ FEDERAL IDENTIFICATION NO.: \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_ TITLE: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ TYPE OF BUSINESS: \_\_\_\_\_

DISTRICT CONTRACTING AGENCY: \_\_\_\_\_

CONTRACTING OFFICER: \_\_\_\_\_ TELEPHONE NUMBER: \_\_\_\_\_

TYPE OF PROJECT: \_\_\_\_\_ CONTRACT AMOUNT: \_\_\_\_\_

EMPLOYER CONTRACT AMOUNT: \_\_\_\_\_

PROJECT START DATE: \_\_\_\_\_ PROJECT END DATE: \_\_\_\_\_

EMPLOYER START DATE: \_\_\_\_\_ EMPLOYER END DATE: \_\_\_\_\_

**NEW JOB CREATION PROJECTIONS:** Please indicate ALL new position(s) your firm will create as a result of the Project. If the firm WILL NOT be creating any new employment opportunities, please complete the attached justification sheet with an explanation. Attach additional sheets as needed.

JOB TITLE	# OF JOBS		SALARY RANGE	UNION MEMBERSHIP REQUIRED NAME LOCAL#	PROJECTED HIRE DATE
	F/T	P/T			
A					
B					
C					
D					
E					
F					
G					
H					
I					
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**JUSTIFICATION SHEET:** Please provide a detailed explanation of why the Employer will not have any new hires on the Project.

[Empty box for justification text]

# ATTACHMENT J.6

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**Office of the Chief Financial Officer**

**Office of Tax and Revenue**



**TAX CERTIFICATION AFFIDAVIT**

**THIS AFFIDAVIT IS TO BE COMPLETED ONLY BY THOSE WHO ARE REGISTERED TO CONDUCT BUSINESS IN THE DISTRICT OF COLUMBIA.**

**Date**

**Name of Organization/Entity  
Business Address (include zip code)  
Business Phone Number(s)**

**Principal Officer Name and Title  
Square and Lot Information  
Federal Identification Number  
Contract Number  
Unemployment Insurance Account No.**

"I hereby authorize the District of Columbia, Office of the Chief Financial Officer, Office of Tax and Revenue; consent to release my tax information to an authorized representative of the District of Columbia agency from which I am seeking to enter into a contractual relationship. I understand that the information released under this consent will be limited to whether or not I am in compliance with the District of Columbia tax laws and regulations as of the date found on the government request. I understand that this information is to be used solely for the purpose of determining my eligibility to enter into a contractual relationship with a District of Columbia agency. I further authorize that this consent be valid for one year from the date of this authorization."

I hereby certify that I am in compliance with the applicable tax filing and payment requirements of the District of Columbia.

The Office of Tax and Revenue is hereby authorized to verify the above information with the appropriate government authorities. The penalty for making false statements is a fine not to exceed \$5,000.00, imprisonment for not more than 180 days, or both, as prescribed by D.C. Official Code § 47-4106.

**Signature of Authorizing Agent**

**Title**

# ATTACHMENT J.7



## **LIVING WAGE ACT FACT SHEET**

The “Living Wage Act of 2006,” Title I of D.C. Law 16-18, (D.C. Official Code §§2-220.01-.11) became effective June 9, 2006. It provides that District of Columbia government contractors and recipients of government assistance (grants, loans, tax increment financing) in the amount of \$100,000 or more shall pay affiliated employees wages no less than the current living wage rate.

**Effective January 1, 2010, the living wage rate is \$12.50 per hour.**

Subcontractors of D.C. government contractors who receive \$15,000 or more from the contract and subcontractors of the recipients of government assistance who receive \$50,000 or more from the assistance are also required to pay their affiliated employees no less than the current living wage rate.

“Affiliated employee” means any individual employed by a recipient who receives compensation directly from government assistance or a contract with the District of Columbia government, including any employee of a contractor or subcontractor of a recipient who performs services pursuant to government assistance or a contract. The term “affiliated employee” does not include those individuals who perform only intermittent or incidental services with respect to the government assistance or contract, or who are otherwise employed by the contractor, recipient or subcontractor.

**Exemptions** – The following contracts and agreements are exempt from the Living Wage Act:

1. Contracts or other agreements that are subject to higher wage level determinations required by federal law (i.e., if a contract is subject to the Service Contract Act and certain wage rates are lower than the District’s current living wage, the contractor must pay the higher of the two rates);
2. Existing and future collective bargaining agreements, provided that the future collective bargaining agreement results in the employee being paid no less than the current living wage;
3. Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
4. Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;
5. Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services, provided that the trainees do not replace employees subject to the Living Wage Act;

6. An employee, under 22 years of age, employed during a school vacation period, or enrolled as full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act;
7. Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District of Columbia;
8. Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to Section 501 (c) (3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26. U.S.C. §501(c)(3));
9. Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §44-501); and
10. Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

## **Enforcement**

The Department of Employment Services (DOES) and the D.C. Office of Contracting and Procurement (OCP) share monitoring responsibilities.

If you learn that a contractor subject to this law is not paying at least the current living wage you should report it to the Contracting Officer.

If you believe that your employer is subject to this law and is not paying you at least the current living wage, you may file a complaint with the DOES Office of Wage – Hour, located at 64 New York Ave., NE, Room 3105, (202) 671-1880.

For questions and additional information, contact the Office of Contracting and Procurement at (202) 727-0252 or the Department of Employment Services on (202) 671-1880.

**Please note:** *This fact sheet is for informational purposes only as required by Section 106 of the Living Wage Act. It should not be relied on as a definitive statement of the Living Wage Act or any regulations adopted pursuant to the law.*

# **“THE LIVING WAGE ACT OF 2006”**

**Title I, D.C. Law No. 16-118, (D.C. Official Code §§ 2-220.01-11)**

**Effective June 9, 2006, recipients of new contracts or government assistance shall pay affiliated employees and subcontractors who perform services under the contracts no less than the current living wage. Effective January 1, 2010, the living wage rate is \$12.50.**

## **The requirement to pay a living wage applies to:**

- All recipients of contracts in the amount of \$100,000 or more; and, all subcontractors of these recipients receiving \$15,000 or more from the funds received by the recipient from the District of Columbia, and,
- All recipients of government assistance in the amount of \$100,000 or more; and, all subcontractors of these recipients of government assistance receiving \$50,000 or more in funds from government assistance received from the District of Columbia.

**“Contract” means a written agreement between a recipient and the District government.**

**“Government assistance” means a grant, loan or tax increment financing that result in a financial benefit from an agency, commission, instrumentality, or other entity of the District government.**

**“Affiliated employee” means any individual employed by a recipient who received compensation directly from government assistance or a contract with the District of Columbia government, including any employee of a contractor or subcontractor of a recipient who performs services pursuant to government assistance or contract. The term “affiliated employee” does not include those individuals who perform only intermittent or incidental services with respect to the contract or government assistance or who are otherwise employed by the contractor, recipient or subcontractor.**

Certain exceptions may apply where contracts or agreements are subject to wage determinations required by federal law which are higher than the wage required by this Act; contracts for electricity, telephone, water, sewer other services delivered by regulated utility; contracts for services needed immediately to prevent or respond to a disaster or eminent threat to the public health or safety declared by the Mayor; contracts awarded to recipients that provide trainees with additional services provided the trainee does not replace employees; tenants or retail establishments that occupy property constructed or improved by government assistance, provided there is no receipt of direct District government assistance; Medicaid provider agreements for direct care services to Medicaid recipients, provided that the direct care service is not provided through a home care agency, a community residential facility or a group home for mentally retarded persons; and contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

Exemptions are provided for employees under 22 years of age employed during a school vacation period, or enrolled as a full-time student who works less than 25 hours per week, provided that other employees are not replaced, and for employees of nonprofit organizations that employ not more than 50 individuals.

**Each recipient and subcontractor of a recipient shall provide this notice to each affiliate employee covered by this notice, and shall also post this notice concerning these requirements in a conspicuous site in the place of business.**

**All recipients and subcontractors shall retain payroll records created and maintained in the regular course of business under District of Columbia law for a period of at least 3 years.**

This is a summary of the “Living Wage Act of 2006”. For the complete text go to:

[www.does.dc.gov](http://www.does.dc.gov) or [www.ocp.dc.gov](http://www.ocp.dc.gov)

**To file a complaint contact: Department of Employment Services**

**Office of Wage-Hour**

**64 New York Avenue, N.E., Room 3105, Washington, D.C. 20002**

**(202) 671-1880**