

SOLICITATION, OFFER, AND AWARD		1. Caption Management and Operation of J.B. Johnson Nursing Ctr		Page of Pages 1 61	
2. Contract Number	3. Solicitation Number DCBY-2008-R-0004	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 5/5/2008	6. Type of Market <input checked="" type="checkbox"/> Open <input type="checkbox"/> Set Aside <input type="checkbox"/> Open with Sub-Contracting Set Aside
7. Issued By: Office of Contracting and Procurement Group VIII 64 New York Avenue, NE, Room 6126 Washington, DC 20002			8. Address Offer to: Office of Contracting and Procurement 64 New York Avenue, NE, Room 6126 Washington, DC 20002 ATTN: Jean Wright		

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

SOLICITATION

9. Sealed offers in original and 5 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 64 New York Avenue, NE, Room 6126, Washington, DC until 2:00 p.m. local time 5-Jun-08 (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 Jeanne Sheridan	B. Telephone			C. E-mail Address
	(Area Code) 202	(Number) 671-4466	(Ext)		

11. Table of Contents

(X)	Section	Description	Page No.	(X)	Section	Description	Page No.
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
X	A	Solicitation/Contract Form	1	X	I	Contract Clauses	32-37
X	B	Supplies or Services and Price/Cost	2--3	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS			
X	C	Specifications/Work Statement	4--12	X	J	List of Attachments	38
x	D	Packaging and Marking	13	PART IV - REPRESENTATIONS AND INSTRUCTIONS			
X	E	Inspection and Acceptance	14	X	K	Representations, certifications and other statements of offerors	39-41
X	F	Deliveries or Performance	15-16				
X	G	Contract Administration Data	17 - 19	X	L	Instructions, conditions & notices to offerors	42-51
X	H	Special Contract Requirements	20-31	X	M	Evaluation factors for award	52-61

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		

15B. Telephone		15 C. Check if remittance address is different from above - Refer to Section G	17. Signature	18. Offer Date
(Area Code)	(Number) (Ext)			

AWARD (TO BE COMPLETED BY GOVERNMENT)

SECTION B: SUPPLIES OR SERVICES AND PRICE

B.1 The Government of the District of Columbia, Office of Contracting and Procurement, on behalf of the D.C. Office on Aging (OoA) (the District) is seeking a contractor to manage and operate the J.B. Johnson Nursing Facility, which is a 230-bed District licensed Medicare and Medicaid certified nursing care center.

B.2 The District contemplates award of a firm-fixed price contract in accordance with 27 DCMR, Chapter 24. The Contractor will be paid on a monthly basis in equal installments.

B.3 SCHEDULE

BASE YEAR

CLIN	Item Description	Unit	Estimated Price Per Unit	Quantity	Total Price
0001	Manage and operate the J.B. Johnson Nursing Center according to the requirements of this contract.	Month	\$ _____	12 Months	\$ _____

OPTION YEAR ONE

CLIN	Item Description	Unit	Estimated Price Per Unit	Quantity	Total Price
0101	Manage and operate the J.B. Johnson Nursing Center according to the requirements of this contract.	Month	\$ _____	12 Months	\$ _____

OPTION YEAR TWO

CLIN	Item Description	Unit	Estimated Price Per Unit	Quantity	Total Price
0201	Manage and operate the J.B. Johnson Nursing Center according to the requirements of this contract.	Month	\$_____	12 Months	\$_____

OPTION YEAR THREE

CLIN	Item Description	Unit	Estimated Price Per Unit	Quantity	Total Price
0301	Manage and operate the J.B. Johnson Nursing Center according to the requirements of this contract.	Month	\$_____	12 Months	\$_____

OPTION YEAR FOUR

CLIN	Item Description	Unit	Estimated Price Per Unit	Quantity	Total Price
0401	Manage and operate the J.B. Johnson Nursing Center according to the requirements of this contract.	Month	\$_____	12 Months	\$_____

SECTION C: SPECIFICATIONS/WORK STATEMENT**C.1 SCOPE:**

The Contractor shall manage and operate the Government of the District of Columbia's J.B. Johnson Nursing Care Center (hereinafter referred to as the Center), in a manner that shall continue licensure and certification in accordance with the Code of Federal Regulations, Volume 42, and Title 22 D.C. Municipal Regulations. The Center shall be maintained in a manner that complies with District and Federal laws, rules and regulations and the District's State Plan for Medicaid Assistance. The District documents can be obtained at 441-4th Street, N.W., Room 520, Washington, D.C. and the Federal documents can be obtained at the Government Printing Office located at 732 North Capitol Street, N.E., Washington, D.C.

C.1.1 APPLICABLE DOCUMENTS

Document Type	Title	Date
Code of Federal Regulations, Volume 42 Part 483	Public Health, Sections 483.1-483.75, Subpart B, Requirement for Long Term Care Facilities	October 1, 2007
22 D.C. Municipal Regulations	Public Health and Medicine, Chapter 32 Nursing Facilities	January 27, 1995, as amended at 49 DCR 473 (1-18-02) and 49DCR 6824 (7-19-02)
D.C. Law 6-108, D.C. Official Code 44-1001.01 et seq.	The Nursing Home and Community Residence Facility Residents' Protection Act of 1985	1986, as amended
D.C. Law 5-48, D.C. Official Code 44-501 et seq.	The Health Care and Community Residence Facility Hospice and Home Care Licensure Act of 1983	1984, as amended
29 D.C. Municipal Regulations	Reimbursement to Nursing Facilities by the D.C. Medicaid Program Chapter 9	May 29, 1998, as amended December 17, 1999 (Attachment J.1.1)
Title 45 DCR, 3370	District's State Plan for Medicaid Assistance	Current Version
D.C. Official Code 44-551-44-554 and 22 DCMR Chapter 47	Health Care Unlicensed Personnel Criminal Background Check	1999, as amended 2002.
D.C. Official Code Section 7-1201.01 et.seq.	District of Columbia Mental Health Information Act	1978
42 CFR part 430 to end	Omnibus Budget Reconciliation Act (OBRA)	Revised October 1, 2002

C.1.2 DEFINITIONS

- C.1.2.1 Administrator** – A person who is licensed as a nursing facility administrator by the District of Columbia and who is responsible for the day to day operation of a nursing facility.
- C.1.2.2 Fee for Service** – Medicaid payment to a provider of services for Medicaid certified clients.
- C.1.2.3 Restorative Nursing** – Assisting the resident in maintaining the highest practicable level of physical, mental and psychosocial well-being.
- C.1.2.4 Community Advisor Board** – A volunteer organized community group that is permissible under 42 CFR that advises and advocates on behalf of the resident on proposed policies and operational decisions affecting resident care and life in the facility.
- C.1.2.5 Person Centered Care** - A philosophical approach to nursing home care that honors and respects the voice of elders and those working closest with them. It involves a continuing process of listening, trying new things, seeing how they work, and changing things in an effort to individualize care and de-institutionalize the nursing home environment.
- C.1.2.6 Aging in Place** - The phenomenon in which long-term care individuals are choosing to remain in the area they live in after retirement rather than moving to new communities/long-term care facilities.
- C.1.2.7 Culture Change** - A philosophy and staff/managerial practice to change traditional nursing home care delivery systems to a person centered care focus, including the use of new technologies to assist care delivery. (WellSprings, Green House, Pioneer, programs to name a few.)
- C.1.2.8 Resident Council** - An independent, organized group of people living in a nursing home that meets on a regular basis to discuss concerns, develop suggestions on improving services and plan social activities. Resident Council concerns and suggestions are shared with the nursing home administrator to ensure issues are addressed and quality assurance methods are implemented by the nursing home staff.
- C.1.2.9 Family Council** - An organized group of relatives and friends of a nursing home's residents who meet on a regular basis to discuss issues and concerns regarding the home, and suggest quality of care and life changes to the nursing home administrator, board of directors, or owners.
- C.1.2.10 COTR**- Contracting Officer Technical Representative.

C.2 BACKGROUND

The J.B. Johnson Nursing Center (Center), a long-term care center, is Medicaid and Medicare Certified. The Center is a District owned facility, located at 901 First Street, N.W., Washington, D.C. 2001. This is a two hundred thirty (230) licensed bed nursing care center with eight (8) units and a basement comprising of one hundred eleven thousand nine hundred seventy (111,970) square feet. The first floor has two (2) units with twenty-five (25) beds each, the 2nd through 4th floors have beds consisting of: 2nd fl. north 29 beds, 2nd fl. south 33 beds, 3rd fl. north 25 beds, 3rd fl. south 31 beds, 4th fl. north 29 beds, and 4th fl. south 33 beds.

C.2.1 Presently, medical services are provided to the Center by Howard University Hospital. The rehabilitative (physical therapy, occupational therapy, speech-language pathology), pharmacy services and X-ray services are subcontracted. However, X-ray services for the Medicare qualified are billed directly to Medicare.

C.2.2 Approximately ninety-five (95%) percent of the Center’s residents are having their care reimbursed under the D.C. Medicaid program. Three percent (3%) Medicare and two (2%) percent are private paying individuals who will soon exhaust their resources and will be eligible to participate in the D.C. Medicaid program.

C.2.3 Resident Profile

Seventy-five (75) of the two hundred thirty (230) J.B. Johnson Nursing Center residents are former St. Elizabeth’s Hospital residents.

Center Capacity 230

<u>Approximately</u>	<u>Approximately</u>
Black 93%	White 6%
Spanish .5%	Oriental .5%
Average Age	73

Nursing Services

Decubiti Skin Care	3%
Incontinent	7.4%
Assistance with Dressing	4.0%
Assistance with Eating	3%

Most Common Medical Problems:

- Dementia
- Heart Disease
- Hypertension
- Arthritis
- Diabetes
- Schizophrenia

Special Therapy/Services

Dental Services	100%
Podiatry	100%
Physical Therapy	15%
Occupational Therapy	11%
Speech Therapy less than	9%
Ophthalmology	100%

Ambulation:

Independent	48 Patients
Walkers	44 Patients

Non-Ambulatory 100 Patients

Functionally Blind 1%

Functionally Deaf .5%

Mental Competence:

Competent	18.75%
Intermittently Confused	37.5%
Confused	33.3%
Wanders	6.77%

Average Number of Drugs Per Resident 9.29%

Residents who have no contact with family or friends 7%

C.3 REQUIREMENTS

C.3.1 The Contractor shall ensure that the Center is maintained in a manner that will allow continued licensure and certification in accordance with the Code of Federal Regulations, Volume 42, and Title 22 D.C. Municipal Regulations. In addition, the Contractor shall appoint a licensed Administrator that will ensure the following:

C.3.1.1 Compliance with all requirements necessary in order to maintain the existing Medicaid and Medicare certification of the Center and shall comply with applicable District and Federal laws, rules, regulations and the District’s State Plan for Medical Assistance hereinafter referred to as the “State Plan”.

C.3.1.2 Provide all personnel, supplies, operating materials and services necessary for the operation of the Center, including but not limited to, utilities, and for the maintenance of the Center’s surrounding grounds, except as modified by this contract or applicable laws or regulations.

- C.3.1.3** Maximize the residents physical, social, and emotional well-being and progression toward independent functioning in the least restrictive environment possible. The Administrator shall emphasize (in accordance with CFR 42, Section 483.45) the practice of restorative nursing and offer a broad range of rehabilitative and therapeutic services, either directly or through subcontractual arrangements, to facilitate the movement of the Center's residents into more independent living arrangements and active discharge planning programs.
- C.3.1.4** Adhere to resident's rights to promote self-esteem, personal dignity and ensure that the resident's property and civil rights, are respected and protected. The Contractor shall encourage Center residents to exercise control over their own lives as well as over the physical environment in which they reside (in accordance with CFR 42, Section 483.10).
- C.3.1.5** The Contractor shall provide the following:
- C.3.1.5.1 Community Access** - Provide support and encouragement necessary to promote the residents' participation in community life. The Contractor shall encourage interaction between the community-at-large and Center residents by its social and resident activities.
- C.3.1.5.2 Staff Orientation and Training** – Provide an in-service education program for all personnel. Special emphasis shall be placed on the responsibilities of certified nursing assistants who will have the most direct and daily contact with the Center's residents. The Contractor's orientation program shall include at a minimum the subjects specified in Title 22 D.C. Municipal Regulations, Public Health and Medicine, Chapter 32 – Nursing Facilities, in addition to the topics of resident rights and community access to the Center.
- C.3.1.5.3 Coordination Activities** – Negotiate working agreements with the Long Term Care Ombudsman Program and the Handicapped Transportation Services to provide transportation and any other kinds of assistance to implement the patient plan of care.
- C.3.1.5.4 Open House** – Hold an "open house" annually for the public in addition to inviting the public to various scheduled cultural activities sponsored by the Center for Center residents.
- C.3.1.5.5 Pet Project** - Maintain the pet therapy program to ensure that residents who enjoy pets have the opportunity to do so at the Center. This shall be accomplished by: (a) using volunteer projects such as Pets on Wheels, which sends volunteers with their pets to visit residents; and (b) allowing other volunteers as well as staff and family members to bring their pets into the facility, once their pets have been cleared and vaccinated for such visitation by a veterinarian.
- C.3.1.5.6 Newsletter** - The newsletter shall be published at least quarterly and distributed to center residents, family members, staff, volunteers, City Council, and other various

governmental agencies (in accordance with CFR 42, Section 483.15).

- C.3.1.5.7 Residents Council** – Be supportive of the Residents Council at the Center and ensure continued participation of the Center residents in the District-wide council of nursing home residents (in accordance with CFR 42, Section 483.15(c) (1)).
- C.3.1.5.8 Community Advisory Board** - Maintain and provide support to the community Advisory board. The purpose of this organization is to provide support to the Center in the areas of fund-raising, volunteer recruitment, special events and improving the quality of care and life of the Center’s residents (in accordance with CFR 42, Section 483.15 (b) (2)).
- C.3.1.5.9 Family Council** - Provide support to the Family Council. The members of the Family Council provides support to one another, and work towards improving the quality of care and life of their family members residing at the Center (in accordance with 22 DCMR, Section 3230.4 (d)).
- C.3.1.5.10 Residents’ Personal Property** - Ensure that a resident fund management system is maintained so that all resident owned funds in excess of \$50.00 are placed in a financial institutional (in accordance with CFR 42, Section 483.10 (c) (2)-(8)).
- C.3.1.5.11 Dental Services** - Provide dental services to Center residents when this is prescribed in their treatment plans, access to preventive and emergency care.
- C.3.1.5.12 Residents’ Personal Laundry** - Provide personal laundry services, on an as-needed basis, to residents as required under the Omnibus Budget Reconciliation Act (OBRA) as an allowable Medicaid cost.
- C.3.1.5.13 Medical Services** – Obtain medical services for the residents from Medicaid service physicians who will bill Medicaid directly with the exception of the Medical Director.
- C.3.1.5.14 In-House Nursing Pool** - Maintain an in-house nursing pool to supplement the Center’s permanent nursing staff, if necessary.
- C.3.1.5.15 Resident Census** - Maintain a minimum of 98% occupancy during the contract period. Adjustments will be made to the average occupancy requirements, should circumstances beyond the Contractor’s control affect occupancy.
- C.3.1.5.16 Program Reports** - Submit monthly status reports, census reports and unusual incident reports to the Contracting Officer Technical Representative (COTR). The report formats will be provided to the Contractor subsequent to contract award.
- C.3.1.5.17 Weekend and Holiday Administrator Program** - Ensure that the Administrator, Assistant Administrator and department heads provide weekend and holiday administrative coverage.

C.3.1.5.18 Security Services - Maintain security staff coverage twenty-four (24) hours per day and monitor all security equipment.

C.3.1.5.19 Open Staff Meetings - Ensure that the Administrator holds open staff meetings each month for all shifts to facilitate ongoing communication between staff and management.

C.4 FISCAL REQUIREMENTS

C.4.1 The Contractor shall assist Center residents in establishing eligibility for any reimbursement program to which they are entitled.

C.4.2 The Contractor shall act as the fiscal agent for the DC Office on Aging (OoA) in the billing, collection, and accounting of all Medicaid, Medicare (including cost reports), private-pay and other third-party payments for services provided to the Center residents, and any other revenue which may be generated from the operation of the Center.

C.4.3 The Contractor shall pay expenses incurred, including utility bills, in managing the Center.

C.4.4 The Contractor shall submit a monthly statement of revenue and expenses to the COTR regarding the nursing component of the Center.

C.4.5 The Contractor shall institute a program and financial accounting and reporting system as dictated by generally accepted accounting practices for this type of center.

C.4.6 In accordance with Sections H.12 and H.13, the Contractor shall obtain an annual audit covering the entire Medicaid cost report year and contract period.

C.4.7 The Contractor shall provide an integrated computerized payroll, accounts payable, accounts receivable and general ledger system.

C.5 STAFF REQUIREMENTS

C.5.1 The Contractor shall use personnel that are qualified pursuant to CFR 42, Section 483.15.

C.5.2 The Contractor shall provide the names and reporting relationships of the key Personnel whom the Contractor is proposing.

C.5.3 The Administrator shall maintain documentation that each staff person possesses adequate training, qualification, and competence required to perform the duties to which they are assigned. At a minimum, the documentation shall include a resume and/or a completed job application and training certificate(s).

- C.5.4** The Contractor shall request criminal record checks for unlicensed or nonprofessional staff performing under this contract.
- C.5.5** If at any time a staff person is found to be suffering from a communicable disease, he/she shall be removed upon being diagnosed by a physician. The Medical Director shall notify the Department of Health and the COTR of all reportable communicable diseases. All medical examinations shall be without expense to the District.
- C.5.6** The Contractor shall maintain written job descriptions for all positions within the program, which must be included in the facility's files and be available for inspection upon request. Position descriptions shall include at least the following elements: knowledge and education required by the position, supervisory controls, guidelines, complexity, scope and effect, personal contacts, physical demands, and work environment. When hiring staff for this contract, the Contractor shall obtain written resumes and document work experience and personal references.
- C.5.7** The facility shall maintain an individual personnel file for each staff person which contains the application for employment, professional references, applicable credentials/certifications, records of medical examinations, personnel actions including time records, documentation of all training received, notation or any allegations, and date and reason if terminated from employment. All of these personnel materials shall be made available to the COTR upon request. The personnel files shall be kept confidential.

C.6 REPLACEMENT REQUIREMENTS

- C.6.1** The Administrator shall ensure routine and preventative maintenance of the Center including the proper maintenance of the boilers, plumbing and electrical systems in accordance with the schedule shown in the Preventive Maintenance Schedule in accordance with industry standard.

C.7 PERFORMANCE STANDARD/QUALITY ASSURANCE

- C.7.1** The facility shall comply with regulations and standards for nursing home licensure in accordance with District of Columbia Licensure Regulations, and comply with the Medicaid and Medicare regulations contained in 42 CFR, as applicable, which are incorporated herein by reference.
- C.7.2** The Contractor shall develop a record management system that protects all resident records and that meets or exceeds confidentiality requirements specified by the District of Columbia Mental Health Information Act of 1978, DC Official Code Section 7- 201.01 et seq. and the Health Insurance Portability and Accountability Act (HIPPA), Pub.L.104-191.
- C.7.3** The Contractor shall satisfy the District's Master Business License requirements and be licensed in accordance with all applicable local laws and regulations and with the local

fire and safety codes in the District throughout the term of the contract. The Contractor shall make available copies of such licenses to the COTR upon request.

- C.7.4** The Contractor and its agent shall not engage the residents in any experimental treatment or procedure under this contract.
- C.7.5** The Contractor shall agree to participate in an annual on-site monitoring visit as well as any subsequent visits resulting from the annual inspection (Inspection of Care required by the (MAA) Medical Assistance Administrator by the Residential Placement Unit (RPC) staff for the purpose of reviewing the care of the residents. The Contractor shall also accommodate the Administrator in any investigation the Administrator deems appropriate to respond to complaints that pertain to the operation of the facility.

SECTION D: PACKAGING AND MARKING

This section is not applicable to this solicitation.

SECTION E: INSPECTION AND ACCEPTANCE**E.1 INSPECTION AND ACCEPTANCE**

The inspection and acceptance requirements for the resultant 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.1.2).

E.2 INSPECTION

The Contractor shall permit on-site inspection of program facilities, records and internal utilization review documentation by designated Contracting Officer Technical Representative (COTR) authorized by them, and shall permit direct observation of services and residents on an as needed basis.

SECTION F: DELIVERIES OR PERFORMANCE

F.1 TERM OF CONTRACT

The term of the contract shall be for a period of one year (1) from date of award specified on the cover page 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) year 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 a 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 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

CLIN	Deliverables	Quantity	Format Method of Delivery	Due Date	To Whom
C.3.1.5.6	Newsletter	500 est.	Hard copy	Quarterly	COTR
C.3.1.5.17	Program Reports	1	Hard copy	Monthly	COTR
C.4.4	Monthly statements of Expenses and Revenue for the Nursing Facility	3	Hard copy	Monthly	COTR
C.4.6	Annual Audit covering the entire Medicaid Report	3	Hard Copy	Annually – within 75 days after contract period	COTR

C.3.1.5.17	Status Report	2	Hard Copies	Monthly 20 th day of the following month	COTR
C.3.1.5.17	Unusual Incident Report	2	Hard copies	Immediately (verbal followed by written) subsequent to occurrence of incident via telephone and later confirmed in writing within five (5) working days after occurrence of incident	COTR
C.3.1.5.17	Census Report	1	Hard Copy	Monthly 20 th day of the following month	COTR
C.4.6	Audit for the Nursing Facility	2 copies of each to COTR and copies to Medical Assistance Administration as required.	Hard Copy	Annual	COTR

F.3.1 The Contractor shall submit to the District as a deliverable, the report described in Section of this contract is required by the 51% District Residents New Hires Requirements and First Source Agreement.

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

G.1.2 The J.B. Johnson Nursing Center will make monthly payments to the Contractor, upon the submission of proper invoices or voucher, at the prices stipulated in the contract, for services performed and accepted. The monthly payments will be determined by dividing the annual management fee by 12.

G.1.3 The Contractor shall act as the fiscal agent for the District in billing, collection, disbursement and accounting of all Medicaid, Medicare, private pay and third-party payments for the services provided by the Contractor and any other revenues which may be generated from the operation of the Center.

G.2 SUBMISSION OF INVOICE/REQUEST FOR PAYMENT

G.2.1 The Center shall submit monthly, an electronic facility census via the WINASAP2003.

G.2.2 The Center shall bill directly the insurers of residents who have third party insurance.

G.2.3 Residents in the facility who receive income above \$70.00 per month shall pay as much of the Cost of Care as is available from their income, after \$70.00 is deducted for the resident's personal needs. The Bureau of Eligibility Determination, Income Maintenance Administration, Department of Human Services, shall determine the amount due for each resident.

G.2.4 The Contractor shall submit each month to the Department of Health, Medical Assistance Administrator the appropriate financial data for preparation of DHS Form 1445, "Statement of Patient Monthly Pay Ability" (Attachment J.1.3).

G.2.5 The Contractor shall implement and follow procedures to collect from the residents the amount due as stated on DHS Form 1445. The Contractor shall issue an invoice, based on the Form 1445, by the end of the month following the month of service. If the amount due has not been paid to the Contractor within 30 days from the date of the invoice, the Contractor shall:

- a. Telephone the family;
- b. Send a certified letter explaining the past due invoice and Medicaid policies.

G.2.6 Residents that are eligible to receive Social Security Administration Supplemental Security income (SSI) up to the maximum and an additional payment under the District of Columbia Medical Assistance Program up to the maximum collectively receive seventy dollars (\$70.00) for their personal needs, and are not required to pay any of that amount toward the cost of care, except in unusual instances when the resident is at risk of losing Medicaid eligibility, where an alternate procedure approved by the COTR will be utilized.

G.2.7 The facility shall establish, maintain and monitor in a bank chartered in the District of Columbia an individual savings account for each resident within one week of admission, and shall deposit the residents' allowance deduction from the sources specified above for each withdrawal of funds up to the available balance. The Contractor shall provide a quarterly report of the account to the resident's responsible party and shall maintain a copy in the residents' financial record.

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 CFO has received the Contracting Officer'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 CONTRACTING OFFICER (CO)

G.4.1 Contracts may be entered into and signed on behalf of the District only by contracting officers. The name, address and telephone number of the Contracting Officer is:

Jean Wright
Office of Contracting and Procurement
64 New York Avenue, N.E., 6th Floor
Washington, DC 20002
Telephone Number: (202) 671-4463
Facsimile Number: (202) 671-4469
E-Mail: Jean.Wright@ dc.gov

G.5 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER

G.5.1 The Contracting Officer is the only person authorized to approve changes in any of the requirements of this contract.

G.5.2 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 Contracting Officer.

G.5.3 In the event the Contractor effects any change at the instruction or request of any person other than the Contracting Officer, 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.6 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)

G.6.1 The COTR is responsible for general administration of the contract and advising the Contracting Officer as to the Contractor's compliance or noncompliance with the contract. In addition, the COTR is responsible for the day-to-day monitoring and supervision of the contract, of ensuring that the work conforms to the requirements of this contract and such other responsibilities and authorities as may be specified in the contract. The COTR for this contract is:

Name: Dr. Clarence Brown
 Title: Executive Director
 Agency: D.C. Office on Aging
 Address: 441 4th Street, NW.
 Washington, D.C. 20001
 Telephone: (202) 724-4382

G.6.2 The COTR shall not have authority to make any changes in the specifications or scope of work or terms and conditions of the contract.

G.6.3 The Contractor may be held fully responsible for any changes not authorized in advance, in writing, by the Contracting Officer; 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.

G.6.4 The COTR will monitor the Center to observe the program and general operation in order to ensure adherence to this contract. Other fiscal and program staff of the District shall have the right to examine pertinent documents and records involving transactions relating to this contract. The services provided under this contract will be monitored by:

G.6.4.1 Site visits;

G.6.4.2 Reports from the Contractor;

G.6.4.3 Personal conferences between the COTR and the Contractor or between their staffs;

G.6.4.4 Review of all official certification and inspection reports;

G.6.4.5 Review of documents submitted to satisfy requirements of this contract; and

G.6.4.6 Investigation of complaints in conjunction with D.C. Department of Regulatory Affairs and D.C. Office of Investigation and Compliance.

SECTION H: SPECIAL CONTRACT REQUIREMENTS

H.1 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES

H.1.1 For all new employment resulting from this contract or subcontracts hereto, as defined in Mayor's Order 83-265 and implementing instructions, the Contractor shall use its best efforts to comply with the following basic goal and objectives for utilization of bona fide residents of the District of Columbia in each project's labor force:

H.1.1.1 At least fifty-one (51) percent of apprentices and employees and trainees employed shall be residents of the District of Columbia registered in programs approved by the District of Columbia Apprenticeship Council.

H.1.2 The Contractor shall negotiate an Employee Agreement with the DOES for jobs as a result of this contract. The DOES shall be the Contractor's first source of referral for qualified apprentices and trainees in the implementation of employment goals contained in the clause.

H.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS

The Contractor shall be bound by the Wage Determination No. 2005-2103, Revision No. 4 dated, July 5, 2007 issued by the U.S. Department of Labor in accordance with the Service Contract Act (41 U.S.C. 351 et seq.) and incorporated herein as (Attachment J.1.4) of this solicitation. The Contractor shall be bound by the wage rates for the term of the contract. If an option is exercised, the Contractor shall be bound by the applicable wage rate at the time of the option. If the option is exercised and the Contracting Officer obtains a revised wage determination, the revised wage determination is applicable for the option periods and the Contractor may be entitled to an equitable adjustment.

H.3 PUBLICITY

The Contractor shall at all times obtain the prior written approval from the Contracting Officer 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.4 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 designated in subsection G.6

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.5 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT

H.5.1 The Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code §2-219.01 et seq. (“First Source Act”).

H.5.2 The Contractor shall enter into and maintain, during the term of the contract, a First Source Employment Agreement, (Attachment J.2.1) in which the Contractor shall agree that: The first source for finding employees to fill all jobs created in order to perform this contract shall be the Department of Employment Services (“DOES”); and The first source for finding employees to fill any vacancy occurring in all jobs covered by the First Source Employment Agreement shall be the First Source Register.

The Contractor shall submit to DOES, no later than the 10th each month following execution of the contract, a First Source Agreement Contract Compliance Report (“contract compliance report”) verifying its compliance with the First Source Agreement for the preceding month. The contract compliance report for the contract shall include the:

- (1) Number of employees needed;
- (2) Number of current employees transferred;
- Number of new job openings created;
- Number of job openings listed with DOES;
- Total number of all District residents hired for the reporting period and the cumulative total number of District residents hired; and
- Total number of all employees hired for the reporting period and the cumulative total number of employees hired, including:
 - (a) Name;
 - (b) Social security number;
 - (c) Job title;
 - (d) Hire date;
 - (e) Residence; and
 - (f) Referral source for all new hires.

H.5.4 If the contract amount is equal to or greater than \$100,000, the Contractor agrees that 51% of the new employees hired for the contract shall be District residents.

H.5.5 With the submission of the Contractor's final request for payment from the District, the Contractor shall:

- (1) Document in a report to the Contracting Officer its compliance with the section H.5.4 of this clause; or
- (2) Submit a request to the Contracting Officer for a waiver of compliance with section H.5.4 and include the following documentation:
 - (a) Material supporting a good faith effort to comply;
 - (b) Referrals provided by DOES and other referral sources;
 - (c) Advertisement of job openings listed with DOES and other referral sources; andAny documentation supporting the waiver request pursuant to section H.5.6.

H.5.6 The Contracting Officer may waive the provisions of section H.5.4 if the Contracting Officer finds that:

- (1) A good faith effort to comply is demonstrated by the Contractor; The Contractor is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area which 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, Loudoun, 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. The Contractor enters into a special workforce development training or placement arrangement with DOES; or DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the positions created as a result of the contract.

H.5.7 Upon receipt of the contractor's final payment request and related documentation pursuant to sections H.5.5 and H.5.6, the Contracting Officer shall determine whether the Contractor is in compliance with section H.5.4 or whether a waiver of compliance pursuant to section H.5.6 is justified. If the Contracting Officer determines that the Contractor is in compliance, or that a waiver of compliance is justified, the Contracting Officer shall, within two business days of making the determination forward a copy of the determination to the Agency Chief Financial Officer and the COTR.

H.5.8 Willful breach of the First Source Employment Agreement, or failure to submit the report pursuant to section H.5.5, or deliberate submission of falsified data, may be enforced by the Contracting Officer through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract. The Contractor shall make payment to DOES. The Contractor may appeal to the D.C. Contract Appeals Board as provided in the contract any decision of the Contracting Officer pursuant to this section H.5.8.

H.5.9 The provisions of sections H.5.4 through H.5.8 do not apply to nonprofit organizations.

H.6 WAY TO WORK AMENDMENT ACT OF 2006

H.6.1 Except as described in H.6.8 below, the Contractor shall comply with Title I of the “Way to Work Amendment Act of 2006”, D.C. Law 16-118, effective June 9, 2006, for contracts for services in the amount of \$100,000 or more in any 12-month period.

H.6.2 The Contractor shall pay its employees and subcontractors who perform services under this contract no less than the current living wage published on OCP’s website at <http://www.ocp.dc.gov>.

H.6.3 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.6.4 The Department of Employment Services (“DOES”) shall adjust the living wage annually and the OCP will publish the living wage rate on its website at <http://www.ocp.dc.gov>.

H.6.5 The Contractor shall provide a copy of the fact sheet attached as (Attachment J.1.5) to each employee and subcontractor who performs services under the contract. The Contractor shall post the notice attached as J.1.1 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 attached as (Attachment J.1.6) in a conspicuous place in its place of business.

H.6.6 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.6.7 The payment of wages required under the Living Wage Act shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*

H.6.8 The requirements of the Living Wage Act do not apply to:

- (1) Contracts or other agreements that are subject to 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;

(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;

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

H.7 PROTECTION OF PROPERTY:

The Contractor shall be responsible for any damage to the building, interior, or their approaches in delivering equipment covered by this contract.

H.8 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

During the performance of the 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.9 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 program and activities. See 29 U.S.C. §794 et seq.

H.10 DISTRICT RESPONSIBILITIES

H.10.1 The Center shall remain the property of the District.

H.10.1.1 The District will be responsible for:

H.10.1.1.1 Authorizing unusual maintenance, repairs, and the purchase of capital equipment that fall within the Contractor's area of responsibility as previously stated under the contract.

H.10.1.1.2 Monitoring the Center to observe the operation of the program and management of the Center to ensure adherence to the terms and conditions of the contract.

H.11 MEDICAID PENALTIES

H.11.1 The facility is licensed as a nursing home and qualified for Medicaid and Medicare reimbursement. Failure of the Contractor to maintain licensure requirements as mandated by Medicaid Reimbursement Title XIX of the Social Security Act, 42 Code of Federal Regulations, shall be cause for: 1) termination of contract, or 2) a reduction in the payment to the Contractor equal to the loss of Medicaid reimbursement, if the loss was caused by any act or omission of the Contractor. In addition, failure to provide appropriate care for a resident may generate monetary penalties ranging from \$50.00 to \$10,000.00 per day depending on the scope and severity of noncompliance, as set forth in 42 CFR, Part 430 to end, Medicare and Medicaid Program; Survey. Certification and Enforcement of Skilled Nursing Facilities and Nursing Facilities; Final Rule, Federal Register Volume 59, No: 2171 revised October 1, 2002.

H.11.2 The Centers for Medicare and Medicaid Services (CMS), HHS, or the District may impose civil monetary penalties for the number of days a facility is not in substantial compliance with one or more participation requirement, regardless of whether or not the deficiencies constitute immediate jeopardy to resident health or safety. CMS or the District may impose civil money penalties for the number of days of past noncompliance since the last standard survey, including the number of days of immediate jeopardy. The District may recoup from the Contractor any and all disallowable assessments by the Federal Government against the J.B. Johnson Nursing Center, which results from the Contractor's acts or failure to act appropriately.

H.12 CONTRACTOR'S ACCOUNTING SYSTEM

H.12.1 The Contractor shall maintain an accounting system accessible for the purpose of an audit and examination of any books, documents, papers, and records maintained in support of this contract.

H.12.2 All funds under this contract shall be fully accounted for separately and independently of any other funds of the Contractor. The Contractor shall establish and maintain separate

ledgers and checking accounts for its program wherein funds shall be clearly identifiable. There shall not be any loans to employees with Government funds.

H.12.3 There shall not be any co-mingling of funds received under this contract with funds not received under this contract.

H.12.4 An invoice signed by the Contractor's authorized representatives shall support all disbursements of funds.

H.12.5 The Contractor shall safeguard the personal funds of the residents, providing the residents with small amounts of money if requested, and depositing the funds not needed for every day personal expenses in accordance with Omnibus Budget Reconciliation Act regulations, DHS guidelines and good business practices.

H.13 AUDIT REQUIREMENTS

H.13.1 Upon concurrence from the Contractor shall obtain the services of an independent Certified Public Accountant to perform Financial and Compliance Audits of the Nursing Center.

H.14 AUDITING STANDARDS

H.14.1 The examination of financial records shall be made in accordance with generally accepted auditing standards as included in: (1) Statements on Auditing Standards, published by the American Institute of Certified Public Accountants, and (2) Standards for Governmental Organizations, Programs, Activities, and Functions (Standards), published by the United States General Accounting Office (GAO).

H.15 COMPLIANCE AUDIT

H.15.1 The examination of compliance with applicable laws and regulations that could materially affect the financial statements shall be made in accordance with the auditing standards of cognizant agency in accordance with: (1) the GAO Standards, (2) the Office of Management and Budget Circular A-102, Compliance Supplement for Single Audits of State and Local Governments, and (3) the Office of Management and Budget Circular A-110, Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

H.16 AUDIT PERIOD

H.16.1 The audit shall cover the entire contract period.

H.17 REPORTING REQUIREMENTS

H.17.1 Three (3) copies of the completed audit shall be submitted to the COTR or within seventy-five (75) days after the completion of each contract period.

H.17.2 The audit report shall provide for a statement of revenue and expenditures for the program.

H.18 RETENTION OF WORK PAPERS

H.18.1 The Contractor shall require its auditor to retain its work papers for a period of three (3) years after all contractual requirements have been met. Work papers shall be made available for review by the government or its authorized representatives.

H.19 ENTRANCE CONFERENCE

H.19.1 The selected auditor shall contact the COTR to discuss the scope of work to be performed.

H.20 EXIT CONFERENCE

H.20.1 The selected auditor shall conduct an exit conference with the Contractor and COTR and submit a copy of the audit report to the COTR.

H.20 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL

H.20.1 The Key personnel specified in the contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified key personnel for any reason, the Contractor shall notify the Contracting Officer at least thirty calendar days in advance and shall submit justification (including proposed substitutions), in sufficient detail to permit evaluation of the impact upon the contract. The Contractor shall not reassign these personnel or approve replacements without written approval by the Contracting Officer.

H.21 TRAINING AND STAFFING

H.21.1 The Contractor shall provide at a minimum one job orientation session for all staff members at the beginning of their employment. The orientation shall include, but not limited to identification of services to be provided under this contract, identification of the performance requirements, identification of the organization's administrative procedures, program goals, policies, alternative nursing home programs, culture change, mental health crisis de-escalation techniques, new nursing home technology and tools to be identified and introduced to the organization's administrative procedures and practices to be adhered to under this contract.

H.21.2 The Contractor shall maintain a current organizational chart, which displays organizational relationships and demonstrates who has responsibility for administrative oversight and clinical supervision over each discrete aspect of Contractor's performance.

H.21.3 If there are any projected changes after the effective date of the contract to staffing

pattern(s), job descriptions or personnel, the Contractor shall submit the changes in writing at least two weeks in advance to the Contract Administrator for approval.

H.22 HIPAA Privacy Compliance

(1) Definitions

(a) *Business Associate*. "Business Associate" shall mean [Insert Name of Contractor].

(b) *Covered Entity*. "Covered Entity" shall mean [Insert Name of District of Columbia Agency].

(c) *Designated Record Set* means:

1. A group of records maintained by or for Covered Entity 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 Covered Entity 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 Covered Entity.

(d) *Individual* shall have the same meaning as the term "individual" in 45 CFR 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

(e) *Privacy Rule*. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

(f) *Protected Health Information*. "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 Business Associate from or on behalf of Covered Entity.

(g) *Required By Law*. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR 164.501.

(h) *Secretary*. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

(2) Obligations and Activities of Business Associate

(a) Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this HIPAA Privacy Compliance Clause (this Clause) or as Required by Law.

(b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Clause.

(c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Clause.

(d) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Clause of which it becomes aware.

(e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

(f) Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner [Insert negotiated terms for access], to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.

(g) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual, and in the time and manner [Insert negotiated terms for amendment].

(h) Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, available to the Covered Entity, or to the Secretary, in a time and manner [Insert negotiated terms for access] or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

(i) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity 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) Business Associate agrees to provide to Covered Entity or an Individual, in time and manner [Insert negotiated terms for access], information collected in accordance with Section (i) above, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

(3) Permitted Uses and Disclosures by Business Associate

(a) *Refer to underlying services agreement:*

Except as otherwise limited in this Clause, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in [Insert Name of this Contract], provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of Covered Entity.

(b) Except as otherwise limited in this Clause, Business Associate may use Protected Health 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 Clause, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or 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 Clause, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).

(e) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1).

(4) Obligations of Covered Entity

(a) Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.

(b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

(5) Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

(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 Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) *Termination for Cause.* Upon Covered Entity's knowledge of a material breach of this Clause by Business Associate, Covered Entity shall either:

(1) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the contract if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;

(2) Immediately terminate the contract if 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 are feasible, Covered Entity shall report the violation to the Secretary.

(c) *Effect of Termination.*

(1) Except as provided in paragraph (2) of this section, upon termination of the contract, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(2) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon determination by the Contracting Officer that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

(7) Miscellaneous

(a) *Regulatory References.* A reference in this Clause 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 Clause from time to time as is necessary for Covered Entity 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 Business Associate under Section (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 Clause shall be resolved to permit Covered Entity to comply with the Privacy Rule.

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 are incorporated as part of the contract resulting from this solicitation. To obtain a copy of the SCP go to 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

All information obtained by the Contractor relating to any employee or customer of the District will 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, 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 the data is marked by the Contractor with the following legend:

(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 Contracting Officer. 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 INSURANCE

- I.8.1** The Contractor shall obtain the minimum insurance coverage set forth in C.1.1 Applicable Documents 22 D.C. Municipal Regulations, Public Health and Medicine, Chapter 32 Nursing Facilities and below prior to award of the contract and within ten

← - - - - Formatted: Bullets and Numbering

(10) calendar days after being called upon by the District to do so and keep such insurance in force throughout the contract period.

- I.8.2 Commercial General Liability Insurance (general aggregate):** The Contractor shall carry insurance against general liability for personal and bodily injury (including disease or death) and property damage insurance coverage written in the comprehensive form of policy not less than \$1,000,000.00 per occurrence, \$3,000,000.00 aggregate for bodily injury. ← --- Formatted: Bullets and Numbering
- I.8.3 Workers' Compensation:** The Contractor shall carry workers' compensation insurance covering all of its employees employed upon the premises and in connection with its other operations pertaining to this contract, and the Contractor agrees to comply at all times with the provisions of the workers' compensation laws of the District. ← --- Formatted: Bullets and Numbering
- I.8.4 Property Insurance:** A policy providing all-risks coverage against physical loss to the building and contents at 901 1st Street, NW with limits sufficient to cover this replacement cost. The deductible shall not be greater than \$10,000 per loss. As a point of reference, current policy limits are \$34 million. The District shall be the named insured, and the contractor shall be listed as an additional insured. ← --- Formatted: Bullets and Numbering
- I.8.5 Professional Liability Insurance:** The Contractor shall maintain professional liability insurance for any and all errors and omissions committed by the Contractor, its agents or employees, in the performance of this contract, of not less than \$1,000,000 per occurrence.
- I.8.6 Employer's Liability:** The Contractor shall carry employer's liability coverage of at least \$100,000 per occurrence and \$500,000 per occurrence for disease.
- I.8.7 Automobile Liability:** The Contractor shall maintain automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies shall provide coverage of not less than \$1,000,000.00 per occurrence combined single limit for bodily injury and property damage liability.
- I.8.8 Crime Insurance:** The Contractor shall carry crime insurance covering the Contractor against destruction, disappearance or wrongful abstraction of money and securities, including loss arising from burglary, robbery, theft or falsification/alteration of financial instruments, with a minimum limit of \$500,000 per loss.
- I.8.9** All insurance provided by the Contractor as required by this section, except Comprehensive automobile liability insurance, shall set forth the District as an additional named insured. All insurance shall be written with responsible companies licensed by the District of Columbia's Department of Insurance and Securities Regulation, 810 1st Street, NE, # 701, Washington, D.C. 20002 with a certificate of insurance to be delivered to the District's Contracting Officer within fourteen (14) days of contract award. The

policies of insurance shall provide for at least thirty (30) days written notice to the District prior to their termination or material alteration. Should insurance provided not be in compliance with all the requirements herein, the District reserves the right to stop work until the Contractor provides proper evidence of compliance.

I.9 EQUAL EMPLOYMENT OPPORTUNITY

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as (Attachment J.2.2). An award cannot be made to any offeror who has not satisfied the equal employment requirements.

I.10 ORDER OF PRECEDENCE

Any inconsistency in this solicitation shall be resolved by giving precedence in the following order: the Supplies or Services and Price/Cost Section (Section B), Specifications/Work Statement (Section C), the Special Contract Requirements (Section H), the Contract Clauses (Section I), and the Standard Contract Provisions.

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 Contracting Officer.

I.12 CONTINUITY OF SERVICES

I.12.1 The Contractor recognizes that the services provided under this contract are vital to The District of Columbia and must be continued without interruption and that, upon contract expiration or termination, a successor, either the District Government or another contractor, at the District's option, may continue to provide these services. To that end, the Contractor agrees to:

I.12.1.1 Furnish phase-out, phase-in (transition) training; and

I.12.1.2 Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

SECTION J: LIST OF ATTACHMENTS**J.1 ATTACHMENTS INCORPORATED AS PART OF THE CONTRACT**

- J.1.1** Title 29 DCMR – Reimbursement to Nursing Facilities by the D.C. Medicaid Program, Chapter 9
- J.1.2** The Standard Contract Provisions for use with District of Columbia Government Supply and Services Contracts dated March 2007
- J.1.3** DHS Form 1445
- J.1.4** Wage Determination No. 4 dated, July 5, 2007 issued by the U.S. Department of Labor
- J.1.5** Living Wage Act Fact Sheet
- J.1.6** The Living Wage Act of 2006

INCORPORATED ATTACHMENTS - *The following forms, located at www.ocp.dc.gov under information Policies/Forms shall be completed and returned with the bid.*)

- J.2.1** First Source Employment Agreement
- J.2.2** E.E.O. Information and Mayor's Order 85-85
- J.2.3** Tax Certification Affidavit
- J.2.4** Cost/Price Disclosure
- J.2.5** Cost/Price Data Requirements
- J.2.6** Contractor Experience Questionnaire Form
- J.2.7** LSDBE Certification Package

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 It operates as:

- a corporation incorporated under the laws of the State of: _____
- an individual,
- a partnership,
- a nonprofit organization, or
- a joint venture.

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, “District Employees Not To Benefit” will benefit from this contract.

_____ The following person(s) listed in Clause 13 may benefit from this contract. For each person listed, attach the affidavit required by Clause 13 of the SCP.

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 on the offer 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 above:

(insert full name of person(s) in the organization responsible for determining the prices offered in this Contract and the title of his or her position in the 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.2.3.

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

The District intends to award a single contract resulting from this solicitation to the responsible offeror(s) whose offer(s) 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.1.2 Initial Offers

The District may award contracts 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 five (5) 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. 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.: DCBY-2008-R-0004 Management and Operation of the J.B. Johnson Nursing Center**)".

L.2.2 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 delivery. The technical proposal must contain sufficient detail to provide a clear and concise representation of the requirements in Section C.

L.2.3 The offeror's signature shall certify that the proposal submitted is complete and includes all requested information and attachments described herein.

L.2.4 Proposals shall be organized, formatted and submitted in the following three (3) separate parts:

L.2.4.1 Part 1 Technical Proposal

- a. Technical Approach
- b. Technical Expertise

L.2.4.2 Part 2 Representation, Certifications and other Statements of Offeror

- a. Section K – Representation, certifications and other statements
- b. LSDBE Certification
- c. E.E.O. Information
- d. Page one (1) of the solicitation
- e. All amendments to the solicitation
- f. Tax Certification Affidavit
- g. First Source Employment Agreement
- h. Experience Questionnaire, Attachment J.2.6

L.2.4.3 Part 3 Price Proposal

- a. Section B – Supplies of Services and Price
- b. Cost/Price Data Requirement, Attachment J.2.5

L.2.5 TECHNICAL PROPOSAL

The offeror's shall identify and describe in its Technical Proposal the following:

L.2.5.1 Technical Approach

L.2.5.1.1 The Technical Approach should be a detailed explanation of the methodologies, strategies, and capabilities that the offeror intends to apply to Section C of the RFP.

L.2.5.1.2 a written narrative of the offeror's service description providing evidence of the offeror's understanding of the technical components of the requirements. The offeror demonstrates in a clear logical manner an awareness of the scope and complexity of services to be provided;

L.2.5.1.3 a written understanding of the offeror's service delivery including appropriate methodologies and approaches to be used to accomplish the technical components of the requirements. The offeror's proposed methodologies and approaches comprehensively cover all technical requirements while considering the population to be served and recognizing and addressing potential issues associated with performing the service; and

L.2.5.1.4 provide evidence in the offeror's service description and service delivery of industry standard and best practice models.

L.2.5.2 Technical Expertise

L.2.5.2.1 This factor considers the technical expertise to be accessed and provided by the offeror to perform the District's requirements as described in Section C of the solicitation. This factor encompasses all components of the offeror's staff and staff-related activities including the offeror's organizational structure, the

qualifications and expertise of the offeror's proposed staff, and the offeror's staff development initiatives. This factor considers each staffing component, together and independently, and the importance of the interrelationships of each component toward the contribution of performing the service requirements.

- L.2.5.2.2** This factor also encompasses the offeror's technical capability to perform the required services as described in Section C. This factor examines technical capacity and the overall contribution and utilization of the offeror's technical and processes in the successful fulfillment of the requirements. In describing its technical expertise the offeror's shall provide the following information:
- L.2.5.2.3** Provide an organizational chart that demonstrates the offeror's understanding and liability of staff to fulfill the required minimum staffing positions;
- L.2.5.2.4** Provide staff information including resumes and certificates, demonstrating the qualifications and expertise of the offeror's proposed staff to meet the minimum qualifications and expertise to perform the services required. Offeror provides position descriptions indicating the offeror's awareness and distribution of minimum responsibilities for each staff position and acknowledges and assigns the responsibilities to perform the requirements among the offeror's proposed staff. The offeror's staff information, including resumes, certificates and position descriptions are consistent with the information presented in the offeror's organizational chart and
- L.2.5.2.5** Provide details of the offeror's staff development initiatives including at a minimum the offeror's staff orientation curriculum and in-service training requirements, that illustrate the offerors's understanding of required staff development and the significant value of staff development relative to fulfilling the requirements.
- L.2.5.3** **Section 3 – Past Performance**
- L.2.5.3.1** By past performance, the District means the Offeror's prior experience in providing the services to this target population for the District of Columbia Government and other business and organizational entities.
- L.2.5.4** **Section 4 – Price Proposal**
- L.2.5.4.1** The price proposal must consist of the price schedule contained in Section B, the Cost/Price Certification and detailed cost and pricing data. See Attachments J.2.5, Offerors may include a narrative describing or explaining their price proposal.
- L.2.5.4.2** Offerors shall identify and itemize the total costs inclusive of general and administrative expenses, labor hours, overhead and profit. The Contactor shall also identify any other categories or cost items that may be required in

performance of this contract. OoA will not be responsible for cost overruns and/or unexpected expenses incurred by the vendor.

L.3 CONTRACT AWARD

L.3.1 Most Advantageous to the District

The District intends to award a single contract resulting from this solicitation to the responsible offeror 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.3.2 Initial Offers

The District may award contracts 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.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 **2:00 p.m. on Thursday, June 5, 2008.**

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 Contracting Officer 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 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 an offer that is not considered shall be held unopened, unless opened for identification, until after award and then retained with unsuccessful offers resulting from this solicitation.

L.4 EXPLANATION TO PROSPECTIVE OFFERORS

If a prospective offeror has any questions relative to this solicitation, the prospective offeror shall submit the question in writing to the contact person, identified on page one. The prospective offeror shall submit questions no later than fifteen (15) days prior to the closing date and time indicated for this solicitation. The District will not consider any questions received less than fifteen (15) days before the date set for submission of proposals. The District will furnish responses promptly to all other prospective offerors.

An amendment to the solicitation will be issued if that information is necessary in submitting offers, or if the lack of it would be prejudicial to any other prospective offerors. Oral explanations or instructions given before the award of the contract will not be binding.

L.5 FAILURE TO SUBMIT OFFERS

Recipients of this solicitation not responding with an offer should not return this solicitation. Instead, they should advise the Contracting Officer, Jean Wright, Office of Contracting and Procurement, 64 New York Avenue, NE, Room 6118, Washington, DC 20002, telephone number 202-671-4463, by letter or postcard whether they want to receive future solicitations for similar requirements. It is also requested that such recipients advise the Contracting Officer, the reason for not submitting a proposal in response to this solicitation. If a recipient does not submit an offer and does not notify

the Contracting Officer, (insert agency name) 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 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:

L.6.1.1"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.

L.6.1.2If, 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.6.1.3Mark 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 option year pricing.

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 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 Section 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 Section 2-534(a)(1).

L.14 CERTIFICATES OF INSURANCE

The Contractor shall submit certificates of insurance giving evidence of the required coverages as specified in Section I.8 prior to commencing work. Evidence of insurance shall be submitted within fourteen (14) days of contract award to:

Ms. Jean Wright
Contracting Officer
64 New York Avenue, NE
Washington, DC 20002
Phone Number: 202-671-4463
E-mail Address: Jean.Wright@dc.gov

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 or telegram including mailgrams. The District must receive the acknowledgment by the date and time specified for receipt of offers. Offerors' failure to acknowledge an amendment may result in rejection of the 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 provision of the solicitation. After receipt of best and final offers, no discussions will be reopened unless the Contracting Officer 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 Contracting Officer 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 (2001), 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 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.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 Contracting Officer 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 Contracting Officer shall determine the prospective contractor to be non-responsible.

L.20 PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be held at **11:00 a.m.** on **Tuesday, May 13, 2008** at the **Office of Contracting and Procurement, 64 New York Avenue, N.E., 6th Floor, Room 6127**. 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 offerors 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 their attendance can be properly recorded.

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. All oral questions must be submitted in writing following the close of the pre-proposal conference but no later than five working days after the pre-proposal conference in order to generate an official answer. Official answers will be provided in writing to all prospective offerors who are listed on the official offerors' list as having received a copy of the solicitation. Answers will be posted on the OCP website at www.ocp.dc.gov.

SECTION M - EVALUATION FACTORS

M.1 EVALUATION FOR AWARD

M.1.1 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.

M.1.2 The District reserves the right to reject any or all proposals determined to be inadequate or unacceptable. The District may award a contract on the basis on the initial offeror received, without discussion. Therefore, each initial offer should contain the Offeror's best terms from a price and technical standpoint.

M.1.3 The District may communicate with offerors in order to clarify, verify or obtain additional information about its past performance and experience. Such communication will not constitute discussions and will not obligate the District to make a competitive range determination, conduct discussions, or solicit or entertain reviewed proposals or best and final offers.

M.2 TECHNICAL RATING

The Technical Rating Scale is as follows:

Numeric Rating	Adjective	Description
0	Unacceptable	Fails to meet minimum requirements; e.g., no demonstrated capacity, major deficiencies which are not correctable; offeror did not address the factor.
1	Poor	Marginally meets minimum requirements; major deficiencies which may be correctable.
2	Minimally Acceptable	Marginally meets minimum requirements; minor deficiencies which may be correctable.
3	Acceptable	Meets requirements; no deficiencies.
4	Good	Meets requirements and exceeds some requirements; no deficiencies.
5	Excellent	Exceeds most, if not all requirements; no deficiencies.

M.2.1 The technical rating is a weighting mechanism that will be applied to the point value for each evaluation factor and significant subfactor to determine the Offeror's score for each factor. The Offeror's total technical score will be determined by adding the Offeror's score in each evaluation factor. 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 will be added together to determine the score for the factor level.

M.3 EVALUATION CRITERIA

The objective of the source selection process is to identify and select the Offeror that has successfully demonstrated the ability to successfully meet the District's needs in the manner most advantageous to the District, all factors considered.

M.3.1 The Technical evaluation criteria set forth below have been developed by agency technical personnel and have been tailored to the requirements of this particular solicitation. The Offeror is informed that these criteria will serve as the standard against which all prop significant sub factors which the Offeror should specifically address in complying with the requirements of the solicitation as described in Section C and instructions and notices to Offerors described in Section L.

M.3.2 The relative probabilities of the Offeror to accomplish the requirements of the solicitation will be evaluated based on the specific information requested in L.2.5 in accordance with the evaluations factors described below. The Offeror should respond to each factor and significant sub factor in a way that will allow the District to evaluate the Contractor's response. The scoring for each evaluation factor will be based on the District's determination of the degree to which the Offeror satisfies the requirements within the evaluation factor and significant sub factors. Deficiencies and weaknesses identified in the proposal as well as the District's risk will also be considered.

M.4 EVALUATION FACTORS

M.4.1 Technical Approach:

This factor considers the Technical Approach to be utilized by the offeror to perform the requirements as described in Section C of the solicitation. This factor examines the Offeror's proposed technical approach to proposed technical plan, including the offeror's service description, service delivery, and knowledge of the population to be served to perform the required work. It also examines the offeror's knowledge and application of recognized standards and best practice models. This factor examines all elements of the technical approach and the interdependency of each element in the successful delivery of the required services.

The standard is met when the Offeror submits with its proposal all of the information required by Section L.2.5.1

M.4.2 Technical Expertise:

This factor considers the technical expertise to be accessed and provided by the offeror to perform the District's requirements as described in Section C of this solicitation. This factor encompasses all components of the offeror's staff and staff-related activities including the offeror's organizational structure, the qualifications and expertise of the offeror's proposed staff, and the offeror's staff development initiatives. This factor considers each staffing component, together and independently, and the importance of the interrelations of each component toward the contribution and utilization of the offeror's techniques and processes in the successful fulfillments of the requirements.

This factor also encompasses the offeror's technical capacity to perform the required services as described in Section C of this solicitation. This factor examines technical capacity and the overall contribution and utilization of the offeror's techniques and processes in the successful fulfillment of the requirements.

The standard is met when the offeror submit in its proposal all of the information required by Section L.2.5.2.

M.4.3 Past Performance

This factor considers the offeror's past performance in performing services similar to the required services as described in Section C of this solicitation. The factor includes an examination of the quality of services provided, timeliness in service delivery, business practices, and overall satisfaction of the offeror's performance.

The standards is met when the offeror submits in its proposal all of the information required by Section L.2.5.3

M.4.4 Price Factor

The information requested in this section shall facilitate evaluation of the Offeror's Price Proposal to manage and operate the Nursing Center in accordance with Section C.

M.4.5 The technical evaluation factors to be score are listed in the Table below. The Offeror's proposal will be evaluated according to the Offeror's response to each factor. Proposals will be evaluated based on the following technical evaluation factors listed in descending of importance:

<p>Evaluation Factor/ Significant Sub factor(s)</p>	<p>Point Value</p>	<p>Relative Importance</p>
<p>Factor 1 – Technical Approach Understanding of requirements and desired outcome. The specific and or unique methods, staffing, and management procedures which will enable the Offeror to meet or exceed the requirements in the RFP.</p>	<p>0-20 Points</p>	<p>Technical Approach is more important than Past Performance and Price but less important than Technical Expertise.</p>
<p>Factor 2 – Technical Expertise Sub factors: Qualifications and capability of the overall organization to provide health services to a vulnerable population. Qualifications and availability of key personnel to perform nursing home care. Expertise of staff assigned to work with residents.</p>	<p>0-50 Points</p>	<p>0-50 Points 0-20 Points 0 - 20 Points 0-10 Points</p>

Expertise, Past Performance and Price are listed below. Price points are evaluated separately.

M.5.8	Technical Approach	0-50 Points
	Technical Expertise	0-20 Points
	Past Performance	0-20 Points
	Price	0-10 Points
	Preference Points	0-12 Points

M.5.9 PREFERENCE 12 POINTS

Local Business Enterprise	2 Points
Disadvantaged Business Enterprise	2 Points
Small Business	3 Points
Resident Business Ownership	5 Points
Business Located in an Enterprise Zone	2 Points
Total LSDBE Preference Points	12 Points
TOAL POSSIBLE POINTS	112 POINTS

M.6 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.7 CLAUSE APPLICABLE TO ALL OPEN MARKET SOLICITATIONS

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

a. General Preferences

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

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

- 1) Four percent reduction in the bid price or the addition of four points on a 100-point scale for a local business enterprise (LBE) certified by the Local Business Opportunity Commission (LBOC);

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

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

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

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

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

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

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

- 1) If the prime contractor is not a certified LBE, certified DBE, certified RBO or a business located in the enterprise in an enterprise zone, the District will award the above-stated preferences by reducing the bid price or by increasing the points proportionally based on the total dollar value of the bid or proposal that is designated by the prime contractor for subcontracting with a certified LBE, DBE, RBO or business located in an enterprise zone.
- 2) If the prime contractor is a joint venture that is not a certified LBE, certified DBE or certified RBO joint venture, or if the prime contractor is a joint venture that

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

For Example:

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

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

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

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

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

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

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

preference for business located in an enterprise zone if it is a business located in an enterprise zone or a proportional preference if the prime contractor subcontracts with a business located in an enterprise zone.

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

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

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

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

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

4. Vendor Submission for Preferences

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

- a. Evidence of the vendor's, subcontractor's, or joint venture partner's certification or self-certification as a LBE, DBE, or RBO, to include either:

- 1) A copy of all relevant letters of certification from the Local Business Opportunity Commission (LBOC); or

A copy of the sworn notarized Self-Certification Form prescribed by the LBOC, along with an acknowledgement letter issued by the Director of the LBOC. Businesses with principal offices located outside of the District of Columbia must first be certified as LBEs before qualifying for self-certification.

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

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

Refer to J.2.7 for the Self-Certification Package.

In order to receive any preferences under this solicitation, any vendor seeking self-certification must complete and submit the forms to:

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

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

Penalties for Misrepresentation

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

Local, Small, and Disadvantaged Business Enterprise Subcontracting

(a) 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).

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

M.7 EVALUATION OF PROMPT PAYMENT DISCOUNT

M.7.1 Prompt payment discounts shall not be considered in the evaluation of offers. However, any discount offered will form a part of the award and will be taken by the District if payment is made within the discount period specified by the offeror.

M.7.2 In connection with any discount offered, time will be computed from the date of delivery of the supplies to carrier when delivery and acceptance are at point of origin, or from date of delivery at destination when delivery, installation and acceptance are at that, or from the date correct invoice or voucher is received in the office specified by the District, if the latter date is later than date of delivery. Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the District check.