

GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF REAL ESTATE SERVICES

CONTRACTING AND PROCUREMENT DIVISION



## REQUEST FOR PROPOSAL

INVITATION NO. DCAM-2010-R-0183

AGENCY: D. C. Department of Real Estate Services

PROJECT: Reverse Energy Auctions

LOCATION:

<b>SOLICITATION, OFFER, AND AWARD</b>		1. Caption Reverse Energy Auctions		Page of Pages 1   40	
2. Contract Number	3. Solicitation Number <b>DCAM-2010-R-0183</b>	4. Type of Solicitation <input type="checkbox"/> Sealed Bid (IFB) <input checked="" type="checkbox"/> Sealed Proposals (RFP) <input type="checkbox"/> Sole Source <input type="checkbox"/> Human Care Agreements <input type="checkbox"/> Emergency	5. Date Issued 9/20/10	6. Type of Market <input checked="" type="checkbox"/> Open <input type="checkbox"/> Set Aside <input type="checkbox"/> Open with Sub-	
7. Issued By: DC Department of Real Estate Services Contracting & Procurement Division 2000 14th Street, NW, Fifth Floor Washington, DC 20009			8. Address Offer to: DC Department of Real Estate Services Bid Counter, Third Floor 2000 14th Street, NW, Third Floor Washington, DC 20009		

NOTE: In sealed bid solicitations "offer" and offeror" means "bid" and "bidder"

**SOLICITATION**

9. Sealed offers in original and 3 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand carried to the bid counter located at address shown in item 8 until 2:00PM local time 20-October-10  
(Hour) (Date)

CAUTION: Late Submissions, Modifications and Withdrawals: See 27 DCMR chapters 15 & 16 as applicable. All offers are subject to all terms & conditions contained in this solicitation.

10. For Information Contact	A. Name	B. Telephone		C. E-mail Address
	Ms. Silvia D. Silverman	(Area Code) 202	(Number) 671-1359 (Ext)	<a href="mailto:Silvia.Silverman@dc.gov">Silvia.Silverman@dc.gov</a>

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**OFFER**

12. In compliance with the above, the undersigned agrees, if this offer is accepted within 120 calendar days from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified herein.

13. Discount for Prompt Payment: 10 Calendar days %    20 Calendar days %    30 Calendar days %         Calendar days %

14. Acknowledgement of Amendments (The Offeror acknowledges receipt of amendments to the SOLICITATION):	Amendment Number	Date	Amendment Number	Date

15A. Name and Address of Offeror	16. Name and Title of Person Authorized to Sign Offer/Contract
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15B. Telephone (Area) (Number) (Ext)	15 C. Check if remittance address is different from above - Refer to Section G	17. Signature	18. Offer Date
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**AWARD (TO BE COMPLETED BY GOVERNMENT)**

19. Accepted as to Items Numbered	20. Amount	21. Accounting and Appropriation
22. Name of Contracting Officer (Type or Print)	23. Signature of Contracting Officer (District of Columbia)	24. Award Date

**SECTION B: CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE**

**B.1** The District of Columbia Department of Real Estate Services (DRES), Contracting and Procurement Division, on behalf of DRES Energy Division (the “District”) is seeking a contractor to provide, but not limited to, energy acquisition services through the performance of real-time, online reverse energy auction.

**B.2 TYPE OF CONTRACT**

The District contemplates the award of a single firm fixed-price contract based on reimbursement by the energy suppliers at a rate per dth or per kWh over the life of the contract for all accounts awarded as a result of services provided. Fees paid will be based on the amount of actual dth/kWh used by the District. All fees for this contract will be paid by the energy supplier.

**B.3 PRICE/COST SCHEDULE**

Prospective Contractor must submit indicative fees in the tables below for both electricity and natural gas. These fees shall encompass all of the costs of providing all services described in Section C and in the prospective Contractor’s proposal. For pricing purposes the Contractor should assume this fee will be in place for the Contractor’s full contract period. (one year base period and four one year option years ).

Offerors shall provide a separate price for each Contract Line Item Number (CLIN) as listed in the Proposal Breakdown Sheet below.

<u>CLIN</u>	<u>ELECTRICITY PRICE/Million kWh</u>	<u>CLIN</u>	<u>NATURAL GAS PRICE/Million dth</u>
	<b>BASE YEAR</b>		<b>BASE YEAR</b>
100		0200	
	<b>OPTION YEAR ONE</b>		<b>OPTION YEAR ONE</b>
1100		1200	
	<b>OPTION YEAR TWO</b>		<b>OPTION YEAR TWO</b>
2100		2200	
	<b>OPTION YEAR THREE</b>		<b>OPTION YEAR THREE</b>
3100		3200	
	<b>OPTION YEAR FOUR</b>		<b>OPTION YEAR FOUR</b>
4100		4200	

**B.4 PRICING TOTALS**

<u>CLIN</u>	<u>ELECTRICITY PRICE/Million kWh</u>	<u>CLIN</u>	<u>NATURAL GAS PRICE/Million dth</u>
	<b>5 YEAR TOTAL</b>		<b>5 YEAR TOTAL</b>
5100		5200	

**B.5** All work will be performed on a no upfront cost basis. The Contractor will be reimbursed by the winning supplier(s) at a rate per dth or per kWh over the life of the contract for all accounts awarded as a result of services provided. Fees paid will be based on the amount of actual dth/kWh used by the District. The District will include payment and reporting terms between energy suppliers and the Contractor in the District's supply IFB.

Contractors are advised that the District is under no obligation to accept pricing received through any auction and may elect not to award supply contracts if they are deemed not to be in the best interest of the District. The District has the sole authority to make this decision and may elect to accept all, some, or none of the prices submitted through the auction. If the District decides not to award supply contracts for any accounts, the Contractor will receive no compensation for services provided.

## SECTION C: SPECIFICATIONS/WORK STATEMENT

### C.1 SCOPE:

The District is issuing this Request for Proposal (RFP) for qualified Contractors to provide supply-side energy procurement and management services. When used in this document, the term “energy” shall mean both natural gas and electric power. The District is requesting proposals for the provision of performance-based supply-side energy management services, which include but are not limited to: energy acquisition services and performance of real-time, online, reverse energy auctions. The successful offeror (i.e. Contractor) will provide the full requirements for a term of one (1) base year and four (4) option years from the date of award. The Contractor must possess a combination of energy procurement experience and the technology platform including real-time, online reverse energy auction capabilities, all on a no upfront cost basis (performance based). The District reserves the right to engage the awarded Contractor in energy procurements for other commodities under a similar fee structure in the future.

### C.2 BACKGROUND:

This Scope of Work defines the minimum requirements for the Contractor to provide complete energy supply acquisition management services. The Contractor will assist in the development and execution of the subsequent energy procurement for all existing District facilities energy accounts and additional eligible facilities which will include larger and small commercial customers as well as residential accounts which choose to participate. The pricing component will be conducted via the Contractor’s web-based technology platform and may utilize an on-line, real-time reverse auction if it is in the best interest of District. The Contractor will be required to assist the District in analyzing rates and tariffs for accounts to develop a comprehensive energy procurement strategy, and will help implement a total supply-side management solution for all accounts contained in the final energy aggregation.

### C.3 REQUIREMENTS

**Minimum Requirements: Failure to meet any of the following minimum requirements may constitute a technically unacceptable offer. Each Contractor must provide the following:**

- C.3.1** The Contractor shall accept all risk in the form of no upfront payment. There will be no upfront costs to the District and, if in the best interest of the District, a contract is not executed after a procurement event, the District will be under no obligation to compensate the Contractors for services rendered. Provide a statement certifying acknowledgement of these requirements.
- C.3.2** The Contractor shall be “supplier neutral” with no ownership ties, partnerships, or other business relationships with any specific supplier that would reasonably be considered a conflict of interest.
- C.3.3** The Contractor shall have conducted an electricity and natural gas procurement auction for at least two city and/or county aggregation programs that included participants such as k-12 school systems, universities, water and sewer authorities, Airport Authorities, Port Authorities, Department of Transportation, convention centers and sports authorities, as

well as surrounding cities and counties which resulted in energy supply contract awards serving at least 300 to 500 accounts within the past 12 months.

- C.3.4** The energy procurement platform used shall provide an automatic audit trail of time stamped bids and bidder information for each company participating in the energy procurement program.
- C.3.5** The energy procurement platform shall be protected from products and actions that would prevent authorized bidders from submitting a price and shall provide for application of security measures and include a process of continuous monitoring.
- C.3.6** The energy procurement platform has successfully been used to solicit bids for pricing energy products other than firm fixed price and index price bids.
- C.3.7** The energy procurement platform shall:
- a) provide the District the ability to construct and implement a formula that receives multiple bid/price components of energy as two or more inputs and calculates a total cost energy price as an output based on such inputs;
  - b) provide bidders the ability to calculate and submit bids on two or more price components of the energy supply, such as energy, capacity, supplier fee, etc.;
  - c) receive such bids at the component level and calculate total cost energy price;
  - d) provide District the ability to view all submitted bids at the total cost energy price and component price level;
  - e) provide bidders the ability to view their own submitted bids at the total cost energy price and component price level; and
  - f) provide bidders the ability to adjust any or all of the price components based on real time market feedback and calculate and resubmit bids as described above.
- C.3.8** The energy procurement platform shall provide the District and bidders with real-time price transparency and market feedback during the entire bidding process. The online auction must not allow bidders to submit a blind best and final bid after the auction closes.
- C.3.9** The energy procurement platform shall include “true real-time” online reverse auction capabilities such that the platform automatically updates both District and bidder user interfaces and does not require District or bidders to manually refresh their Internet browser to view the most current bid status.
- C.3.10** Specific examples which demonstrate the Contractors experience in providing supply-side energy services to city and county aggregation program that included participants such as k-12 school systems, universities, water and sewer authorities, Airport Authorities, Port Authorities, Department of Transportation, convention centers and sports authorities, as well as surrounding cities and counties and information, regarding measurable success of the resulting procurement.
- C.3.11** Two specific examples which demonstrate the Contractor’s ability to market and effectively increase the size of an energy aggregation for clients. Both examples should be representative of a city and county aggregation programs.

- C.3.12** A minimum of four (4) references, two (2) of which are different city and county aggregation programs which demonstrate the Contractor's ability to conduct real-time, online reverse energy auctions on behalf of clients with accounts in multiple rate classes.
- C.3.13** An example of the Contractor's price-to-beat analysis, calculated at the individual account level, for a past procurement that included at least 300 to 500 accounts.
- C.3.14** The Contractor will analyze accounts and aggregate them into procurement tranches in order to promote the most competition and lowest energy price for the District.
- C.3.15** Under the direction of the District, the Contractor will determine and implement the best bid method (e.g. online reverse auction or other bid method) for the bid event in order to achieve the best energy for the District.

#### **C.4 Procurement /Consultant Services Requirements**

- C.4.1** The consultant shall provide market expertise, information and recommendations throughout the process.
- C.4.2** The consultant shall conduct a survey of active and licensed energy suppliers as registered in the applicable utilities in order to determine market strategies which will result in the most competitive bids and maximize savings for the District.
- C.4.3** The consultant shall define data requirements, identify sources of data, and create a central data repository of all relevant account information. As needed, the District will assist the Contractor with this task by providing authorizations to collect account numbers and available historical data from the servicing utility and/or current competitive suppliers. The Contractor will be responsible for pulling utility quality data for all accounts included in the procurement directly from the utility and all costs associated with this task. The Contractor will be responsible for posting the utility quality data on the energy procurement technology platform for use by the participating licensed energy suppliers.
- C.4.4** The consultant shall meet with the District's staff to answer questions, explain the procurement process, and discuss market conditions.
- C.4.5** The consultant shall create an energy supply IFB that requires bidders to provide the lowest bid prices available in the market that conform to the District's specific IFB supply pricing types and service terms sought.
- C.4.6** The consultant shall advertise the procurement IFB and contact registered suppliers for the applicable utilities to inform them of the procurement. At the District's direction, the Contractor will register and train prospective bidders as users of the energy procurement technology platform and answer any questions regarding use of the software system.
- C.4.7** The consultant shall establish a pre-qualification process for potential energy suppliers. The Contractor will work with the District to develop sound financial and technical qualifications that suppliers must meet in order to bid. These qualifications will include, but are not limited to: viability to meet the terms and conditions of the District contracts, proof of appropriate licenses and transport agreements, adherence to switching rules and enrollment processes, and ability to meet minimum load requirements for competitive supply.
- C.4.8** The consultant shall perform coordination of pre-bid teleconferencing and/or meetings as necessary to ensure registered bidders understand the procurement process. In addition to

facilitating bidder's conference(s), the Contractor will provide questions and answers from the meeting. After the District's review, questions and answers will be posted for all potential bidders to access through the customized website described below.

- C.4.9** The consultant shall create a customized website with pre-defined role-based user name and password access for each of the District's energy procurements which will serve as a centralized site for all parties to access their data, be notified of updates and submit pricing. In addition to posting questions and answers from bidder's conferences, the Contractor will also post: historical usage data/demand data in downloadable format, energy supply IFB including contract terms and conditions, and other important data as defined by the District. This customized web site will be accessible to both the District and qualified suppliers and will serve as the project management tool for the District's energy procurement program.
- C.4.10** The consultant shall assist the District, as requested, to determine the best contract structure for each bidding event within the procurement and provide recommendations for RFP language changes. The Contractor will provide market analysis and information regarding the best time to hold the procurement based on energy market conditions and the District's specified timeline for the procurements.
- C.4.11** The consultant shall review the final IFB to ensure that it meets both the District's and suppliers' requirements. Final IFB must be approved by the District.
- C.4.12** The consultant shall assist the District in procuring electrical energy supply from renewal sources and in certifying any renewable energy credits resulting from energy supply contract awards as well as other projects.
- C.4.13** The consultant shall create pricing scenarios and forecasts from data provided by the District, other customers, servicing utilities, and market data which may serve as the baseline against which bid prices are compared. To ensure the most accurate calculations, the Contractor will be required to build a price-to-beat for every account included in the procurement vs. simply analyzing price-to-beat at the utility rate / tariff level.
- C.4.14** The consultant shall assist the District with reaching pricing decisions that adhere to cost savings goals regarding risk avoidance, savings maximization, renewable power goals and other objectives that the District deems appropriate.

## **C.5 Energy Procurement Technology Platform Services Requirements**

- C.5.1** The consultant shall notify suppliers of the specific energy procurement schedule, conduct the procurement/bid event and perform other necessary administrative duties associated with the procurement. The auction will be conducted via a pre-defined role-based user name and password protected energy procurement technology platform.
- C.5.2** The consultant shall monitor the procurement and maintain an audit trail of all supplier communications, bid prices, bid times, and results which will be provided to the District in electronic format post-auction. Additionally, the lowest bid total cost price submitted will be clearly identified.
- C.5.3** It is preferred that the energy auction within the energy procurement technology platform will not conclude at a fixed end time but rather after a period of time in which there has been no bid activity.

- C.5.4** It is preferred that the energy auction within the energy procurement technology platform enable bidders to submit bid(s) while at the same time being able to view current bid/auction status within the context of one (1) user interface window without having to view or transition between multiple window user interfaces
- C.5.5** The energy auction within the energy procurement technology platform used must provide an automatic audit trail of bidder/contractor communication during the auction and within the context of the auction bid console.
- C.5.6** It is preferred that the energy procurement technology platform enables bidder, Contractor, and/or District pre-auction communications and automatically generates an audit trail of such communications within the context of the specific energy procurement program. The specific communication trail must be viewable only by users with authorized access permissions.
- C.5.7** The consultant shall assist the District, as requested, in making a determination of which bid is the “best total cost bid” and whether accepting bid prices are in the District’s best interests.
- C.5.8** The Contractor shall not bind nor act or represent itself as performing in the capacity of the District at any time during the procurement process, unless specifically authorized to do so by the District.
- C.5.9** The consultant shall perform up to four additional procurements for the same account set if pricing received through the original procurement is not reflective of competitive market pricing at that point in time or if the District determines that more advantageous pricing can be achieved at a later date.
- C.5.10** All energy procurement bid events will be held in the Department of Real Estate Services offices located at 2000 14th Street NW, Washington D.C. 20009

## **C.6 Contract Management Services Requirements**

- C.6.1** Contractor shall work with awarded energy supplier to ensure account transition is completed in a timely and accurate manner, and assist in resolving any issues that arise after the contract is awarded.
- C.6.2** Contractor shall store contracts and accounts on a password-protected on-line database that the District and its clients can access over the web.
- C.6.3** Contractor shall provide periodic market updates and identify the potential for additional savings as requested by the District.

## **C.7 Key Personnel**

The Contractor and /or Sub-Contract key personnel will be identified and available for the duration of the program to ensure its smooth planning, implementation, and execution.

## **C.8 Availability**

The Contractor will conduct teleconferencing and travel as necessary to execute required planning and performance of this Scope of Work.

**C.9 Schedule**

A detailed schedule will be agreed upon by the District and the Contractor prior to each energy procurement program. The District will actively work with the Contractor throughout the project from a time, personnel, and resource standpoint.

**C.10 Protection of Contract Information**

The Contractor will take the necessary and usual steps to maintain the confidentiality of information submitted by Suppliers prior to award of the supply contract.

**C.11 Written Notification**

The District will confirm with the vendor that the accounts for which data is being provided to suppliers is the final set of accounts to be included in the procurement by a specified date that is mutually agreed upon by District and Contractor.

**C.3.10 Payment and Billing**

All work will be performed on a no upfront cost basis. The Contractor will be reimbursed by winning suppliers at a rate per dth or per kWh over the life of the contract for all accounts awarded as a result of services provided. Fees paid will be based on the amount of actual dth/kWh used. The District will include payment and reporting terms between energy suppliers and the Contractor in the District's supply IFB.

**Contractors are advised that the District is under no obligation to accept pricing received through each auction and may elect not to award supply contracts if they are deemed not to be in the best interest of the District. The District has the sole authority to make this decision and may elect to accept all, some, or none of the prices submitted through the auction. If the District decides not to award supply contracts for any accounts, the Contractor will receive no compensation for services provided. Contractors will only be responsible for providing contract management services to accounts for which energy supply service is awarded.**

**SECTION D: PACKAGING AND MARKING**

*This section intentionally left blank.*

**SECTION E: INSPECTION AND ACCEPTANCE**

- E.1** The inspection and acceptance requirements for this contract shall be governed by clause number six (6), Inspection of Services of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March 2007. (Attachment J.1)

## SECTION F: PERIOD OF PERFORMANCE AND DELIVERABLES

### F.1 TERM OF CONTRACT

The term of the contract shall be one (1) year from date of award specified on page one (1) of the Contract.

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

**F.2.1** The District may extend the term of this contract for a period of four (4) option periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the District will give the Contractor preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the contract.

**F.2.2** If the District exercises this option, the extended contract shall be considered to include this option provision.

**F.2.3** The price for the option period shall be as specified in the Section B of the contract.

**F.2.4** The total duration of this contract, including the exercise of any options under this clause, shall not exceed five (5) years.

### F.3 DELIVERABLES

The Contractor shall perform the activities required to successfully complete the District's requirements and submit each deliverable to the COTR identified in section G.9 in accordance with the following:

<b>Deliverable</b>	<b>Qty</b>	<b>Format/Method of Delivery</b>	<b>Due Date</b>
Reports on market activity and market changes	1	Electronically	Weekly or as new trends are observed
Creation of Website			Within 60 days of NTP

**SECTION G: CONTRACT ADMINISTRATION****G.1 INVOICE PAYMENT**

**G.1.1** All work will be performed on a no upfront cost basis. The Contractor will be reimbursed by winning suppliers at a rate per kWh or dth over the life of the contract for all accounts awarded as a result of services provided. Fees paid will be based on the amount of actual kWh or dth used. The district will include payment and reporting terms between energy suppliers and the Contractor in the District supply IFB.

**G.2 CONTRACTING OFFICER (CO)**

Contracts will be entered into and signed on behalf of the District only by contracting officers. The contact information for the Contracting Officer is:

*Wilbur C. Giles  
Contracting Officer  
Department of Real Estate Services  
2000 14<sup>th</sup> Street, NW, Fifth Floor  
Washington, DC 20009  
Telephone: 202-671-2405  
Wilbur.Giles@dc.gov*

**G.3 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER**

**G.3.1** The CO is the only person authorized to approve changes in any of the requirements of this contract.

**G.3.2** The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the CO.

**G.3.3** In the event the Contractor effects any change at the instruction or request of any person other than the CO, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

**G.4 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)**

**G.4.1** The COTR is responsible for general administration of the contract and advising the CO 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.4.1.1** Keeping the CO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CO of any potential problem areas under the contract;

**G.4.1.2** Coordinating site entry for Contractor personnel, if applicable;

**G.4.1.3** Reviewing invoices for completed work and recommending approval by the CO if the Contractor's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;

**G.4.1.4** Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with the District's payment provisions; and

**G.4.1.5** Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, equipment) and invoice or vouchers.

**G.4.2** The address and telephone number of the COTR is:

Michael Yambrach  
Energy Management, Program Manager  
2000 14<sup>th</sup> Street, N, Fifth Floor  
Washington, DC, 20009  
202-671-0729  
Michael.Yambrach@dc.gov

**G.4.3** The COTR shall NOT have the authority to:

1. Award, agree to, or sign any contract, delivery order or task order. Only the CO 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 contract 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 will be fully responsible for any changes not authorized in advance, in writing, by the CO; may be denied 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.

**SECTION H: SPECIAL CONTRACT REQUIREMENTS****H.1 PUBLICITY**

The Contractor shall at all times obtain the prior written approval from the CO before it, any of its officers, agents, employees or subcontractors, either during or after expiration or termination of the contract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.

**H.2 FREEDOM OF INFORMATION ACT**

The District of Columbia Freedom of Information Act, at D.C. Official Code §2-532 (a-3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the COTR who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the COTR will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the COTR within the timeframe designated by the COTR. The FOIA Officer for the agency with programmatic responsibility will determine the releasability of the records. The District will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code §2-532 and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

**H.3 SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended.**

During the performance of the contract, the Contractor and any of its subcontractors shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded programs and activities. See 29 U.S.C. § 794 *et seq.*

**H.4 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)**

During the performance of this contract, the Contractor and any of its subcontractors shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. §12101 *et seq.*

**H.5 WAY TO WORK AMENDMENT ACT OF 2006**

**H.5.1** Except as described in H.8.8 below, the Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“Living Wage Act of 2006”), for contracts for services in the amount of \$100,000 or more in a 12-month period.

**H.5.2** The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the current living wage published on the OCP website at [www.ocp.dc.gov](http://www.ocp.dc.gov).

- H.5.3** The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate.
- H.5.4** The DOES may adjust the living wage annually and the OCP will publish the current living wage rate on its website at [www.ocp.dc.gov](http://www.ocp.dc.gov).
- H.5.5** The Contractor shall provide a copy of the Fact Sheet attached as J.5 to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice attached as J.5 in a conspicuous place in its place of business. The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.
- H.5.6** The Contractor shall maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the contract.
- H.5.7** The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*
- H.5.8** The requirements of the Living Wage Act of 2006 do not apply to:
- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
  - (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established 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 of 2006;
  - (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a 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 of 2006;
  - (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;
  - (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.

**H.5.9** The Mayor may exempt a contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

## **SECTION I: CONTRACT CLAUSES**

### **I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS**

The Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts dated March 2007 (“SCP”) are incorporated as part of the contract. To obtain a copy of the SCP go to [www.ocp.dc.gov](http://www.ocp.dc.gov), click on OCP Policies under the heading “Information”, then click on “Standard Contract Provisions – Supplies and Services Contracts”.

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

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

### **I.3 CONFIDENTIALITY OF INFORMATION**

The Contractor shall keep all information relating to any employee or customer of the District in absolute confidence and shall not use the information in connection with any other matters; nor shall it disclose any such information 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, will include Saturdays, Sundays, and holidays, unless otherwise stated herein.

### **I.5 RIGHTS IN DATA**

**I.5.1** “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.5.2** 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.5.3** 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.5.4** 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.5.5** All data first produced in the performance of this Contract shall be the sole property of the District. The Contractor hereby acknowledges that all data, including, without limitation, computer program codes, produced by Contractor for the District under this Contract, are works made for hire and are the sole property of the District; but, to the extent any such data may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the District the ownership of copyright in such works, whether published or unpublished. The Contractor agrees to give the District all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District may have released such data to the public.
- I.5.6** The District will have restricted rights in data, including computer software and all accompanying documentation, manuals and instructional materials, listed or described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:
- I.5.6.1** 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.5.6.2** 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.5.6.3** Copy computer programs for safekeeping (archives) or backup purposes; and modify the computer software and all accompanying documentation and manuals

or instructional materials, or combine it with other software, subject to the provision that the modified portions shall remain subject to these restrictions.

**I.5.7** The restricted rights set forth in section I.5.6 are of no effect unless

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

**RESTRICTED RIGHTS LEGEND**

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

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

**I.5.8** In addition to the rights granted in Section I.5.6 above, the Contractor hereby grants to the District a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section I.5.6 above, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the District under this contract. Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the District under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the District any rights necessary to perfect a copyright license of the scope specified in the first sentence of this paragraph.

**I.5.9** Whenever any data, including computer software, are to be obtained from a subcontractor under this contract, the Contractor shall use this clause, I.5, Rights in Data, in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that subcontractor data or computer software which is required for the District.

**I.5.10** For all computer software furnished to the District with the rights specified in Section I.5.5, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope specified in Section I.5.5. For all computer software furnished to the District with the restricted rights specified in Section I.5.6, the District, if the Contractor, either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under this contract or any paid-up maintenance agreement, or if Contractor should be declared bankrupt or insolvent by a court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under this contract, and a

single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

**I.5.11** The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this contract, or (ii) based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.

**I.5.12** 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.5.13** Paragraphs I.5.6, I.5.7, I.5.8, I.5.11 and I.5.12 above are not applicable to material furnished to the Contractor by the District and incorporated in the work furnished under contract, provided that such incorporated material is identified by the Contractor at the time of delivery of such work.

## **I.6 OTHER CONTRACTORS**

The Contractor shall not commit or permit any act that will interfere with the performance of work by another District contractor or by any District employee.

## **I.7 SUBCONTRACTS**

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior written consent of the CO. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District will have the right to review and approve prior to its execution by 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.

## **I.8 EQUAL EMPLOYMENT OPPORTUNITY**

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as Section J.3. An award cannot be made to any Offeror who has not satisfied the equal employment requirements.

## **I.9 ORDER OF PRECEDENCE**

The contract(s) awarded as a result of this RFP will contain the following clause:

A conflict in language shall be resolved by giving precedence to the document in the highest order of priority that contains language addressing the issue in question. The following documents are

incorporated into the contract by reference and made a part of the contract in the following order of precedence:

- (1) An applicable Court Order, if any
- (2) Contract document
- (3) Standard Contract Provisions
- (4) Contract attachments other than the Standard Contract Provisions
- (5) RFP, as amended
- (6) BAFOs (in order of most recent to earliest)
- (7) Proposal

**I.11 CONTRACTS IN EXCESS OF ONE MILLION DOLLARS**

Any contract in excess of \$1,000,000 shall not be binding or give rise to any claim or demand against the District until approved by the Council of the District of Columbia and signed by the CO.

**I.12 GOVERNING LAW**

This contract, and any disputes arising out of or related to this contract, shall be governed by, and construed in accordance with, the laws of the District of Columbia.

**SECTION J: ATTACHMENTS**

The following list of attachments is incorporated into the solicitation by reference

<b>Attachment Number</b>	<b>Document</b>
<b>J.1</b>	Government of the District of Columbia Standard Contract Provisions for Use with the Supplies and Services Contracts (March 2007) available at <a href="http://www.ocp.dc.gov">www.ocp.dc.gov</a> click on "Solicitation Attachments"
<b>J.2</b>	U.S. Department of Labor Wage Determination 2005-2103, Revision No. 10, Dated 06/15/2010
<b>J.3</b>	Office of Local Business Development Equal Employment Opportunity Information Report and Mayor's Order 85-85 available at <a href="http://www.ocp.dc.gov">www.ocp.dc.gov</a> click on "Solicitation Attachments"
<b>J.4</b>	Department of Employment Services First Source Employment Agreement available at <a href="http://www.ocp.dc.gov">www.ocp.dc.gov</a> click on "Solicitation Attachments"
<b>J.5</b>	Way to Work Amendment Act of 2006 - Living Wage Notice and Living Wage Fact Sheet
<b>J.6</b>	Tax Certification Affidavit <a href="http://www.ocp.dc.gov">www.ocp.dc.gov</a> click on "Solicitation Attachments"
<b>J.7</b>	Cost/Price Certification and Data Package available at <a href="http://www.ocp.dc.gov">www.ocp.dc.gov</a> click on "Solicitation Attachments"
<b>J.8</b>	W-9 Tax Form
<b>J.9</b>	Master Collection Form
<b>J.10</b>	Past Performance Evaluations

**SECTION K: REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS**

**K.1 AUTHORIZED NEGOTIATORS**

The Offeror 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).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**K.2 TYPE OF BUSINESS ORGANIZATION**

**K.2.1** The Offeror, by checking the applicable box, represents that:

(a) It operates as:

- a corporation incorporated under the laws of the state of: \_\_\_\_\_
- an individual,
- a partnership,
- a nonprofit organization, or
- a joint venture.

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

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

**K.3 CERTIFICATION AS TO COMPLIANCE WITH EQUAL OPPORTUNITY OBLIGATIONS**

Mayor’s Order 85-85, “Compliance with Equal Opportunity Obligations in 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 Offeror for a contract subject to the order. I hereby certify that I am fully aware of the content of the Mayor’s Order 85-85 and the Office of Human Rights’ regulations, Chapter 11, and agree to comply with them in performance of this contract.

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

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

Signature \_\_\_\_\_

Offeror\_\_\_\_has \_\_\_\_has not participated in a previous contract or subcontract subject to the Mayor’s Order 85-85. Offeror\_\_\_\_has \_\_\_\_has not filed all required compliance reports, and representations indicating submission of required reports signed by proposed subofferors. (The above representations need not be submitted in connection with contracts or subcontracts which are exempt from the Mayor’s Order.)

**K.4 BUY AMERICAN CERTIFICATION**

The Offeror hereby certifies that each end product, except the end products listed below, is a domestic end product (See Clause 23 of the SCP, “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.5 DISTRICT EMPLOYEES NOT TO BENEFIT CERTIFICATION**

Each Offeror shall check one of the following:

\_\_\_\_\_ No person listed in Clause 13 of the SCP (Attachment J.1), “District Employees Not To Benefit” will benefit from this contract.

\_\_\_\_\_ The following person(s) listed in Clause 13 of the SCP (Attachment J.1), “District Employees Not To Benefit” may benefit from this contract. For each person listed, attach the affidavit required by Clause13.

\_\_\_\_\_  
\_\_\_\_\_

**K.6 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

(a) Each signature of the Offeror is considered to be a certification by the signatory that:

- 1) The prices in this contract have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any Offeror or competitor relating to:
  - (i) those prices,
  - (ii) the intention to submit a contract, or
  - (iii) the methods or factors used to calculate the prices in the contract.
- 2) The prices in this contract have not been and will not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before contract opening unless otherwise required by law; and

- 3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit a contract for the purpose of restricting competition.
- (b) Each signature of the Offeror is considered to be a certification by the signatory that the signatory:
- 1) Is the person in the Offeror's organization responsible for determining the prices being offered in this contract, and that the signatory has not participated and will 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 will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above:

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*(insert full name of person(s) in the organization responsible for determining the prices offered in this contract and the title of his or her position in the Offeror's organization);*

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

#### **K.7 TAX CERTIFICATION**

Each Offeror must submit with its offer, a sworn Tax Certification Affidavit, incorporated herein as Attachment J.6.

#### **K. 8 USE OF CONTRACT(S) BY MEMBERS COMPRISING THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS PURCHASING OFFICERS' COMMITTEE**

- A. If authorized by the bidder(s), resultant contract(s) will be extended to any or all of the listed members as designated by the bidder to purchase at contract prices in accordance with contract terms.
- B. Any member utilizing such contract(s) will place its own order(s) directly with the successful contractor. There shall be no obligation on the part of any participating member to utilize the contract(s).
- C. A negative reply will not adversely affect consideration of your bid/proposal.
- D. It is the awarded vendor's responsibility to notify the members shown below of the availability of the Contract(s).

- E. Each participating jurisdiction has the option of executing a separate contract with the awardees'. Contracts entered into with a participating jurisdiction may contain general terms and conditions unique to that jurisdiction including, by way of illustration and not limitation, clauses covering minority participation, non-discrimination, indemnification, naming the jurisdiction as an additional insured under any required Comprehensive General Liability policies, and venue. If, when preparing such a contract, the general terms and conditions of a jurisdiction are unacceptable to the awardees', the awardees' may withdraw its extension of the award to that jurisdiction.
- F. The issuing jurisdiction shall not be held liable for any costs or damages incurred by another jurisdiction as a result of any award extended to that jurisdiction by the awardees'.

**BIDDER'S AUTHORIZATION TO EXTEND CONTRACT:**

YES NO JURISDICTION

- Alexandria, Virginia Authority
- Alexandria Public Schools
- Alexandria Sanitation Authority
- Arlington County, Virginia
- Arlington County Public Schools
- Bowie, Maryland
- Charles County Public Schools
- College Park, Maryland
- Culpeper County, Virginia Schools
- District of Columbia
- District of Columbia Courts
- District of Columbia Public Schools
- District of Columbia Water & Sewer Auth.
- Fairfax, Virginia
- Fairfax County, Virginia
- Fairfax County Water Authority
- Falls Church, Virginia
- Transit
- Fauquier County Schools & Government, Virginia
- Frederick, Maryland
- Frederick County, Maryland
- Gaithersburg, Maryland
- Greenbelt, Maryland
- Herndon, Virginia
- Loudoun County
- Loudoun County Public Schools
- Loudoun County Sanitation Authority

YES NO JURISDICTION

- Metropolitan Washington Airports
- Metropolitan Washington Council of Governments
- Montgomery College
- Montgomery County, Maryland
- Montgomery County Public Schools
- Prince George's County, Maryland
- Prince George's Public Schools
- Prince William County, Virginia
- Prince William County Public
- Prince William County Service Authority
- Rockville, Maryland
- Spotsylvania County Schools
- Stafford County, Virginia
- Takoma Park, Maryland
- Upper Occoquan Sewage Authority
- Vienna, Virginia
- Washington Metropolitan Area Authority
- Washington Suburban Sanitary Commission
- Winchester, Virginia
- Winchester Public Schools

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Vendor Name/ Revised 9/17/10

- \_\_\_ \_\_\_ Manassas, Virginia
- \_\_\_ \_\_\_ City of Manassas Public Schools
- \_\_\_ \_\_\_ Manassas Park, Virginia
- \_\_\_ \_\_\_ Maryland-National Capital Park & Planning Comm.

**K.9 CERTIFICATION OF ELIGIBILITY**

The Offeror’s signature shall be considered a certification by the signatory that the Offeror, or any person associated therewith in the capacity of owner, partner, director, officer, principal, or any position involving the administration of funds:

- A. is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility under any federal, District or state statutes;
- B. has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal, District or state agency within the past three (3) years;
- C. does not have a proposed debarment pending; and
- D. has not been indicted, convicted, or had a civil judgment rendered against it or them by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Indicate below any exception to your certification of eligibility and to whom it applies, their position in the Offeror’s organization, the initiating agency, and dates of action. Exceptions will not necessarily result in denial of award, but will be considered in determining responsibility of the Offeror. Providing false information may result in criminal prosecution or administrative sanctions.

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**SECTION L: INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS****L.1 CONTRACT AWARD****L.1.1 Most Advantageous to the District**

The District reserves the right to accept/reject any or all proposals resulting from this solicitation. The Contracting Officer may reject all proposals or waive any minor informatlity or irregularity in proposals received whenever it is determined that such action is in the best interest of the District.

**L.1.2** The District intends to award a single contract resulting from this solicitation to the responsible Offeror whose offer conforming to the solicitation will be most advantageous to the District, cost or price, technical and other factors, specified elsewhere in this solicitation considered.

**L.1.3 Initial Offers**

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

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

**L.2.1** One original and six (6) copies of the written proposals shall be submitted in two parts, titled "Technical Proposal" and "Price Proposal". Proposals shall be typewritten in 12 point font size on 8.5" by 11" bond paper.

**L.2.2** Each part of the Offeror's proposal shall provide a Table of Contents identifying the organization of the information as well as any exhibits or other supporting documentation included by the Offeror. Information contained in Part 1, Technical Proposal, of the Offeror's proposal, shall NOT provide information or reference any information contained in Part 2 Pricing Proposal. Offerors must ensure that all relevant information that would allow the District to evaluate its proposal based on the evaluation criteria set forth in Section M is included in the proposal.

**L.2.3** Telephonic, telegraphic, and facsimile proposals will not be accepted. Each proposal shall be submitted in a sealed envelope conspicuously marked: "Proposal in Response to Solicitation No. DCAM-2010-R-0183, "Reverse Energy Auctions"

**L.2.4** Offerors are directed to the specific proposal evaluation criteria found in Section M of this solicitation, Evaluation Factors. The Offeror shall respond to each factor in a way that will allow the District to evaluate the Offeror's response. The Offeror shall submit information in a clear, concise, factual and logical manner providing a comprehensive description of program supplies and services and delivery thereof. The information requested below for the technical proposal shall facilitate evaluation for all proposals. The

technical proposal must contain sufficient detail to provide a clear and concise response fully reflecting the manner in which the Offeror proposes to fully meet the requirements in Section C.

### **L.3 PROPOSAL SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, WITHDRAWAL OR MODIFICATION OF PROPOSALS AND LATE PROPOSALS**

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

Proposals must be submitted no later than 2:00PM local time on October 20, 2010 at the Third Floor Bid Room, located at 2000 14<sup>th</sup> Street, NW, Washington, DC. Proposals, modifications to proposals, or requests for withdrawals that are received in the designated District office after the exact local time specified above, are "late" and shall be considered only if they are received before the award is made and one (1) or more of the following circumstances apply:

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

#### **L.3.2 Withdrawal or Modification of Proposals**

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

#### **L.3.3 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 Offeror can furnish evidence from the postal authorities of timely mailing.

#### **L.3.4 Late Modifications**

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

#### **L.3.5 Late Proposals**

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

#### **L.4 EXPLANATION TO PROSPECTIVE OFFERORS AND PRE-PROPOSAL CONFERENCE**

- L.4.1** A pre-proposal conference to discuss the contents of this solicitation and other pertinent matters will be held at **10:00 a.m.** local time, on **September 28, 2010** at the **2000 - 14<sup>th</sup> Street, NW, 5<sup>th</sup> Floor, Washington, D. C. 20009.**

Prospective Offerors will be given an opportunity to ask questions regarding this solicitation at the conference. The purpose of the conference is to provide a structured and formal opportunity for the District to accept questions from bidders on the solicitation document as well as to clarify the contents of the solicitation. Attending Offerors must complete the Pre-proposal Conference Attendance Roster at the conference so that Offeror's attendance can be properly recorded.

- L.4.2** Impromptu questions will be permitted and spontaneous answers will be provided at the District's discretion. Verbal answers given at the pre-proposal conference are only intended for general discussion and do not represent the Department's final position.

If a prospective Offeror has any questions relating to this solicitation, the prospective Offeror shall submit the question in writing to the contact person, identified on page one. The prospective Offeror shall submit questions no later than ten (10) days prior to the closing date and time indicated for this solicitation. The District will not consider any questions received less than ten (10) days before the date set for submission of proposals. The District will furnish responses promptly to all prospective Offerors by way of an amendment to the solicitation will be issued if the CO decides that information is necessary in submitting offers, or if the lack of it would be prejudicial to any prospective Offerors. The Amendment(s) shall be posted on the OCP website at [www.ocp.dc.gov](http://www.ocp.dc.gov). Oral explanations or instructions given by District officials before the award of the contract will not be binding.

#### **L.5 FAILURE TO SUBMIT OFFERS**

Recipients of this solicitation not responding with a bid should not return this solicitation. Instead, they should advise the Contracting Officer, Wilbur Giles, Department of Real Estate Services (DRES), Contracting and Procurement Division, 2000 14<sup>th</sup> Street, NW, Washington DC 20009, by e-mail, letter or postcard whether they want to receive future solicitations for similar requirements. It is also requested that such recipients advise the Contracting Officer, DRES, Contracting and Procurement Division, of the reason for not submitting a bid in response to this solicitation. If a recipient does not submit a bid and does not notify the Contracting Officer that future solicitations are desired the recipient's name may be removed from the applicable mailing list.

**L.6 RESTRICTION ON DISCLOSURE AND USE OF DATA**

**L.6.1** Submission of a response deems permission to make inquiries concerning the respondent and its officers and to any persons or firms deemed appropriate by The District of Columbia. Any proprietary information that the contractor does not want disclosed to the public shall be so identified on each page in which it is found. Data or information so identified will be used by The District of Columbia solely for the purpose of evaluation and contract negotiations.

**L.6.2** Offerors who include in their proposal data that they do not want disclosed to the public or used by the District except for use in the procurement process shall mark the title page with the following legend:

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

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

**L.6.3** Mark each sheet of data it wishes to restrict with the following legend:

"Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal."

**L.7 PROPOSALS WITH OPTION YEARS**

The Offeror shall include option year prices in its price/cost proposal. An offer may be determined to be unacceptable if it fails to include pricing for the option year(s).

**L.8 PROPOSAL PROTESTS**

Any actual or prospective Offeror 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 ten (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 at the time set for receipt of initial proposals shall be filed with the Board prior to 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 the 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 Contracting Officer for the solicitation.

**L.9 SIGNING OF OFFERS**

The Offeror shall sign the offer and print or type its name on the Solicitation, Offer and Award form of this solicitation. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the Contracting Officer.

**L.10 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 Offeror's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor desired.

**L.11 RETENTION OF PROPOSALS**

All proposal documents will be the property of the District and retained by the District, and therefore will not be returned to the Offerors.

**L.12 PROPOSAL COSTS**

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

**L.13 ELECTRONIC COPY OF PROPOSALS FOR FREEDOM OF INFORMATION ACT REQUESTS**

In addition to other proposal submission requirements, the Offeror must submit an electronic copy of its proposal, redacted in accordance with any applicable exemptions from disclosure in D.C. Official Code §2-534, in order for the District to comply with §2-536(b) that requires the District to make available electronically copies of records that must be made public. The District's policy is to release documents relating to District proposals following award of the contract, subject to applicable FOIA exemption under §2-534(a)(1).

**L.15 ACKNOWLEDGMENT OF AMENDMENTS**

The Offeror shall acknowledge receipt of any amendment to this solicitation (a) by signing and returning the amendment; (b) by identifying the amendment number and date in the space provided for this purpose in Section A, Solicitation, Offer and Award form; or (c) by letter, telegram or e-mail from an authorized negotiator. The District must receive the acknowledgment by the date and time specified for receipt of proposals. An Offeror's failure to acknowledge an amendment may result in rejection of its offer.

**L.16 BEST AND FINAL OFFERS**

If, subsequent to receiving original proposals, negotiations are conducted, all Offerors within the competitive range will be so notified and will be provided an opportunity to submit written best

and final offers at the designated date and time. Best and final offers will be subject to the Late Submissions, Late Modifications and Late Withdrawals of Proposals provisions of the solicitation. After receipt of best and final offers, no discussions will be reopened unless the CO determines that it is clearly in the District'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 CO shall issue an additional request for best and final offers to all Offerors still within the competitive range.

#### **L.17 LEGAL STATUS OF OFFEROR**

Each proposal must provide the following information:

**L.17.1** Name, address, telephone number and federal tax identification number of Offeror;

**L.17.2** A copy of each District of Columbia license, registration or certification that the Offeror is required by law to obtain. This mandate also requires the Offeror to provide a copy of the executed "Clean Hands Certification" that is referenced in D.C. Official Code §47-2862, if the Offeror is required by law to make such certification. If the Offeror is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the offer shall certify its intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements; and

**L.17.3** If the Offeror is a partnership or joint venture, the names and addresses of the general partners or individual members of the joint venture, and copies of any joint venture or teaming agreements.

#### **L.18 FAMILIARIZATION WITH CONDITIONS**

Offerors shall thoroughly familiarize themselves with the terms and conditions of this solicitation, acquainting themselves with all available information regarding difficulties which may be encountered, and the conditions under which the work is to be accomplished. Contractors will not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required herein due to their failure to investigate the conditions or to become acquainted with all information, schedules and liability concerning the services to be performed.

#### **L.19 GENERAL STANDARDS OF RESPONSIBILITY**

Offeror must demonstrate to the satisfaction of the District the capability in all respects to perform fully the contract requirements; therefore, the Offeror must submit the documentation listed below, within five (5) days of the request by the District. Any Offeror that fails to submit the documentation will be deemed non-responsible and ineligible to receive a contract under this RFP.

**L.19.1** Evidence of adequate financial resources, credit or the ability to obtain such resources as required during the performance of the contract.

- L.19.2** 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.19.3** Evidence of the necessary organization, experience, accounting and operational control, technical skills or the ability to obtain them.
- L.19.4** Evidence of compliance with the applicable District licensing and tax laws and regulations.
- L.19.5** Evidence of a satisfactory performance record, record of integrity and business ethics.
- L.19.6** Evidence of the necessary production, construction and technical equipment and facilities or the ability to obtain them.
- L.19.7** Evidence of other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations.
- L.19.8** If the prospective contractor fails to supply the information requested, the CO shall make the determination of responsibility or nonresponsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the CO shall determine the prospective contractor to be nonresponsible.
- L.19.9** The Offeror shall provide a comprehensive, though not unnecessarily elaborate, proposal that presents the proposed approach to providing services in a clear, concise, and factual manner. Proposals that simply repeat the text of the requirements described in the solicitation without providing substantive information on the Offeror's specific approach to meeting these requirements or substantiation of the Offeror's knowledge and abilities to perform these requirements will be unacceptable.

## SECTION M - EVALUATION FACTORS

### M.1 EVALUATION FOR AWARD

The contract will be awarded to the responsible offeror whose offer is most advantageous to the District, based upon the evaluation criteria specified below. Thus, while the points in the evaluation criteria indicate their relative importance, the total scores will not necessarily be determinative of the award. Rather, the total scores will guide the District in making an intelligent award decision based upon the evaluation criteria.

The District intends to award a contract on the basis of lowest cost technically acceptable proposal that will result in the best overall value. Technically acceptable proposals will be those proposals that meet the requirements contained in Section C.1. Award may be made without negotiation of proposals. Therefore, offerors are requested to initially submit proposals to the District on the most favorable terms from a price and technical standpoint.

The District may, at its discretion and for any reason, choose not to make award as a result of this solicitation.

The District will evaluate prices only for those prospective Contractors who meet all of the Technical Requirements described in Section C.1. Prices for these prospective Contractors will be evaluated by multiplying the indicative fee per dth and kWh fee by the respective loads shown in each scenario to determine lowest overall price. A weighted average approach will be used 80% technical, 20% pricing. **Multiple awards will not be considered.**

### M.2 EVALUATION CRITERIA

#### M.2.1 TECHNICAL EVALUATION (80 Points maximum)

Proposals will be evaluated based on the following evaluation factors in the manner described below:

##### M.3.1 Technical Expertise and Experience – Past Performance (30 points)

- The Contractor must have conducted an electricity and/or natural gas auction for at least one federal, state or local government client, large and small commercial groups, which resulted in energy supply contract awards serving at least 500 accounts.

*Provide client name, address and contact information of Jurisdiction(s) for which service was provided*

20 Points

- Contractors experience in providing supply-side energy consulting services to local, state or federal clients and information, regarding measurable success of the resulting auction.

*Provide client name, address and contact information of Jurisdiction(s) for which service was provided*

10 Points

**M.3.2 Technical Capabilities (50 points)**

- The Contractor must own an information technology platform which can execute real-time, online reverse energy auctions. The energy auction platform used must provide an automatic audit trail of time stamped bids and bidder information for each company participating in the auction.

*Provide information on platform owned and used by contractor. Each contractor submitting a Proposal, found to be in the competitive range, will be scheduled for an oral presentation.*

20 Points

- The energy procurement platform must :
  - 1 provide the District the ability to construct and implement a formula that receives multiple bid/price components of energy as two or more inputs and calculates a total cost energy price as an output based on such inputs;
  - 2 provide bidders the ability to calculate and submit bids on two or more price components of the energy supply, such as energy, capacity, supplier fee, etc.;
  - 3 receive such bids at the component level and calculate total cost energy price;
  - 4 provide District the ability to view all submitted bids at the total cost energy price and component price level;
  - 5 provide bidders the ability to view their own submitted bids at the total cost energy price and component price level; and
  - 6 provide bidders the ability to adjust any or all of the price components based on real time market feedback and calculate and resubmit bids as described above.

*Explain how platform can perform the above services and at what point in the process will they be performed.*

30 Points

**M.3.2 PRICE CRITERION (20 Points Maximum)**

The price evaluation will be objective. The Offeror with the lowest price will receive the maximum price points. All other proposals will receive a proportionately lower total score. The following formula will be used to determine each Offeror's evaluated price score:

$$\frac{\text{Lowest price proposal}}{\text{Price of proposal being evaluated}} \times 20 \text{ weight} = \text{Evaluated price score}$$

**M.3.3 PREFERENCE POINTS AWARDED PURSUANT TO SECTION M.5.2 (12 Points Maximum)**

**M.3.4 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 OPEN MARKET CLAUSES**

##### **Preferences for Local Businesses, Disadvantaged Businesses, Resident-owned Businesses, Small Businesses, Longtime Resident Businesses, or Local Businesses with Principal Offices Located in an Enterprise Zone**

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 Application of Preferences**

For evaluation purposes, the allowable preferences under the Act 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 a 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 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 an 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 Vendor Submission for Preferences**

- 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 Mandatory Subcontracting Requirement**

**M.5.5.1** For contracts in excess of \$250,000, at least 35% of the dollar volume shall be subcontracted to certified small business enterprises; provided, however, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods and supplies are purchased from certified small business enterprises.

**M.5.5.2** If there are insufficient qualified small business enterprises to completely fulfill the requirement of paragraph M.1.5.1, then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, however, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

**M.5.5.3** A prime contractor which is certified as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of sections M.1.5.1 and M.1.5.2.

**M.5.6 Certified Business Enterprises Prime Contractor Performance Requirements**

*This section intentionally left blank*

**M.5.7 Prime Contractor Performance Requirements Applicable to Joint Ventures**

*This section intentionally left blank*

**M.5.8 Performance Requirement for Contracts of \$1 Million or Less**

*This section intentionally left blank*

**M.5.9 Subcontracting Plan**

*This section intentionally left blank*

**M.5.10 Compliance Reports**

*This section intentionally left blank*

**M.5.11 Enforcement and Penalties for Breach of Subcontracting Plan**

*This section intentionally left blank*