GOVERNMENT OF THE DISTRICT OF COLUMBIA

STANDARD CONTRACT PROVISIONS

FOR USE WITH

DISTRICT OF COLUMBIA GOVERNMENT
SUPPLIES AND SERVICES CONTRACTS

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OFFICE OF CONTRACTING AND PROCUREMENT
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STANDARD CONTRACT PROVISIONS

TABLE OF CONTENTS

1. Covenant Against Contingent Fees: *1*
2. Shipping Instructions – Consignment: *1*
3. Patents: *1*
4. Quality: *1*
5. Inspection Of Supplies: *1*
6. Inspection Of Services: *3*
7. Waiver: *4*
8. Default: *4*
9. Indemnification: *6*
10. Transfer: *6*
11. Taxes: *6*
12. Appointment of Attorney: *7*
13. District Employees Not To Benefit: *7*
14. Disputes: *7*
15. Changes: *10*
16 Termination For Convenience Of The District: *10*
17. Recovery Of Debts Owed The District: *14*
18. Retention and Examination Of Records: *14*
19. Non-Discrimination Clause: *14*
20. Definitions: *16*
21. Health And Safety Standards: *16*
22. Appropriation Of Funds: *16*
23. Buy American Act: *16*
24. Service Contract Act of 1965: *17*
25. Cost and Pricing Data: *23*
26. Multiyear Contract: *25*
27. Termination Of Contracts For Certain Crimes And Violations: *25*

1. Covenant Against Contingent Fees:

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

2. Shipping Instructions – Consignment:

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

3. Patents:

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

4. Quality:

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

5. Inspection Of Supplies:

(a) Definition. "Supplies," as used in this clause, includes, but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.

(b) The Contractor shall be responsible for the materials or supplies covered by this contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notification of rejection. Upon the Contractor's failure to cure within ten (10) days after date of notification, the District may return the rejected materials or supplies to the Contractor at the Contractor's risk and expense.

(c) The Contractor shall provide and maintain an inspection system acceptable to the District covering supplies under this contract and shall tender to the District for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the

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

(d) The District has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The District will perform inspections and tests in a manner that will not unduly delay the work. The District assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in the contract.

(e) If the District performs inspection or test on the premises of the Contractor or subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the District will bear the expense of District inspections or tests made at other than Contractor's or subcontractor's premises; provided, that in case of rejection, the District will not be liable for any reduction in the value of inspection or test samples.

(1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.

(2) Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes re-inspection or retest

(f) The District has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or otherwise not in conformity with contract requirements. The District may reject nonconforming supplies with or without disposition instructions.

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and when required, shall disclose the corrective action taken.

(h) If the Contractor fails to remove, replace, or correct rejected supplies that are required to be replaced or corrected within ten (10) days, the District may either (1) by contract or otherwise, remove, replace or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

(i) If this contract provides for the performance of District quality assurance at source, and if requested by the District, the Contractor shall furnish advance notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract, and (ii) when the supplies will be ready for District inspection.

(j) The District request shall specify the period and method of the advance notification and the District representative to whom it shall be furnished. Requests shall not require more than 2 business days of advance notification if the District representative is in residence in the Contractor's plant, nor more than 7 business days in other instances.

(k) The District will accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. District failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability upon the District, for non-conforming supplies.

(l) Inspections and tests by the District do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.

(m) If acceptance is not conclusive for any of the reasons in subparagraph (l) hereof, the District, in addition to any other rights and remedies provided by law, or under provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or noncompliance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the District will have the right to return the rejected materials at Contractor's risk and expense or contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the District thereby.

6. <u>Inspection Of Services:</u>

(a) Definition. "Services" as used in this clause includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the District covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the District during contract performance and for as long afterwards as the contract requires.

(c) The District has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The District will perform inspections and tests in a manner that will not unduly delay the work.

(d) If the District performs inspections or tests on the premises of the Contractor or subcontractor, the Contractor shall furnish, without additional charge, all reasonable facilities and assistance for the safety and convenient performance of these duties.

(e) If any of the services do not conform to the contract requirements, the District may require the Contractor to perform these services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by performance, the District may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect value of services performed.

(f) If the Contractor fails to promptly perform the services again or take the necessary action to ensure future performance in conformity to contract requirements, the District may (1) by contract or otherwise, perform the services and charge the Contractor any cost incurred by the District that is directly related to the performance of such services, or (2) terminate the contract for default.

7. <u>Waiver:</u>

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

8. <u>Default:</u>

(a) The District may, subject to the provisions of paragraph (c) below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:

(1) If the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or

(2) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

(b) In the event the District terminates this contract in whole or in part as provided in paragraph (a) of this clause, the District may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or service similar to those so terminated, and the Contractor shall be liable to the District for any excess costs for similar supplies or services; provided, that the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

(c) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the District or Federal Government in either their sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without fault or negligence of the Contractor. If the failure to perform is caused by the default of the subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess cost for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

(d) If this contract is terminated as provided in paragraph (a) of this clause, the District, in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the District, in the manner and to the extent directed by the Contracting Officer, (i) completed supplies, and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures plans, drawing information, and contract rights (hereinafter called "manufacturing materials") as the Contractor has specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Contractor shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the District has an interest. Payment for completed supplies delivered to and accepted by the District will be at the contract price. Payment for manufacturing materials delivered to and accepted by the District will be at the contract price. Payment for manufacturing materials delivered to and accepted by the District and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and Contracting Officer; failure to agree to such amount shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes". The District may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sum as the Contracting Officer determines to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders.

(e) If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination of convenience of the District, be the same as if the notice of termination had been issued pursuant to such clause. See Clause 20 for Termination for Convenience of the District.

(f) The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(g) As used in paragraph (c) of this clause, the terms "subcontractor(s) means subcontractor(s) at any tier.

9. Indemnification:

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

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

10. Transfer:

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

11. Taxes:

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

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

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

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

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

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

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

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

12. Appointment of Attorney:

(a) The bidder/offeror or contractor (whichever the case may be) does hereby irrevocably designate and appoint the Clerk of the District of Columbia Superior Court and his successor in office as the true and lawful attorney of the Contractor for the purpose of receiving service of all notices and processes issued by any court in the District of Columbia, as well as service of all pleadings and other papers, in relation to any action or legal proceeding arising out of or pertaining to this contract or the work required or performed hereunder.

(b) The bidder/offeror or contractor (whichever the case may be) expressly agrees that the validity of any service upon the said Clerk as herein authorized shall not be affected either by the fact that the contractor was personally within the District of Columbia and otherwise subject to personal service at the time of such service upon the said Clerk or by the fact that the contractor failed to receive a copy of such process, notice or other paper so served upon the said Clerk provided the said Clerk shall have deposited in the United States mail, registered and postage prepaid, a copy of such process, notice, pleading or other paper addressed to the bidder/offeror or contractor at the address stated in this contract.

13. District Employees Not To Benefit:

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

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

14. Disputes:

A. All disputes arising under or relating to this contract shall be resolved as provided herein.

B. Claims by a Contractor against the District.

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

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

(a) All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the Contracting Officer for a decision. The contractor's claim shall contain at least the following:

(1) A description of the claim and the amount in dispute;

(2) Any data or other information in support of the claim;

(3) A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and

(4) The Contractor's request for relief or other action by the Contracting Officer.

(b) The Contracting Officer may meet with the Contractor in a further attempt to resolve the claim by agreement.

(c) For any claim of $50,000 or less, the Contracting Officer shall issue a decision within sixty (60) days from receipt of a written request from a Contractor that a decision be rendered within that period.

(d) For any claim over $50,000, the Contracting Officer shall issue a decision within ninety (90) days of receipt of the claim. Whenever possible, the Contracting Officer shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.

(e) The Contracting Officer's written decision shall do the following:

(1) Provide a description of the claim or dispute;

(2) Refer to the pertinent contract terms;

(3) State the factual areas of agreement and disagreement;

(4) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;

(5) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;

(6) Indicate that the written document is the contracting officer's final decision; and

(7) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

(f) Any failure by the Contracting Officer to issue a decision on a contract claim within the required time period will be deemed to be a denial of the claim, and will authorize the commencement of an appeal to the Contract Appeals Board as authorized by D.C. Official Code § 2-309.04.

(g) (1) If a Contractor is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Contractor's claim.

(2) Liability under paragraph (g)(1) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.

(h) The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D. C. Official Code § 2-309.04.

(i) Pending final decision of an appeal, action, or final settlement, a Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

C. Claims by the District against a Contractor

(a) Claim as used in Section C of this clause, means a written demand or written assertion by the District seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

(b) (1) All claims by the District against a Contractor arising under or relating to a contract shall be decided by the Contracting Officer.

(2) The Contracting Officer shall send written notice of the claim to the Contractor. The Contracting Officer's written decision shall do the following:

(a) Provide a description of the claim or dispute;

(b) Refer to the pertinent contract terms;

(c) State the factual areas of agreement and disagreement;

(d) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;

(e) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;

(f) Indicate that the written document is the Contracting Officer's final decision; and

(g) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

(3) The decision shall be supported by reasons and shall inform the Contractor of its rights as provided herein.

(4) The authority contained in this clause shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle, or determine.

(5) This clause shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.

(c) The decision of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D.C. Official Code §2-309.04.

(d) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

15. Changes:

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

16. Termination For Convenience Of The District:

(a) The District may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the District's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.

(3) Terminate all contracts to the extent they relate to the work terminated.

(4) Assign to the District, as directed by the Contracting Officer, all rights, title and interest of the Contractor under the subcontracts terminated, in which case the District will have the right to settle or pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts. The approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and deliver to the District (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other materials produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract has been completed, would be required to be furnished to the District.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the District has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the District under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) After the expiration of ninety (90) days (or such longer period as may be agreed to) after receipt by the Contracting Officer of acceptable inventory schedules, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality of termination inventory not previously disposed of excluding items authorized for disposition by the Contracting Officer. The Contractor may request the District to remove those items or enter into an agreement for their storage. Within fifteen (15) days, the District will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within forty five (45) days from submission of the list, and shall correct the list, as necessary, before final settlement.

(d) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this one year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be

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

(e) Subject to paragraph (d) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) below, exclusive of costs shown in subparagraph (f)(3) below, may not exceed the total contract price as reduced by (1) the amount of payment previously made and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (f) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(f) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (e) above:

(1) The contract price for completed supplies or services accepted by the District (or sold or acquired under subparagraph (b)(9) above) not previously paid for, adjusted for any saving of freight and other charges.

(2) The total of :

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (f)(1) above;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (f)(1) above; and

(iii) A sum, as profit on subparagraph f(1) above, determined by the Contracting Officer to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subparagraph (iii) and shall reduce the settlement to reflect the indicated rate of loss.

(3) The reasonable cost of settlement of the work terminated, including-

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontractors (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(g) Except for normal spoilage, and except to the extent that the District expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f) above, the fair value as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the District or to a buyer.

(h) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraphs (d), (f) or (j), except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) or (j), and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (d), (f) or (j), the District will pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.

(i) In arriving at the amount due the Contractor under this clause, there shall be deducted:

(1) All unliquidated advances or other payments to the Contractor under the termination portion of the contract;

(2) Any claim which the District has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the District.

(j) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within ninety (90) days from the effective date of termination unless extended in writing by the Contracting Officer.

(k) (1) The District may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor shall be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the District upon demand together with interest computed at the rate of 10 percent (10%) per year. Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess payment is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or

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

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

17. Recovery Of Debts Owed The District:

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

18. Retention and Examination Of Records:

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

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

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

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

19. Non-Discrimination Clause:

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

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

(1) The Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act.

(2) The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business.

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

(a) employment, upgrading or transfer;

(b) recruitment, or recruitment advertising;

(c) demotion, layoff, or termination;

(d) rates of pay, or other forms of compensation; and

(e) selection for training and apprenticeship.

(3) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Agency, setting forth the provisions in subsections (b)(1) and (b)(2) concerning non-discrimination and affirmative action.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection (b)(2).

(5) The Contractor agrees to send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of that contractor's commitments under this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor agrees to permit access to his books, records and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of Human Rights or designee, for purposes of investigation to ascertain compliance with this chapter, and to require under terms of any subcontractor agreement each subcontractor to permit access of such subcontractors' books, records, and accounts for such purposes.

(7) The Contractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the District of Columbia adopted by the Director of the Office of Human Rights, or any authorized official.

(8) The Contractor shall include in every subcontract the equal opportunity clauses, subsections (b)(1) through (b)(9) of this section, so that such provisions shall be binding upon each subcontractor or vendor.

(9) The Contractor shall take such action with respect to any subcontract as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the District to enter into such litigation to protect the interest of the District.

20. <u>Definitions:</u>

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

21. <u>Health And Safety Standards:</u>

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

22. <u>Appropriation Of Funds:</u>

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

23. <u>Buy American Act:</u>

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

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

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

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

(b) The Contractor shall deliver only domestic end products, except those-

(1) For use outside the United States;

(2) That the District determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;

(3) For which the District determines that domestic preference would be inconsistent with the public interest; or

(4) For which the District determines the cost to be unreasonable.

24. <u>Service Contract Act of 1965:</u>

(a) <u>Definitions.</u> "Act," as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. §351, *et seq.).*

(1) "Contractor," as used in this clause, means the prime Contractor or any subcontractor at any tier.

(2) "Service employee," as used in this clause, means any person (other than a person employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR 541) engaged in performing a District contract not exempted under 41 U.S.C. §356, the principal purpose of which is to furnish services in the United States, as defined in section 22.1001 of the Federal Acquisition Regulation. It includes all such persons regardless of the actual or alleged contractual relationship between them and a contractor.

(b) <u>Applicability.</u> To the extent that the Act applies, this contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (20 CFR part 4). All interpretations of the Act in Subpart C of 29 CFR 4 are incorporated in this contract by reference. This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. §356, as interpreted in Subpart C of 29 CFR 4.

(c) <u>Compensation</u>.

(1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or the Secretary's authorized representative, as specified in any wage determination attached to this contract.

(2) If a wage determination is attached to this contract, the Contractor shall classify any class of service employees not listed in it, but to be employed under this contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph. This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee.

(a) The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration (ESA), Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary;

(b) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contracting Officer with a written copy of such determination or it shall be posted as a part of the wage determination;

(c) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General

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

(d) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds to a contract under which the classification in question was previously conformed pursuant to this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (*i.e*., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in this clause need not be followed;

(e) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;

(f) The wage rate and fringe benefits finally determined under this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract;

(g) Upon discovery of failure to comply with this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) If the term of this contract is more than 1 year, the minimum wages and fringe benefits required for service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by ESA.

(4) The Contractor can discharge the obligation to furnish fringe benefits specified in the attachment or determined under paragraph (2) of this clause by furnishing any equivalent combinations of bona fide fringe

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

(d) Minimum wage: In the absence of a minimum wage attachment for this contract, the Contractor shall not pay any service or other employees performing this contract less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §206). Nothing in this clause shall relieve the Contractor of any other legal or contractual obligation to pay a higher wage to any employee.

(e) Successor contracts: If this contract succeeds a contract subject to the Act under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then, in the absence of a minimum wage attachment to this contract, the Contractor may not pay any service employee performing this contract less than the wages and benefits, including those accrued and any prospective increases, provided for under that agreement. No Contractor may be relieved of this obligation unless the limitations of 29 CFR 4.1c(b) apply or unless the Secretary of Labor or the Secretary's authorized representative:

(1) Determines that the agreement under the predecessor was not the result of arms-length negotiations; or

(2) Finds, after a hearing under 29 CFR 4.10, that the wages and benefits provided for by that agreement vary substantially from those prevailing for similar services in the locality or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and 4.11 and parts 6 and 8 that some or all of the wages and fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(f) Notification to employees: The Contractor shall notify each service employee commencing work on this contract of a minimum wage and any fringe benefits required to be paid, or shall post a notice of these wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.

(g) Safe and sanitary working conditions: The Contractor shall not permit services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor that are unsanitary, hazardous, or dangerous to the health or safety of service employees. The Contractor shall comply with the health standards applied under 29 CFR Part 1925.

(h) Records: The Contractor shall maintain for 3 years from the completion of work, and make available for inspection and transcription by authorized ESA representatives, a record of the following:

(1) For each employee subject to the Act:

(a) Name and address;

(b) Work classification or classifications, rate or rates of wages and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(c) Daily and weekly hours worked; and

(d) Any deductions, rebates, or refunds from total daily or weekly compensation.

(2) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by ESA under the terms of paragraph (c)(3) of this clause. A copy of the report required by paragraph (e) of this clause will fulfill this requirement.

(3) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by this clause. The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division. Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases. The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(i) Pay periods: The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(j) Withholding of payments and termination of contract: The Contracting Officer shall withhold from the prime Contractor under this or any other District contract

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

(k) Subcontracts: The Contractor agrees to insert this clause in all subcontracts.

(l) Contractor's report:

(1) If there is a wage determination attachment to this contract and any classes of service employees not listed on it are to be employed under the contract, the Contractor shall report promptly to the Contracting Officer the wages to be paid and the fringe benefits to be provided each of these classes, when determined under paragraph (c) of this clause.

(2) If wages to be paid or fringe benefits to be furnished any service employees under the contract are covered in a collective bargaining agreement effective at any time when the contract is being performed, the Contractor shall provide to the Contracting Officer a copy of the agreement and full information on the application and accrual of wages and benefits (including any prospective increases) to service employees working on the contract. The Contractor shall report when contract performance begins, in the case of agreements then in effect, and shall report subsequently effective agreements, provisions, or amendments promptly after they are negotiated.

(m) Contractor's Certification: By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded District contracts by virtue of the sanctions imposed under section 5 of the Act. No part of this contract shall be subcontracted to any person or firm ineligible for award of a District contract under section 5 of the Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. §1001.

(n) Variations, tolerances, and exemptions involving employment: Notwithstanding any of the provisions in paragraphs (c) through (l) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions authorized by the Secretary of Labor.

(1)(i) In accordance with regulations issued under Section 14 of the Fair Labor Standards Act of 1938 by the Administrator of the Wage and Hour Division, ESA (29 CFR 520, 521, 524, and 525), apprentices, student learners, and workers whose earning capacity is impaired by age or by physical or mental deficiency or injury, may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1)

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

(ii) The Administrator will issue certificates under the Act for employing apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages, but without changing requirements concerning fringe benefits or supplementary cash payments in lieu of these benefits.

(iii) The Administrator may also withdraw, annul, or cancel such certificates under 29 CFR 525 and 528.

(2) An employee engaged in an occupation in which the employee customarily and regularly receives more than $30 a month in tips shall be credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with regulations in 29 CFR 531. However, the amount of credit shall not exceed 40 percent of the minimum rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 as amended.

25. <u>Cost and Pricing Data:</u>

(a) This paragraph and paragraphs b through e below shall apply to contractors or offerors in regards to: (1) any procurement in excess of $100,000, (2) any contract awarded through competitive sealed proposals, (3) any contract awarded through sole source procurement, or (4) any change order or contract modification. By entering into this contract or submitting this offer, the Contractor or offeror certifies that, to the best of the Contractor's or offeror's knowledge and belief, any cost and pricing data submitted was accurate, complete and current as of the date specified in the contract or offer.

(b) Unless otherwise provided in the solicitation, the offeror or Contractor shall, before entering into any contract awarded through competitive sealed proposals or through sole source procurement or before negotiating any price adjustments pursuant to a change order or modification, submit cost or pricing data and certification that, to the best of the Contractor's knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of the date of award of this contract or as of the date of negotiation of the change order or modification.

(c) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified by the Contractor, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified by the Contractor, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(d) Any reduction in the contract price under paragraph c above due to defective data from a prospective subcontractor that was not subsequently awarded, the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided that the actual subcontract price was not itself affected by defective cost or pricing data.

(e) Cost or pricing data includes all facts as of the time of price agreement that prudent buyers and sellers would reasonably expect to affect price negotiations significantly. Cost or pricing data are factual, not judgmental, and are therefore verifiable. While they do not indicate the accuracy of the prospective Contractor' s judgment about estimated future costs or projections, cost or pricing data do include the data forming the basis for that judgment. Cost or pricing data are more than historical accounting data; they are all the facts that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of determinations of costs already incurred.

(f) The following specific information should be included as cost or pricing data, as applicable:

(1) Vendor quotations;

(2) Nonrecurring costs;

(3) Information on changes in production methods or purchasing volume;

(4) Data supporting projections of business prospects and objectives and related operations costs;

(5) Unit – cost trends such as those associated with labor efficiency;

(6) Make or buy decisions;

(7) Estimated resources to attain business goals;

(8) Information on management decisions that could have a significant bearing on costs.

(g) If the offeror or contractor is required by law to submit cost or pricing data in connection with pricing this contract or any change order or modification of this contract, the Contracting Officer or representatives of the Contracting Officer shall have the right to examine all books, records, documents and other data of the Contractor (including computations and projections) related to negotiating, pricing, or performing the contract, change order or modification, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. Contractor shall make available at its office at all reasonable times the materials described above for examination, audit, or reproduction until three years after the later of:

(1) final payment under the contract;

(2) final termination settlement; or

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

26. <u>Multiyear Contract:</u>

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

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

27. <u>Termination Of Contracts For Certain Crimes And Violations:</u>

(a) The District may terminate without liability any contract and may deduct from the contract price or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid in violation of this title if:

(1) The Contractor has been convicted of a crime arising out of or in connection with the procurement of any work to be done or any payment to be made under the contract; or

(2) There has been any breach or violation of:

(A) Any provision of the Procurement Practices Act of 1985, as amended, or

(B) The contract provision against contingent fees.

(b) If a contract is terminated pursuant to this section, the Contractor:

(1) May be paid only the actual costs of the work performed to the date of termination, plus termination costs, if any; and

(2) Shall refund all profits or fixed fees realized under the Contract.

(c) The rights and remedies contained in this are in addition to any other right or remedy provided by law, and the exercise of any of them is not a waiver of any other right or remedy provided by law.

WD 05-2103 (Rev.-10) was first posted on www.wdol.gov on 06/22/2010
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REGISTER OF WAGE DETERMINATIONS UNDER THE SERVICE CONTRACT ACT By direction of the Secretary of Labor	U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION WAGE AND HOUR DIVISION WASHINGTON D.C. 20210
Shirley F. Ebbesen Division of Director Wage Determinations	Wage Determination No.: 2005-2103 Revision No.: 10 Date Of Revision: 06/15/2010

States: District of Columbia, Maryland, Virginia

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

Fringe Benefits Required Follow the Occupational Listing

OCCUPATION CODE - TITLE	FOOTNOTE	RATE
01000 - Administrative Support And Clerical Occupations		
01011 - Accounting Clerk I		15.08
01012 - Accounting Clerk II		16.92
01013 - Accounting Clerk III		22.30
01020 - Administrative Assistant		31.41
01040 - Court Reporter		21.84
01051 - Data Entry Operator I		14.38
01052 - Data Entry Operator II		15.69
01060 - Dispatcher, Motor Vehicle		17.87
01070 - Document Preparation Clerk		14.21
01090 - Duplicating Machine Operator		14.21
01111 - General Clerk I		14.88
01112 - General Clerk II		16.24
01113 - General Clerk III		18.74
01120 - Housing Referral Assistant		25.29
01141 - Messenger Courier		13.62
01191 - Order Clerk I		15.12
01192 - Order Clerk II		16.50
01261 - Personnel Assistant (Employment) I		18.15
01262 - Personnel Assistant (Employment) II		20.32
01263 - Personnel Assistant (Employment) III		22.65
01270 - Production Control Clerk		22.03
01280 - Receptionist		14.43
01290 - Rental Clerk		16.55
01300 - Scheduler, Maintenance		18.07
01311 - Secretary I		18.07
01312 - Secretary II		20.18
01313 - Secretary III		25.29
01320 - Service Order Dispatcher		16.98
01410 - Supply Technician		28.55
01420 - Survey Worker		20.03
01531 - Travel Clerk I		13.29
01532 - Travel Clerk II		14.36
01533 - Travel Clerk III		15.49
01611 - Word Processor I		15.63
01612 - Word Processor II		17.67
01613 - Word Processor III		19.95
05000 - Automotive Service Occupations		
05005 - Automobile Body Repairer, Fiberglass		25.26
05010 - Automotive Electrician		23.51

05040 - Automotive Glass Installer	22.15
05070 - Automotive Worker	22.15
05110 - Mobile Equipment Servicer	19.04
05130 - Motor Equipment Metal Mechanic	24.78
05160 - Motor Equipment Metal Worker	22.15
05190 - Motor Vehicle Mechanic	24.78
05220 - Motor Vehicle Mechanic Helper	18.49
05250 - Motor Vehicle Upholstery Worker	21.63
05280 - Motor Vehicle Wrecker	22.15
05310 - Painter, Automotive	23.51
05340 - Radiator Repair Specialist	22.15
05370 - Tire Repairer	14.44
05400 - Transmission Repair Specialist	24.78
07000 - Food Preparation And Service Occupations	
07010 - Baker	13.85
07041 - Cook I	12.55
07042 - Cook II	14.60
07070 - Dishwasher	10.11
07130 - Food Service Worker	10.66
07210 - Meat Cutter	18.08
07260 - Waiter/Waitress	9.70
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	19.86
09040 - Furniture Handler	14.06
09080 - Furniture Refinisher	20.23
09090 - Furniture Refinisher Helper	15.52
09110 - Furniture Repairer, Minor	17.94
09130 - Upholsterer	19.86
11000 - General Services And Support Occupations	
11030 - Cleaner, Vehicles	10.54
11060 - Elevator Operator	10.54
11090 - Gardener	17.52
11122 - Housekeeping Aide	11.83
11150 - Janitor	11.83
11210 - Laborer, Grounds Maintenance	13.07
11240 - Maid or Houseman	11.26
11260 - Pruner	11.58
11270 - Tractor Operator	16.04
11330 - Trail Maintenance Worker	13.07
11360 - Window Cleaner	12.85
12000 - Health Occupations	
12010 - Ambulance Driver	20.41
12011 - Breath Alcohol Technician	20.27
12012 - Certified Occupational Therapist Assistant	23.11
12015 - Certified Physical Therapist Assistant	21.43
12020 - Dental Assistant	17.18
12025 - Dental Hygienist	44.75
12030 - EKG Technician	27.67
12035 - Electroneurodiagnostic Technologist	27.67
12040 - Emergency Medical Technician	20.41
12071 - Licensed Practical Nurse I	19.07
12072 - Licensed Practical Nurse II	21.35
12073 - Licensed Practical Nurse III	24.13
12100 - Medical Assistant	15.01
12130 - Medical Laboratory Technician	18.04
12160 - Medical Record Clerk	17.42
12190 - Medical Record Technician	19.50
12195 - Medical Transcriptionist	18.77
12210 - Nuclear Medicine Technologist	37.60
12221 - Nursing Assistant I	10.80
12222 - Nursing Assistant II	12.14
12223 - Nursing Assistant III	13.98
12224 - Nursing Assistant IV	15.69

12235 - Optical Dispenser		20.17
12236 - Optical Technician		15.80
12250 - Pharmacy Technician		18.12
12280 - Phlebotomist		15.69
12305 - Radiologic Technologist		31.11
12311 - Registered Nurse I		27.64
12312 - Registered Nurse II		33.44
12313 - Registered Nurse II, Specialist		33.44
12314 - Registered Nurse III		40.13
12315 - Registered Nurse III, Anesthetist		40.13
12316 - Registered Nurse IV		48.10
12317 - Scheduler (Drug and Alcohol Testing)		21.73
13000 - Information And Arts Occupations		
13011 - Exhibits Specialist I		19.86
13012 - Exhibits Specialist II		24.61
13013 - Exhibits Specialist III		30.09
13041 - Illustrator I		20.48
13042 - Illustrator II		25.38
13043 - Illustrator III		31.03
13047 - Librarian		33.88
13050 - Library Aide/Clerk		14.21
13054 - Library Information Technology Systems Administrator		30.60
13058 - Library Technician		19.89
13061 - Media Specialist I		18.73
13062 - Media Specialist II		20.95
13063 - Media Specialist III		23.36
13071 - Photographer I		16.65
13072 - Photographer II		18.90
13073 - Photographer III		23.67
13074 - Photographer IV		28.65
13075 - Photographer V		33.76
13110 - Video Teleconference Technician		20.39
14000 - Information Technology Occupations		
14041 - Computer Operator I		18.92
14042 - Computer Operator II		21.18
14043 - Computer Operator III		23.60
14044 - Computer Operator IV		26.22
14045 - Computer Operator V		29.05
14071 - Computer Programmer I	(see 1)	26.36
14072 - Computer Programmer II	(see 1)	
14073 - Computer Programmer III	(see 1)	
14074 - Computer Programmer IV	(see 1)	
14101 - Computer Systems Analyst I	(see 1)	
14102 - Computer Systems Analyst II	(see 1)	
14103 - Computer Systems Analyst III	(see 1)	
14150 - Peripheral Equipment Operator		18.92
14160 - Personal Computer Support Technician		26.22
15000 - Instructional Occupations		
15010 - Aircrew Training Devices Instructor (Non-Rated)		36.47
15020 - Aircrew Training Devices Instructor (Rated)		44.06
15030 - Air Crew Training Devices Instructor (Pilot)		52.81
15050 - Computer Based Training Specialist / Instructor		36.47
15060 - Educational Technologist		35.31
15070 - Flight Instructor (Pilot)		52.81
15080 - Graphic Artist		26.80
15090 - Technical Instructor		25.08
15095 - Technical Instructor/Course Developer		30.67
15110 - Test Proctor		20.20
15120 - Tutor		20.20
16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations		
16010 - Assembler		9.88
16030 - Counter Attendant		9.88

16040 - Dry Cleaner	12.94
16070 - Finisher, Flatwork, Machine	9.88
16090 - Presser, Hand	9.88
16110 - Presser, Machine, Drycleaning	9.88
16130 - Presser, Machine, Shirts	9.88
16160 - Presser, Machine, Wearing Apparel, Laundry	9.88
16190 - Sewing Machine Operator	13.78
16220 - Tailor	14.66
16250 - Washer, Machine	10.88
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	21.14
19040 - Tool And Die Maker	23.38
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	18.02
21030 - Material Coordinator	22.03
21040 - Material Expediter	22.03
21050 - Material Handling Laborer	13.83
21071 - Order Filler	15.09
21080 - Production Line Worker (Food Processing)	18.02
21110 - Shipping Packer	15.09
21130 - Shipping/Receiving Clerk	15.09
21140 - Store Worker I	11.72
21150 - Stock Clerk	16.86
21210 - Tools And Parts Attendant	18.02
21410 - Warehouse Specialist	18.02
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	27.21
23021 - Aircraft Mechanic I	25.83
23022 - Aircraft Mechanic II	27.21
23023 - Aircraft Mechanic III	28.53
23040 - Aircraft Mechanic Helper	17.54
23050 - Aircraft, Painter	24.73
23060 - Aircraft Servicer	19.76
23080 - Aircraft Worker	21.01
23110 - Appliance Mechanic	21.75
23120 - Bicycle Repairer	14.43
23125 - Cable Splicer	26.02
23130 - Carpenter, Maintenance	21.40
23140 - Carpet Layer	20.49
23160 - Electrician, Maintenance	27.98
23181 - Electronics Technician Maintenance I	24.94
23182 - Electronics Technician Maintenance II	26.47
23183 - Electronics Technician Maintenance III	27.89
23260 - Fabric Worker	19.13
23290 - Fire Alarm System Mechanic	22.91
23310 - Fire Extinguisher Repairer	17.62
23311 - Fuel Distribution System Mechanic	22.81
23312 - Fuel Distribution System Operator	19.38
23370 - General Maintenance Worker	21.43
23380 - Ground Support Equipment Mechanic	25.83
23381 - Ground Support Equipment Servicer	19.76
23382 - Ground Support Equipment Worker	21.01
23391 - Gunsmith I	17.62
23392 - Gunsmith II	20.49
23393 - Gunsmith III	22.91
23410 - Heating, Ventilation And Air-Conditioning Mechanic	23.89
23411 - Heating, Ventilation And Air Contditioning Mechanic (Research Facility)	25.17
23430 - Heavy Equipment Mechanic	22.91
23440 - Heavy Equipment Operator	22.91
23460 - Instrument Mechanic	22.59
23465 - Laboratory/Shelter Mechanic	21.75

23470 - Laborer	14.98
23510 - Locksmith	21.90
23530 - Machinery Maintenance Mechanic	23.12
23550 - Machinist, Maintenance	22.91
23580 - Maintenance Trades Helper	18.27
23591 - Metrology Technician I	22.59
23592 - Metrology Technician II	23.80
23593 - Metrology Technician III	24.96
23640 - Millwright	28.19
23710 - Office Appliance Repairer	22.96
23760 - Painter, Maintenance	21.75
23790 - Pipefitter, Maintenance	24.63
23810 - Plumber, Maintenance	22.29
23820 - Pneudraulic Systems Mechanic	22.91
23850 - Rigger	22.91
23870 - Scale Mechanic	20.49
23890 - Sheet-Metal Worker, Maintenance	22.91
23910 - Small Engine Mechanic	20.49
23931 - Telecommunications Mechanic I	29.95
23932 - Telecommunications Mechanic II	31.55
23950 - Telephone Lineman	27.41
23960 - Welder, Combination, Maintenance	22.91
23965 - Well Driller	22.91
23970 - Woodcraft Worker	22.91
23980 - Woodworker	17.62
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	12.79
24580 - Child Care Center Clerk	17.77
24610 - Chore Aide	10.57
24620 - Family Readiness And Support Services Coordinator	16.90
24630 - Homemaker	18.43
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	27.30
25040 - Sewage Plant Operator	20.84
25070 - Stationary Engineer	27.30
25190 - Ventilation Equipment Tender	19.49
25210 - Water Treatment Plant Operator	20.84
27000 - Protective Service Occupations	
27004 - Alarm Monitor	20.57
27007 - Baggage Inspector	12.71
27008 - Corrections Officer	22.80
27010 - Court Security Officer	24.72
27030 - Detection Dog Handler	20.57
27040 - Detention Officer	22.80
27070 - Firefighter	24.63
27101 - Guard I	12.71
27102 - Guard II	20.57
27131 - Police Officer I	26.52
27132 - Police Officer II	29.67
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	13.59
28042 - Carnival Equipment Repairer	14.63
28043 - Carnival Equpment Worker	9.24
28210 - Gate Attendant/Gate Tender	13.01
28310 - Lifeguard	11.59
28350 - Park Attendant (Aide)	14.56
28510 - Recreation Aide/Health Facility Attendant	10.62
28515 - Recreation Specialist	18.04
28630 - Sports Official	11.59
28690 - Swimming Pool Operator	18.21
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	23.13

29020 - Hatch Tender		23.13
29030 - Line Handler		23.13
29041 - Stevedore I		21.31
29042 - Stevedore II		24.24
30000 - Technical Occupations		
30010 - Air Traffic Control Specialist, Center (HFO)	(see 2)	39.92
30011 - Air Traffic Control Specialist, Station (HFO)	(see 2)	26.84
30012 - Air Traffic Control Specialist, Terminal (HFO)	(see 2)	29.56
30021 - Archeological Technician I		20.19
30022 - Archeological Technician II		22.60
30023 - Archeological Technician III		27.98
30030 - Cartographic Technician		27.98
30040 - Civil Engineering Technician		26.41
30061 - Drafter/CAD Operator I		20.19
30062 - Drafter/CAD Operator II		22.60
30063 - Drafter/CAD Operator III		25.19
30064 - Drafter/CAD Operator IV		31.00
30081 - Engineering Technician I		22.92
30082 - Engineering Technician II		25.72
30083 - Engineering Technician III		28.79
30084 - Engineering Technician IV		35.64
30085 - Engineering Technician V		43.61
30086 - Engineering Technician VI		52.76
30090 - Environmental Technician		27.41
30210 - Laboratory Technician		23.38
30240 - Mathematical Technician		28.94
30361 - Paralegal/Legal Assistant I		21.36
30362 - Paralegal/Legal Assistant II		26.47
30363 - Paralegal/Legal Assistant III		32.36
30364 - Paralegal/Legal Assistant IV		39.16
30390 - Photo-Optics Technician		27.98
30461 - Technical Writer I		21.93
30462 - Technical Writer II		26.84
30463 - Technical Writer III		32.47
30491 - Unexploded Ordnance (UXO) Technician I		24.74
30492 - Unexploded Ordnance (UXO) Technician II		29.93
30493 - Unexploded Ordnance (UXO) Technician III		35.88
30494 - Unexploded (UXO) Safety Escort		24.74
30495 - Unexploded (UXO) Sweep Personnel		24.74
30620 - Weather Observer, Combined Upper Air Or Surface Programs	(see 2)	25.19
30621 - Weather Observer, Senior	(see 2)	27.98
31000 - Transportation/Mobile Equipment Operation Occupations		
31020 - Bus Aide		14.32
31030 - Bus Driver		20.85
31043 - Driver Courier		13.98
31260 - Parking and Lot Attendant		10.07
31290 - Shuttle Bus Driver		15.66
31310 - Taxi Driver		13.98
31361 - Truckdriver, Light		15.66
31362 - Truckdriver, Medium		17.90
31363 - Truckdriver, Heavy		19.18
31364 - Truckdriver, Tractor-Trailer		19.18
99000 - Miscellaneous Occupations		
99030 - Cashier		10.03
99050 - Desk Clerk		11.58
99095 - Embalmer		23.05
99251 - Laboratory Animal Caretaker I		11.30
99252 - Laboratory Animal Caretaker II		12.35
99310 - Mortician		31.73
99410 - Pest Controller		17.69
99510 - Photofinishing Worker		13.20
99710 - Recycling Laborer		18.50

99711 - Recycling Specialist	22.71
99730 - Refuse Collector	16.40
99810 - Sales Clerk	12.09
99820 - School Crossing Guard	13.43
99830 - Survey Party Chief	21.94
99831 - Surveying Aide	13.63
99832 - Surveying Technician	20.85
99840 - Vending Machine Attendant	14.43
99841 - Vending Machine Repairer	18.73
99842 - Vending Machine Repairer Helper	14.43

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: $3.50 per hour or $140.00 per week or $606.67 per month

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

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

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

1) COMPUTER EMPLOYEES: Under the SCA at section 8(b), this wage determination does not apply to any employee who individually qualifies as a bona fide executive, administrative, or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than $27.63 (or on a salary or fee basis at a rate not less than $455 per week) an hour would likely qualify as exempt computer professionals, (29 C.F.R. 541. 400) wage rates may not be listed on this wage determination for all occupations within those job families. In addition, because this wage determination may not list a wage rate for some or all occupations within those job families if the survey data indicates that the prevailing wage rate for the occupation equals or exceeds $27.63 per hour conformances may be necessary for certain nonexempt employees. For example, if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate, then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

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

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

(2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and

related to user or system design specifications;
(3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
(4) A combination of the aforementioned duties, the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

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

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

** UNIFORM ALLOWANCE **

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

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

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

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

Conformance Process:

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

The process for preparing a conformance request is as follows:

1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).

2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

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

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

6) The contractor informs the affected employees.

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

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

Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

YOUR LETTERHEAD

EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICY STATEMENT

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

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

_____AGREES TO POST IN CONSPICUOUS PLACES THE PROVISIONS CONCERNING NON-DISCRIMINATION AND AFFIRMATIVE ACTION.

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

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

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

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

_____ _____

AUTHORIZED OFFICIAL AND TITLE DATE

_____ _____

AUTHORIZED SIGNATURE FIRM/ORGANIZATION
NAME

YOUR LETTERHEAD

ASSURANCE OF COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

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

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

_____
CONTRACTOR

_____
NAME

_____
SIGNATURE

_____
TITLE

_____
CONTRACT NUMBER

_____
DATE

EQUAL EMPLOYMENT OPPORTUNITY
EMPLOYER INFORMATION REPORT

GOVERNMENT OF THE DISTRICT OF COLUMBIA DC Office of Contracting and Procurement Employer Information Report (EEO)	Reply to: Office of Contracting and Procurement 441 4th Street, NW, Suite 700 South Washington, DC 20001

Instructions:
Two (2) copies of DAS 84-404 or Federal Form EEO-1 shall be submitted to the Office of Contracting and Procurement.
One copy shall be retained by the Contractor.

Section A – TYPE OF REPORT

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

Single Establishment Employer	Multi-establishment Employer:
(1) Single-establishment Employer Report	(2) ÿ Consolidated Report (3) ÿ Headquarters Report (4) ÿ Individual Establishment Report (submit one for each establishment with 25 or more employees) (5) ÿ Special Report

1. Total number of reports being filed by this Company. _____

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

OFFICIAL USE ONLY

1. Name of Company which owns or controls the establishment for which this report is filed — a.

Address (Number and street)	City or Town	Country	State	Zip Code	b.

b. Employer Identification No. | | | | | | | | | |

2. Establishment for which this report is filed.

OFFICIAL USE ONLY

a. Name of establishment — c.

Address (Number and street)	City or Town	Country	State	Zip Code	d.

b. Employer Identification No. | | | | | | | | | | |

3. Parent of affiliated Company

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

Address (Number and Street)	City or Town	Country	State	Zip Code

Section C - ESTABLISHMENT INFORMATION

OFFICIAL USE ONLY

1. Is the location of the establishment the same as that reported last year?
Yes No Did not report last year Report on combined basis

2. Is the major business activity at this establishment the same as that reported last year? Yes No
No report last year Reported on combined basis

2. What is the major activity of this establishment? (Be specific, i.e., manufacturing steel castings, retail grocer, wholesale plumbing supplies, title insurance, etc. Include the specific type of product or service provided, as well as the principal business or industrial activity. — e.

3. MINORITY GROUP MEMBERS: Indicate if you are a minority business enterprise (50% owned or 51% controlled by minority members).

Yes No

DAS 84-404 (Replaces D.C. Form 2640.9 Sept. 74 which is Obsolete) 84-2P891

SECTION D – EMPLOYMENT DATA

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

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

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

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

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

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

Section F - CERTIFICATION

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

Name of Authorized Official | Title | Signature | Date

Name of person contact regarding This report (Type of print) | Address (Number and street)

Title | City and State | Zip Code | Telephone Number | Extension

INFORMATION CITED HEREIN SHALL BE HELD IN CONFIDENCE.

DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT
CONTRACT COMPLIANCE DIVISION

SUBCONTRACT SUMMARY FORM

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

BID NO.. CCB NUMBER: _____ of _____ pages

* NOTE: The standared for **minority subcontracting** is 25% of the TOTAL contract dollar amount to be subcontracted.	AMOUNT OF PRIME CONTRACT: $_____ AMOUNT OF ALL SUBCONTRACTS: $_____ equals _____% OF THE PRIME CONTRACT.
NAME OF PRIME CONTRACTOR: TELEPHONE NO.	ADDRESS:
PROJECT NAME: ADDRESS: WARD NO.:_____	PROJECT DESCRIPTIONS:

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

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

TOTAL DOLLAR AMOUNT SUBCONTRACTED TO *MINORITY BUSINESS ENTERPRISES. $_____

PERCENT OF PRIME CONTRACT. _____%

SOLICITATION NO: _____

PROJECTED GOALS AND TIMETABLES FOR FUTURE HIRING

JOB CATEGORIES	MINORITY GROUP EMLOYES GOALS								TIMETABLES
	MALE				FEMALE				
	BLACK	ASIAN	AMERICAN INDIAN	HISPANIC	BLACK	ASIAN	AMERICAN INDIAN	HISPANIC	
OFFICIALS & MANAGERS									
PROFESSIONALS									
TECHNICIANS									
SALES WORKERS									
OFFICE AND CLERICAL									
CRAFTSMANS (SKILLELD)									
OPERATIVE (SEMI-SKILLED)									
LABORERS (UNSKILLED)									
SERVICE WORKERS									
TOTALS									

NAME OF AUTHORIZED OFFICIAL:	TITLE:	SIGNATURE:
FIRM NAME:	TELEHONE NO:	DATE:

INDICATE IF THE PRIME UTILIZES A "MINORITY FINANCIAL INSTITUTION"

_____ Yes _____ No

NAME:

ADDRESS:

TYPE OF ACCOUNT/S:

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

SUBJECT: Compliance with Equal Opportunity Obligations in Contracts

ORIGINATING AGENCY: Office of the Mayor

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

1. Establishment of Policy: There is established a policy of the District of Columbia Government to:

   (a) provide equal opportunity in employment for all persons with respect to any contract by and with the Government of the District of Columbia.

   (b) prohibit discrimination in employment because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap;

   (c) provide equal opportunity to all persons for participation in all District of Columbia Government contracts, including but not limited to lease agreements, Industrial Revenue Bond financing, and Urban Development Action grants;

   (d) provide equal opportunity to minority business enterprises in the performance of District of Columbia Government contracts in accordance with Mayor's Orders, District of Columbia laws, and rules and regulations promulgated by the Minority Business Opportunity Commission; and

   (e) promote the full realization of equal employment through affirmative, continuing programs by contractors and subcontractors in the performance of contracts with the District of Columbia Government.

2. Delegation of Authority: The Director of the Office of Human Rights (hereinafter "Director") is delegated the authority vested in the Mayor to implement the provisions of this order as set forth herein, and any rules, regulations, guidelines, and procedures adopted pursuant thereto.

3. Responsibilities: The Director of the Office of Human Rights shall be responsible for establishing and ensuring agency compliance with the policy set forth in this Order, any rules, regulations, and procedures that may be adopted by the Office of Human Rights pursuant to this Order, and any other equal opportunity provisions as may be added as a part of any contract.

4. Powers and Duties: The Director of the Office of Human Rights shall have the following powers and duties:

   (a) to establish standards and procedures by which contractors and subcontractors who perform under District of Columbia Government contracts shall comply with the equal opportunity provisions of their contracts; to issue all orders, rules, regulations, guidelines, and procedures the Director may deem necessary and proper for carrying out and implementing the purposes of this Order;

   (b) to assume equal opportunity compliance jurisdiction over any matter pending before a contracting agency where the Director considers it necessary or appropriate for the achievement of the purposes of

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

(c) to examine the employment practices of any District of Columbia Government contractor or subcontractor, or initiate the examination by the appropriate contracting agency to determine whether or not the contractual provisions specified in any rules and regulations adopted pursuant to this Order have been violated, and notify the contracting agency of any action taken or recommended;

(d) to monitor and evaluate all District of Columbia Government agencies, including those independent agencies and commissions not required to submit the Affirmative Action Programs of their contractors to the Office of Human Rights for approval, to ensure compliance with the equal opportunity obligations in contracts;

(e) to use his or her best efforts to cause any labor union engaged in work under District of Columbia Government contracts, any referral, recruiting or training agency, or any other representative of workers who are or may be engaged in work under contracts and subcontracts to cooperate in and to comply with the implementation of the purposes of this Order;

(f) to notify, when appropriate, the concerned contracting agencies, the Office of Federal Contract Compliance Programs, the U.S. Department of Justice, or other appropriate Federal, State, and District agencies, whenever the Director has reason to believe that practices of any contractor, labor organization, lending institution, insurance firm, or agency violate provisions of Federal, State, or District, laws;

(g) to enter, where the determinations are made by Federal, State, or District agencies, into reciprocal agreements with those agencies to receive the appropriate information;

(h) to hold hearings, public or private, as necessary to obtain compliance with any rules, regulations, and procedures promulgated pursuant to this Order, and to issue orders relating thereto. No order to terminate or cancel a contract, or to withhold from any contractor further District of Columbia Government contractors shall be issued without affording the contractor an opportunity for a hearing. Any order to terminate or cancel a contract or to withhold from any contractor further District of Columbia Government contracts shall be issued in accordance with rules, and regulations pursuant to the Administrative Procedure Act, as amended and;

(i) to grant waivers from the minimum standards for the employment of minorities and women in Affirmative Action Programs in exceptional cases, as circumstances may warrant.

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

(a) the initial responsibility for ensuring that contractors and subcontractors are in compliance with any rules, regulations, and procedures promulgated pursuant to this Order;

(b) to examine the employment practices of contractors and subcontractors in accordance with procedures established by the Office of Human Rights, and report any compliance action to the Director of the Office of Human Rights;

(c) to comply with the terms of this Order and of the orders, rules, regulations, guidelines, and procedures of the Office of Human Rights issued pursuant thereto in discharging their responsibility for securing contract compliance; and

(d) to secure compliance with any rules, regulations, and procedures promulgated pursuant to this Order before or after the execution of a contract by methods, of conference, conciliation and persuasion. No enforcement proceedings shall be initiated, nor shall a contract be cancelled or terminated in whole or in part, unless such methods have first been attempted.

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

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

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

8. Effective Date: This Order shall become effective immediately.

Signed by Marion Barry, Jr.
Mayor

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

OFFICE OF HUMAN RIGHTS

NOTICE OF FINAL RULEMAKING

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

CHAPTER 11 EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS IN CONTRACTS

1100. PURPOSE

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

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

1101 SCOPE

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

1102 COVERAGE

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

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

(b) Achievement of affirmative action obligations under District of Columbia contracts.

1103 CONTRACT PROVISIONS

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

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

1103.3 The contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, or physical handicap. The affirmative action shall include, but not be limited to the following:

(a) Employment, upgrading, or transfer;
(b) Recruitment or recruitment advertising;
(c) Demotion, layoff, or termination;
(d) Rates of pay, or other forms of compensation; and
(e) Selection for training and apprenticeship.

1103.4 The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Agency, setting forth the provisions in subsections 1103.2 and 1103.3 concerning non-discrimination and affirmative action.

1103.5 The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection 1103.2

1103.6 The contractor agrees to send to each labor union or representative of workers with which it has a collective bargaining agreement, or other contract or understanding, a notice to be provided by the Contracting Agency, advising each labor union or workers' representative of the contractor's commitments under this chapter, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

1103.7 The contractor agrees to permit access to all books, records, and accounts, pertaining to its employment practices, by the Director and the Contracting Agency for purposes of investigation to ascertain compliance with this chapter, and to require under terms of any subcontractor agreement each subcontractor to permit access of such subcontractors, books, records, and accounts for such purposes.

1103.8 The contractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the District of Columbia adopted by the Director, or any authorized official.

1103.9 The prime contractor shall include in every subcontract the equal opportunity clauses, subsections 1103.2 through 1103.10 of this section, so that such provisions shall be binding upon each subcontractor or vendor.

1103.10 The prime contractor shall take such action with respect to any subcontractor as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for non-compliance; provided, however, that in the event the prime contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the prime contractor may request the District to enter into such litigation to protect the interest of the District.

1104 AFFIRMATIVE ACTION PROGRAM

1104.1 Each apparent low bidder for a construction contract shall complete and submit to the Contracting Agency, prior to the execution of any contract in the amount of twenty-five thousand dollars ($25,000) or more, and each contractor covered under subsection 1105.1, an Affirmative Action Program to ensure equal opportunity which shall include specific standards for the utilization of minorities and women in the trades, crafts and skills to be used by the contractor in the performance of the contract.

1104.2 Each apparent low bidder or offeror for a non-construction contract shall complete and submit to the Contracting Agency, prior to the execution of any contract in the amount of ten thousand dollars ($10,000) or more, and each contractor covered under subsection 1105.2 , an Affirmative Action Program to ensure equal opportunity which shall include specific standards for the utilization of minorities in the job categories specified in subsection 1108.4.

1104.3 To ensure equal opportunity each Affirmative Action Program shall include the following commitments:

(a) With respect to construction contracts, each contractor shall certify that it will comply with the provisions of this chapter, and submit a personnel utilization schedule for all the trades the contractor is to utilize, indicating the actual numbers of minority and female workers that are expected to be a part of the workforce performing under the contract; and

(b) With respect to non-construction contracts, each contractor shall certify that it will comply with the provisions of this chapter, and shall submit a personnel utilization schedule indicating by craft and skill, the minority composition of the workforce related to the performance of the work under the contract. The schedule shall include all workers located in the facility from which the goods and services are produced and shall include the same information for other facilities which have a significant relationship to the performance of work under the contract.

1104.4 If the experience of the contractor with any local union from which it will secure employees indicates that the union will not refer sufficient minorities or women to meet minority or female employment commitments, the contractor shall, not less than ten (10) days prior to the employment of any person on the project subject to the jurisdiction of that local union, do the following:

(a) Notify the District of Columbia Department of Employment Services and at least two (2) minority and two (2) female referral organizations of the contractor's personnel needs, and request referral of minority and female workers; and

(b) Notify any minority and female workers who have been listed with the contractors as awaiting vacancies.

1104.5 If, within five (5) working days prior to commencement of work, the contractor determines that the Department of Employment Services or the minority or female referral organizations are unable to refer sufficient minorities or women to meet its commitments, the contractor may take steps to hire, by referral or otherwise, from the local union membership to fill the remaining job openings, provided that it notifies the local union of its personnel needs and of its employment commitments. Evidence of the notification shall be provided to the Contracting Agency.

1104.6 The contractor shall have standing requests for additional referrals of minority and female workers with the local union, the Department of Employment Services, and the other referral sources, until such time as the contractor has met its minority and female employment commitments.

1104.7 If the contractor desires to lay off some of its employees in a given trade on a construction site, it shall ensure that the required number of minority and female employees remain on the site to meet the minority and female commitments.

1104.8 No contractor shall refuse employment to any individual who has minimal facility to speak English except where the contractor can demonstrate that the facility to speak English is necessary for the performance of the job.

1104.9 No union with which the contractor has a collective bargaining agreement shall refuse to refer minority and female employees to such contractor.

1104.10 To the extent that contractors have delegated the responsibility for some of their employment practices to some other organization or agency which prevents them from meeting their equal opportunity obligations, those contractors shall not be considered to be in compliance with this chapter.

1104.11 The obligations of the contractor shall not be reduced, modified, or subject to any provision in any collective bargaining agreement with labor organization which provides that the labor organizations shall have the exclusive or primary opportunity to refer employees.

1104.12 When any contractor employs a minority person or woman in order to comply with this chapter, those persons shall be advised of their right to seek union membership, the contractor shall provide whatever assistance may be appropriate to enable that person to obtain membership, and the contractor shall notify the appropriate union of that person's employment.

1104.13 The contractor shall not discharge, refuse to employ, or otherwise adversely affect any minority person or woman because of any provision in any collective bargaining agreement, or any understanding, written or oral that the contractor may have with any labor organization.

1104.14 If at any time, because of lack of cooperation or overt conduct, a labor organization impedes or interferes with the contractor's Affirmative Action Program, the contractor shall notify the Contracting Agency and the Director immediately, setting forth the relevant circumstances.

1104.15 In any proceeding involving a disagreement between a labor organization and the contractor over the implementation of the contractor's Affirmative Action Program, the Contracting Agency and the Office of Human Rights may become a party to the proceeding.

1104.16 In determining whether or not a contractor is utilizing minorities and females pursuant to Section 1108, consideration shall be given to the following factors:

(a) The proportion of minorities and women employed in the trades and as laborers in the construction industry within the District of Columbia;

(b) The proportion of minorities and women employed in the crafts or as operatives in non-construction industries with in the District of Columbia;

(c) The number and ratio of unemployed minorities and women to total unemployment in the District of Columbia;

(d) The availability of qualified and qualifiable minorities and women for employment in any comparable line of work, including where they are now working and how they may be brought into the contractor's workforce;

(e) The effectiveness of existing training programs in the area, including the number who complete training, the length and extent of training, employer experience with trainees, and the need for additional or expanded training programs; and

(f) The number of additional workers that could be absorbed into each trade or line of work without displacing present employees, including consideration of present employee shortages, projected growth of the trade or line of work, and projected employee turnover.

1104.17 The contractor's commitment to specific standards for the utilization of minorities and females as required under this chapter shall include a commitment to make every good faith effort to meet

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

(a) The contractor shall notify the community organizations that the contractor has employment opportunities available and shall maintain records of the organizations' responses;

(b) The contractor shall maintain a file of the names and addresses of each minority and female worker referred to it and what action was taken with respect to each referred worker. If that worker was not sent to the union hiring hall for referral or if the worker was not employed by the contractor, the contractor's file shall be documented and the reasons therefore;

(c) The contractor shall notify the Contracting Agency and the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority or female worker originally sent to the union by the contractor for union registration, or the contractor has other information that the union referral process has impeded the contractor's efforts to meet its goals;

(d) The contractor shall participate in training programs related to its personnel needs;

(e) The contractor shall disseminate its EEO policy internally by doing the following:

(1) Including it in any organizational manual;

(2) Publicizing it in company newspapers, annual report, etc.;

(3) Conducting staff, employee, and union representatives meetings to explain and discuss the policy;

(4) Posting; and

(5) Reviewing the policy with minority and female employees.

(f) The contractor shall disseminate its EEO policy externally by doing the following:

(1) Informing and discussing it with all recruitment sources;

(2) Advertising in news media, specifically including news media directed to minorities and women;

(3) Notifying and discussing it with all known minority and women's organizations; and

(4) Notifying and discussing it with all subcontractors and suppliers.

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

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

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

1104.21 The contractor shall make good faith efforts to provide after school, summer and vacation employment to minority youths and young women.

1104.22 The contractor shall develop on-the-job training opportunities, and participate and assist in any association or employer group training programs relevant to the contractor's employee needs.

1104.23 The contractor shall continually inventory and evaluate all minority and female personnel for promotion opportunities.

1104.24 The contractor shall make sure that seniority practices, job classifications, qualifications, etc. do not have a discriminatory effect on minorities and women.

1104.25 The contractor shall make certain that all facilities and company activities are nonsegregated.

1104.26 The contractor shall continually monitor all personnel activities to ensure that its EEO policy is being carried out.

1104.27 The contractor may utilize minority banking facilities as depositories for funds which may be involved, directly or indirectly, in the performance of the contract.

1104.28 The contractor shall employ minority and female workers without respect to union membership in sufficient numbers to meet the minority and female employment standards, if the experience of the contractor with any labor union from which it will secure employees does not indicate that it will refer sufficient minorities and females to meet its minority and female employment standards.

1104.29 The contractor shall ensure that all of its employees as well as those of its subcontractors are made knowledgeable about the contractor's equal opportunity policy.

1104.30 [Reserved]

1104.31 Each contractor shall include in all bid invitations or other pre-bid communications, written or otherwise, with respect to prospective subcontractors, the standards, as applicable, which are required under this chapter.

1104.32 Whenever a contractor subcontracts a portion of the work in any trade, craft or skill it shall include in the subcontract, its commitment made under this chapter, as applicable, which shall be adopted by its subcontractors who shall be bound thereby and by the regulations of this chapter to the full extent as if it were the prime contractor.

1104.33 The prime contractor shall give notice to the Director and the Contracting Agency of any refusal or failure of any subcontractor to fulfill its obligations under this chapter.

1104.34 Failure of compliance by any subcontractor shall be treated in the same manner as a failure by the prime contractor.

1105 EXEMPTIONS

1105.1 Prospective construction contractors shall be exempt from submitting Affirmative Action Programs for contracts amounting to less than twenty-five thousand dollars ($25,000); provided, that when a construction contractor accumulates contracts amounting to twenty-five thousand dollars ($25,000) or more within a period of twelve (12) months that contractor shall be required to submit an Affirmative Action Program for each contract executed thereafter.

1105.2 Prospective non-construction contractors shall be exempt from submitting Affirmative Action Programs for contracts amounting to less than ten thousand dollars ($10,000); provided, that when

a non-construction contractor accumulates contracts amounting to ten thousand dollars ($10,00) or more during a period of twelve (12) months that contractor shall be required to submit an Affirmative Action Program for each contract executed thereafter.

1106 NONRESPONSIBLE CONTRACTORS

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

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

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

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

1107 NOTICE OF COMPLIANCE

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

1108 MINIMUM STANDARDS FOR MINORITY AND FEMALE EMPLOYMENT

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

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

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

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

(a) Officials and managers;

(b) Professionals;

(c) Technicians;

(d) Sales workers;

(e) Office and clerical workers;

(f) Craftpersons (Skilled);

(g) Operative (Semi-skilled);

(h) Laborers (Unskilled); and

(i) Service workers.

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

1109 WAIVERS

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

1110 SOLICITATION OF CONTRACT

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

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

1111 PRIOR TO EXECUTION OF CONTRACT

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

(1) The composition of its current total workforce; and

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

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

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

1111.4 The apparent low bidder or offeror shall submit an Affirmative Action Program within a period of time to specified by each Contracting Agency, but which shall not exceed ten (10) working days after becoming the apparent contractor.

1111.5 The apparent low bidder or offeror shall furnish all information and reports to the Contracting Agency as required by this chapter, and shall permit access to all books or records pertaining to its employment practices or worksites.

1111.6 No contract subject to section 1104 shall be executed by the Contracting Agency, if the apparent low bidder or offeror does not submit an Affirmative Action Program, or if the Program has been disapproved in writing by the Director.

1111.7 If there is disagreement between the contractor and the Contracting Officer as to the adequacy of the Affirmative Action Program, the matter shall be referred to the Director for a decision.

1112 AFTER EXECUTION OF CONTRACT

1112.1 Each contractor shall maintain throughout the term of the contract the minimum standards for the employment of minorities and women, as set forth in the approved Affirmative Action Program.

1112.2 Each contractor shall require that each subcontractor, or vendor under the contract comply with the provision of the contract and the Affirmative Action Program.

1112.3 Each contractor shall furnish all information as required by this chapter, and permit access to all books and records pertaining to the contractor's employment practices and work sites by the Director and the Contracting Agency for purposes of investigation to ascertain compliance with this chapter.

1113 MONITORING AND EVALUATION

1113.1 The Director shall, from time to time, monitor and evaluate all District of Columbia Government agencies, including those independent agencies and commissions not required to submit the Affirmative Action Program of their contractors, to ensure compliance with the equal opportunity obligations in contracts, as provided for in this chapter.

1114 AFFIRMATIVE ACTION TRAINING PROGRAM

1114.1 Each contractor, in fulfilling its affirmative action responsibilities under a contract with the District of Columbia Government, shall be required to have, as part of its Affirmative Action Program, an existing training program for the purpose of training, upgrading, and promotion of minority and female employees or to utilize existing programs. Those programs shall include, but not be limited to, the following:

(a) To be consistent with its personnel requirements, the contractor shall make full use of the applicable training programs, including apprenticeship, on-the job training, and skill refinement training for journeymen. Recruitment for the program shall be designed to provide for appropriate participation by minority group members and women;

(b) The contractor may utilize a company-operated skill refinement training program. This program shall be formal and shall be responsive to the work to be performed under the contract;

(c) The contractor may utilize formal private training institutions that have as their objective training and skill refinement appropriate to the classification of the workers employed. When training is provided by a private organization the following information shall be supplied:

(1) The name of the organization;

(2) The name, address, social security number, and classification of the initial employees and any subsequent employees chosen during the course of the course of the contract; and

(3) The identity of the trades, and crafts or skills involved in the training.

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

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

1115 COMPLIANCE REVIEW

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

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

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

1116 ENFORCEMENT

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

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

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

1117 COMPLAINTS

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

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

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

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

1118 HEARINGS

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

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

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

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

(a) A convenient time and place of hearing;

(b) A statement of the provisions in this chapter or any other laws or regulations pursuant to which the hearing is to be held; and

(c) A concise statement of the matters to be brought before the hearing.

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

1119 SANCTIONS

1119.1 The Director, upon finding that a contractor has failed to comply with the non-discrimination provisions of the contract required under section 1103, or has failed to make a good faith effort to achieve the utilization standards under an approved Affirmative Action Program, may impose sanctions contained in this section in addition to any sanction or remedies as may be imposed or invoked under the Human Rights Act of 1977.

1119.2 Sanctions imposed by the Director may include the following:

(a) Order that the contractor be declared ineligible from consideration for award of District of Columbia Government contracts or subcontracts until such time as the Director may be satisfied that the contractor has established and will maintain equal opportunity policies in compliance with this chapter; and

(b) Direct each Contracting Officer administering any existing contract to cancel, terminate, or suspend the contract or any portion thereof, and to deny any extension, modification, or change, unless the contractor provides a program of future compliance satisfactory to the Director.

1119.3 Any sanction imposed under this chapter may be rescinded or modified upon reconsideration by the Director.

1119.4 An appeal of any sanction imposed by order of the Director under this chapter may be taken pursuant to applicable clauses of the affected contract or provisions of law and regulations governing District of Columbia Government contracts.

1120 NOTIFICATIONS

1120.1 The Director shall forward in writing notice of his or her findings of any violations of this chapter to the Contracting Officer for appropriate action under the contract.

1120.2 Whenever it appears that the holder of or an applicant for a permit, license or franchise issued by any agency or authority of the Government of the District of Columbia is a person determined to be in violation of this chapter the Director may, at any time he or she deems that action the Director may take or may have taken under the authority of this chapter, refer to the proper licensing agency or authority the facts and identities of all persons involved in the violation for such action as the agency or authority, in its judgement, considers appropriate based upon the facts thus disclosed to it.

1120.3 The Director may publish, or cause to be published, the names of contractors or unions which have been determined to have complied or have failed to comply with the provisions of the rules in this chapter.

1121 DISTRICT ASSISTED PROGRAMS

1121.1 Each agency which administers a program involving leasing of District of Columbia Government owned or controlled real property, or the financing of construction under industrial revenue bonds or urban development action grants, shall require as a condition for the approval of any agreement for leasing, bond issuance, or development action grant, that the applicant undertake and agree to incorporate, or cause to be incorporated into all construction contracts relating to or assisted by such agreements, the contract provisions prescribed for District of Columbia Government contracts by section 1103, preserving in substance the contractor's obligation under those provision.

1199 DEFINITIONS

1199.1 The following words and phrases set forth in this section, when used in this chapter, shall have the following meanings ascribed:

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

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

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

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

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

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

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

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

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

"THE LIVING WAGE ACT OF 2006"

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

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

The requirement to pay a living wage applies to:

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

"Contract" means a written agreement between a recipient and the District government.
"Government assistance" means a grant, loan or tax increment financing that result in a financial benefit from an agency, commission, instrumentality, or other entity of the District government.
"Affiliated employee" means any individual employed by a recipient who received compensation directly from government assistance or a contract with the District of Columbia government, including any employee of a contractor or subcontractor of a recipient who performs services pursuant to government assistance or contract. The term "affiliated employee" does not include those individuals who perform only intermittent or incidental services with respect to the contract or government assistance or who are otherwise employed by the contractor, recipient or subcontractor.

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

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

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

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

This is a summary of the "Living Wage Act of 2006". For the complete text go to:
www.does.dc.gov *or* www.ocp.dc.gov

To file a complaint contact: **Department of Employment Services**
Office of Wage-Hour
64 New York Avenue, N.E., Room 3105, Washington, D.C. 20002
(202) 671-1880

LIVING WAGE ACT FACT SHEET

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

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

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

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

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

1. Contracts or other agreements that are subject to higher wage level determinations required by federal law (i.e., if a contract is subject to the Service Contract Act and certain wage rates are lower than the District's current living wage, the contractor must pay the higher of the two rates);

2. Existing and future collective bargaining agreements, provided that the future collective bargaining agreement results in the employee being paid no less than the current living wage;

3. Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;

4. Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;

5. Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services, provided that the trainees do not replace employees subject to the Living Wage Act;

6. An employee, under 22 years of age, employed during a school vacation period, or enrolled as full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act;

7. Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District of Columbia;

8. Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to Section 501 (c) (3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26. U.S.C. §501(c)(3);

9. Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code §44-501); and

10. Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

Enforcement

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

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

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

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

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

COST/PRICE DATA REQUIREMENTS

1. GENERAL INFORMATION:

1.1 Offerors submitting cost/price proposals, in response to a District Request For Proposal (RFP), sole source procurement, change order, or contract modification exceeding $500,000 in total value, must include a complete cost and pricing data breakdown (i.e., data that is verifiable and factual) for all costs identified in the proposal, and relevant to the performance of the contract. The requirement for submission of cost or pricing data is met when all accurate cost or pricing data reasonably available to the Offeror has been submitted, either actually, or by specific identification, to the District. If not available at the time of submission, as later information comes into the Offeror's possession, it should be promptly submitted to the District in a manner that clearly demonstrates its relationship to, and effect on, the Offeror's cost/price proposal. This requirement continues up to the date of final agreement on price and/or other issues, as agreed upon between the parties.

1.2 There is a clear distinction between submitting cost or pricing data and merely making available books, records and other documents without identification or context. By submitting a cost/price proposal, the Offeror, if selected for negotiation, grants the Contracting Officer, or an authorized representative, the right to examine, at any time before award, those books, records, documents, and other types of factual information, regardless of form or whether such supporting information is specifically referenced or included in the proposal as a basis for pricing, that will permit an adequate evaluation of the proposed cost/price.

1.3 The cost/price proposal will represent the offeror's understanding of the RFP's requirements and the offeror's ability to organize and perform those requirements effectively and efficiently. The evaluation of the Offeror's cost/price proposal will be based on an analysis of the realism and completeness of the cost data, the conformity of the cost to the offeror's technical data and the proposed allocation of labor-hours and skill sets. Pertinent cost information, including but not limited to Defense Contract Auditing Agency (DCAA) and/or the Department of Labor (DOL) recommended rates for direct labor, overhead, general and administrative expense (G&A), etc., as necessary and appropriate, must be used to arrive at the most probable cost to be incurred by the Offeror. If the District considers the proposed costs to be unrealistic, the Offeror should adjust its proposed costs accordingly. Any inconsistency, whether real or apparent, between promised performance and cost or price should be explained in the cost/price proposal. The burden of proof for cost credibility rests with the Offeror.

1.4 The Offeror must submit its cost/price proposal in hard copy as well as on a diskette, which is in a format (i.e. MS Office, Lotus 1-2-3, etc.) specified and/or provided by the Agency Contracting Officer in the solicitation package. All cost/price proposals should provide a cost summary by all cost elements, cross-referenced to supporting documentation. See Table No. (1.4).

1.5 The following information shall be included in this section, for the prime contractor and each proposed subcontractor:

(a) A properly completed “Cost/Price Disclosure Certification.’

(a) Identification of any estimates, along with the rationale and methodology used to develop them, including judgmental factors used in projecting future costs, based on known data, and the timing, nature and extent of any material contingencies.

(c) Disclosure of any other activities or likely events which could materially impact specific costs (i.e., existing large material and supply inventories, management/ownership changes, new technologies, collective bargaining agreements, etc.)

(d) Disclosure of any and all awarded and pending contracts with the District of Columbia, including contract number(s), amount, type (fixed price, cost reimbursement, etc.), agency, and a brief description of services.

(e) Source of approval and the latest date of approval of the offeror’s Accounting system.

Table (1.4)

Example Cost Summary Format

Cost Item	Task 1			Task 2			Task 3			Task 4, etc.			Base Year Total
Direct Labor Categories • Employee A • Employee B • Employee C Total Labor Hours	R	H	D	R	H	D	R	H	D	R	H	D	
Total Labor Dollars													
Fringe Benefit													
Labor Overhead *													
Total Direct Labor													
Other Direct Costs • Equip. & Supplies • Materials • Travel • Other													
Subcontractors • Sub A • Sub B													
ODC Overhead *													
Total ODC & Subcontractors													
G&A													
Fee/Profit													
Total Price													

H = Hours R = Rate D = Dollars (Rate X Hours = Dollars)

Note:Provide cost information similar to the above format for each option/out-year

** Note: Small, field-based trade providers typically have a labor or combined overhead cost components. Larger, more diversified providers may have separate labor, and/or ODC or combined overhead component.*

2. SUPPORTING COST DATA:

2.1 The Offeror shall provide, for each cost element, a narrative description, in sufficient detail, to demonstrate price reasonableness, credibility and reliability. The Offeror shall provide its assumptions and methodologies used to estimate each cost element (significant item and quantity estimates, labor hour expenditure patterns and mix, etc.). The following information shall be included in this section:

2.1.1. The Offeror's total estimated costs plus its fee (if applicable) for providing all of the requirements of the RFP, as proposed in their technical proposal. Offerors should support their best estimates of all costs (direct, indirect, profit, etc.) to be incurred in the performance of the contract.

2.1.2. When proposing multiyear/option year pricing, the estimated proposed costs shall include a breakdown of all cost elements for the base year as well as each option/out-year. Labor, other direct costs, indirect costs and profit shall each be clearly identifiable. If different from the Defense Contract Auditing Agency (DCAA) or Department Of Labor (DOL) recommended rates, the Offeror shall provide a thorough explanation for the variation(s) of rates.

2.1.3. The Cost Summary Format (Table1.4) provides a format for the Offeror to submit to the District a pricing proposal of estimated cost by line item, along with supporting documentation that is adequately cross-referenced and suitable for cost realism analysis. A cost-element breakdown shall be attached for each proposed line item and must reflect any other specific requirements established by the Contracting Officer. When more than one contract line item is proposed, a summary of the total amount covering all line items must be furnished for each cost element.

2.1.4. If the Offeror has an agreement with a federal, state, or municipal government agency on the use of a Forward Pricing Rates Agreement (FPRA) or other rate agreement for labor, fringe benefits, overhead and/or general and administrative expense, the Offeror must identify the agreement, provide a copy and describe its nature, terms and duration.

3. SPECIFIC COST ELEMENTS:

A well-supported cost/price proposal reduces the effort needed for review and facilitates informed negotiations. The following are the minimum criteria that constitute an acceptable cost/price proposal:

3.1 **Direct labor:** A task-phased annual breakdown of labor rates and labor hours by category or skill level, including the basis for the rates and hours estimated (i.e., payroll registers, wage determinations, collective bargaining agreements, historical experience, engineering estimates, etc.).

3.1.1 The Offeror shall use the following Table No. (3.1.1) to exhibit its total labor hours by prime contractor and subcontractor(s). A separate table should be completed for each year (base and out-years).

Table (3.1.1)

Annual Labor Summary

Item	Task 1	Task 2	Task 3	Task 4	Base Year Total
Labor Category, Prime • Employee A • Employee B • Employee C Labor Category, Sub. • Employee D • Employee E • Employee F Labor Category, Consultant • Employee G • Employee H					
Total Labor Hours by Task					

Note: Do not include wage rates in this table

3.1.2 A standard of 40 hours/week, 1,920 hours/year is recommended. If another standard is used, it should be precisely defined. Any deviation from the above labor-hour projection without substantiation may form the basis to reject the response to the RFP. The proposed labor-hours shall include prime contractor, subcontractor and consultant hours.

3.1.3 The Offeror shall also submit Table No. (3.1.4.b), depicting the labor mix percentages as proposed for the base year as well as the out-years and should match the personnel experience requirements specified in the RFP, Section **(to be referenced by the Contract Specialist),** under Personnel Experience. All of the RFP Key positions must be included within the Senior Staff categories. To provide a better understanding of this format, Table No. (3.1.4.a) is provided as an example.

3.1.4 The Offeror shall describe how the hourly direct labor rate was derived and indicate whether these rates are subject to any collective bargaining agreement(s), the Service Contract Act (SCA), Davis-Bacon, or any other special agreement which controls the labor rate indicated. When proposing price escalation for option/out-years, the Offerors must follow instructions provided under Economic Price Adjustments, Section H, of this RFP.

Table (3.1.4.a)

Summary of Proposed Annual labor Mix Category (with examples)

NAME (Note1)	LABOR MIX (Note 2)	OFFEROR'S LABOR CATEGORY (Note 3)	PERCENT OF TIME ON CONTRACT (Note 4)	PLANNED SOW ASSIGNMENT (Note 5)	STATUS (Note 6)
Able, Jackson	Sr. Staff Level 1	Program Director	PT/10%	N/A	PCE/E
Black, William E.	Sr. Staff Level 1	Psychiatrist	PT/20%	C.3	PCE/E
White, Pamela A.	Sr. Staff Level 2	Clinic Manager	PT/50%	C.4.1	PCE/P
Green, Robert T	Sr. Staff Level 3	Counseling Supvs.	PT/50%	C.4.2	PCE/P
Ross, Allen	Jr. Staff Level 1	Counselor	FT/100%	C.4.3	PCE/E

Note 1: Last name, first name, middle initial, grouped by task as specified in SOW. Attach resume for each name on list. The names on this list and the resumes are to be in the same order.

Note 2: Staff levels in each Labor Mix should be classified by the level of expertise and years of experience.

Note 3: Offerors internal labor category.

Note 4: State whether the individual is employed full time (FT) or part time (PT) and the planned percentage of the named person's production time that is to be applied as a direct charge to the contract.

Note 5: Identify by SOW paragraph(s) and task number, the major tasks to which the individual is expected to be assigned.

Note 6: Enter PCE if individual is to be a prime contractor employee; enter SCE if the individual is to be a subcontractor employee; enter CON if individual is to be a consultant. Enter E if employee as of the date of this proposal; enter P if the individual is a pending employee as of date of the proposal. Signed Commitment Agreements are required for all individuals with P status. A copy of each agreement is to be inserted behind the resume section in the technical proposal.

Table (3.1.4.b)

Summary of Proposed Annual labor Mix Category

NAME (Note1)	LABOR MIX (Note 2)	OFFEROR'S LABOR CATEGORY (Note 3)	PERCENT OF TIME ON CONTRACT (Note 4)	PLANNED SOW ASSIGNMENT (Note 5)	STATUS (Note 6)
Labor Category, Prime • Employee A • Employee B • Employee C • Employee D Labor Category, Sub. • Employee E • Employee F • Employee G Labor Category, Consultant • Employee H Employee I					

Last name, first name, middle initial, grouped by task as specified in SOW. Attach resume for each name on list. The names on this list and the resumes are to be in the same order.

Note 2: Staff levels in each Labor Mix should be classified by the level of expertise and years of experience.

Note 3: Offerors internal labor category.

Note 4: State whether the individual is employed full time (FT) or part time (PT) and the planned percentage of the named person's production time that is to be applied as a direct charge to the contract.

Note 5: Identify by SOW paragraph(s) and task number, the major tasks to which the individual is expected to be assigned.

Note 6: Enter PCE if individual is to be a prime contractor employee; enter SCE if the individual is to be a subcontractor employee; enter CON if individual is to be a consultant. Enter E if employee as of the date of this proposal; enter P if the individual is a pending employee as of date of the proposal. Signed Commitment Agreements are required for all individuals with P status. A copy of each agreement is to be inserted behind the resume section in the technical proposal.

3.2 **Indirect Costs:** The Offeror shall indicate it's proposed Fringe, Overhead and General & Administrative rates for each applicable fiscal or calendar year (as appropriate). The Offeror shall indicate if these rates are subject to a Forward Pricing Rate Agreement. If the proposed Indirect Rates differ from the Forward Pricing Rate Agreement, the Offeror shall provide an explanation. The Offeror shall provide its actual indirect rates for overhead, G&A and fringe benefits for at least the past three (3) years and shall explain the basis for any significant rate difference between the prior three year period and the rates proposed now.

3.3 **Other Direct Costs:** Other Direct Costs consists of materials, travel, reproduction, postage, telephone, supplies for the prime and all subcontracted effort. This includes all other direct costs associated with performance of the contract. Travel costs shall be in accordance with GSA Joint Travel Regulations for airfare, hotel, and per diem allowances. All other direct costs should be specifically identified and explained. If an allocated portion of a Direct cost is also included in an Offeror's indirect rate (such as General and Administrative), the Offeror should state so and list the types of expenses included in the indirect rate.

3.3.1 The Offeror should identify types, quantities, and costs of all materials and supplies proposed including a non-loaded priced listing of individual materials or supplies ordered, or a consolidated and priced bill of materials for the entire proposal. A thoroughly documented bill of materials includes part numbers, description, unit costs, quantity required, extended cost (including delivery charges) and basis for the proposed cost (price quotation, prior buy, signed purchase orders, etc.) plus any other non-recurring costs. Deliverable materials are items delivered as a part of the work product. Examples of this are copies and binders delivered to the Government as a report or software ordered for and installed on a computer in a District Government office.

3.3.2 The Offeror shall use the following Table (3.3.2) to exhibit its total other direct costs (ODC) by prime and subcontractor(s). A separate table should be completed for each year (base and out-years).

Table (3.3.2)

Other Direct Costs (ODC) Summary

Item	Task 1	Task 2	Task 3	Task 4	Base Year Total
Supplies and Materials Office Equipment Travel • Airfare • Hotel • Meals & Incidentals • Ground Transportation Telecommunications Occupancy • Rent • Utilities • Building Maintenance Transportation Client Care Cost • Food • Medical • Clothing • Personal Hygiene Other					
Total ODC by Task					

Note: *State each individual cost element being proposed. Describe in the narrative section of the cost proposal, how each cost element is derived and why it is being proposed. (Not all cost elements in the table above will apply to each solicitation. The above table should be tailored to the requirements of the RFP.)*

3.4 **Subcontracting Costs:** Each subcontract must be addressed separately. For any subcontract exceeding $25,000 the cost/price proposal must show the names, quantities, prices, deliverables, basis for selection, and degree of competition used in the selection process. The subcontractor's cost or pricing data should be included along with the prime Offeror's proposal. If available, the Offeror should also include the results of its review and evaluation of the subcontract proposals. The Offeror shall provide copies of any cost or price analyses of the subcontractor costs proposed.

3.5 **Start-up Costs:** As appropriate, the Offeror shall identify all start up costs associated with this effort.

3.6 **Other Historical Data:** All offerors with current or past experience (within three to five years) for similar requirements, as described herein, must submit, as a part of their cost data, the following:

(a) Contract Number.

(b) Government agency (federal, state, District, municipal) the contract was awarded by.

(c) Name and phone number of the Contracting Officer.

(d) Name and phone number of the Contract Administrator.

(e) Name and phone number of the Contracting Officer's Representative (if applicable) and the Contract Administrator.

(f) Period of Performance of the Contract.

(g) Total amount of contract(s)

In addition to the above data, the following table (No. 3.6) will be completed and submitted with the cost data:

Table (3.6)

Format for Historical Data

	Proposed Contract			**Delivered Contract ***		
	Number Of Hours**	Contract Value	Average Hr Rate	Number Of Hours**	Contract Value	Average Hr Rate
Direct Labor						
Loaded Labor***						

* Should include any increased scope officially added to contract.
** If provided different number of hours, the difference should be explained.
*** Loaded labor should include all loading and profit. If significant material (i.e., greater than 5%) is included in the contract, data shall be presented both with and without material cost.

In addition, any other data the offeror believes is necessary should be provided in this section.

Note: For data submitted in the above table for "delivered Contract", the Offeror shall indicate the date as of which, the submitted data is current.

COST / PRICE DISCLOSURE CERTIFICATION

RFP Number: _____Closing Date: _____

Caption: _____Total Proposed Amount: _____

The undersigned _____
_____
(please print name and title of offeror's authorized signatory) hereby certifies that, to the best of my knowledge, the cost and pricing data (i.e. at the time of price agreement this certification represents all material facts which prudent buyers and sellers would reasonably expect to affect price negotiations in any significant manner) submitted is accurate, complete, and current as of _____ (date of RFP closing or conclusion of negotiations as appropriate). The undersigned further agrees that it is under a continuing duty to update cost or pricing data through the date that negotiations, if any, with the District are completed. The undersigned further agrees that the price, including profit or fee, will be adjusted to exclude any significant price increases occurring because the cost or pricing data was inaccurate, incomplete or not current. (See D.C. Procurement Regulations, 27 DCMR, Chapter 16, §1624 through §1626, Chapter 24, §2405 and Chapter 33; and Section 25 of the Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts, dated March, 2007, as amended).

Signed: _____ Date:_____

Title: _____

Company: _____

Address: _____

_____

DUNS #:_____

Phone: _____

Fax: _____

PAST PERFORMANCE EVALUATION FORM
(Check appropriate box)

Performance Elements	Excellent	Good	Acceptable	Poor	Unacceptable
Quality of Services/ Work					
Timeliness of Performance					
Cost Control					
Business Relations					
Customer Satisfaction					

1. Name & Title of Evaluator:_____

2. Signature of Evaluator:_____

3. Name of Organization: _____

4. Telephone Number of Evaluator:_____

5. State type of service received: _____

6. State Contract Number, Amount and period of Performance _____

   _____

7. Remarks on Excellent Performance: Provide data supporting this observation. Continue on separate sheet if needed)

8. Remarks on unacceptable performance: Provide data supporting this observation. (Continue on separate sheet if needed)

RATING GUIDELINES

Summarize Contractor performance in each of the rating areas. Assign each area a rating of 0 (Unacceptable), 1 (Poor), 2 (Acceptable), 3 (Good), 4(Excellent), or ++ (Plus). Use the following instructions a guidance in making these evaluations.

	Quality Product/Service	**Cost Control**	**Timeless of Performance**	**Business Relations**
	-Compliance with contract requirements -Accuracy of reports -Appropriateness of personnel -Technical excellence	-Within budget (over/ under target costs) -Current, accurate, and complete billings -Relationship of negated costs to actual -Cost efficiencies -Change order issue	-Meet Interim milestones -Reliable -Responsive to technical directions -Completed on time, including wrap-up and -contract administration -No liquidated damages assessed	-Effective management -Businesslike correspondence -Responsive to contract requirements -Prompt notification of contract problems -Reasonable/cooperative -Flexible -Pro-active -effective contractor recommended solutions -Effective snail/small disadvantaged business Subcontracting program
0. Zero	Nonconformances are comprises the achievement of contract requirements, despite use of Agency resources	Cost issues are comprising performance of contract requirements.	Delays are comprising the achievement of contract requirements, Despite use of Agency resources.	Response to inquiries, technical/ service/administrative issues is not effective and responsive.
1, Unacceptable	Nonconformances require major Agency resources to ensure achievement of contract requirements.	Cost issues require major Agency resources to ensure achievement of contract requirements.	Delays require major Agency resources to ensure achievement of contract requirements.	response to inquiries, technical/ service/administrative issues is marginally effective and responsive.
2. Poor	Nonconformances require minor Agency resources to ensure achievement of contract requirements.	Costs issues require minor Agency resources to ensure achievement of contract requirements.	Delays require minor Agency resources to ensure achievement of contract requirements.	Responses to inquiries, technical/ service/administrative issues is somewhat effective and responsive.
3. Acceptable	Nonconformances do not impact achievement of contract requirements.	Cost issues do not impact achievement of contract requirements.	Delays do not impact achievement of contract requirements.	Responses to inquires, technical/ service/administrative issues is usually effective and responsive.
4. Good	There are no quality problems.	There are no cost issues.	There are not delays.	Responses to inquiries, technical/ service/administrative issues is effective and responsive,
5. Excellent	The contractor has demonstrated an exceptional performance level in some or all of the above categories.			

DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS

PROGRAM MANUAL

OPI: OGC
Number: 1300.3
Date: December 15, 2003
Subject: Health Information Privacy

1. **PURPOSE AND SCOPE.** To provide uniform guidelines for implementation of DC Privacy Rules for Protected Health Information.

2. **POLICY.** It is the policy of the DC Department of Corrections (DOC) to implement and enforce policies and procedures that fulfill its legal obligations required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA regulations seek to protect the health information of individuals; and give individuals certain rights regarding their health information while also seeking to meet the needs of the health care industry to more efficiently process health-care claims and certain other related transactions. DOC provides guidelines herein to ensure sound and appropriate administrative, physical, and technical safeguards against any reasonably anticipated unauthorized use or disclosure, or any reasonably anticipated threat or hazard to the privacy, security or integrity of protected health information (PHI).

3. **APPLICABILITY**

   a. **Covered Entities.** Under HIPAA Privacy Rules, the District Government, designated DC agencies and designated business associates are covered entities. This policy shall apply to DOC employees and affected DOC business associates and their employees who use and disclose protected health information about inmates who are in the custody of the DOC. The primary covered entities are:

      1) DC Department of Corrections (DOC).

      2) The health care provider which is the Center for Correctional Health and Policy Studies (CCHPS).

      3) The Corrections Corporation of America Correctional Treatment Facility (CCA/CTF).

      4) The food services provider (ARAMARK).

      5) Community Correctional Residential Programs (CCRP) that contract with DOC.

6) Others that are in relationship with DOC to provide health related treatment/services (area hospitals, etc.).

b. **Records of Former Inmates.** For the purposes of this provision, once the inmate is released on parole, probation, supervised release, or is otherwise no longer in lawful custody, this individual may request copies of his/her PHI. The PHI shall be subject to HIPPA Privacy Rules as authorized in CFR 164.512(k)(5)(iii).

c. **Designated Record Sets.** For the purpose of this directive, the term *record* means any item, collection or grouping of information that includes or contains data that identifies protected health information (PHI) and is maintained, collected, used or disseminated by or for a covered entity. In this sense all records, within the DOC and its business associates, containing data that identifies patient health information shall be considered part of the *Designated Record Set* (see Chapter 3 for further details).

4. EXCLUSIONS

a. **Employment Records.** Health information in employment records held by DOC in its role as employer is exempt from the definition of PHI. DOC and its covered health care business associates shall continue to use and disclose DOC employee records in accordance with DPM Chapter 31A "Records Management and Privacy of Records" and other applicable regulations, policy and procedure.

b. **Educational Records.** Educational records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g.

c. **Security Restrictions for Inmate Access.** Inmates shall be given the opportunity to inspect their PHI provided it is not determined to jeopardize their safety, the safety of other inmates or staff as further outlined in Section 5 below and in Chapter 2 of this directive.

d. **Copy Restrictions for Inmates.** Inmates shall not be given a copy of their protected health information because to do so would not ensure appropriate physical safeguards of the documents and may further jeopardize the health, safety, security, custody, or rehabilitation of the inmate or other inmates, or the safety of any officer, employee or other person at the correctional institution or responsible for transporting the inmate.

e. **Privacy Practices Notice.** Individual Privacy notices shall not be issued to inmates who are confined to a correctional institution that is a covered entity (45 CFR 164.520 (a)(3*)*. Protection, use and disclosure of PHI about inmates are set forth in this directive.

f. **Psychotherapy Notes.** Personal notes shall never be disclosed to anyone, with or without authorization, except in litigation brought by the individual against the mental health professional alleging malpractice or wrongful disclosure of mental health information. As a precaution, psychotherapy notes and personal notes must be maintained separately from an individual's official record of mental health information so as to avoid their incidental disclosure in connection with an otherwise valid disclosure of the record.

5. USE AND DISCLOSURE

a. Under HIPAA Privacy Rules, DOC and its health care business associates shall use and disclose protected health information (PHI) about inmates without the inmate's permission as outlined in Chapter 5 of this directive.

b. Inmates in the custody of the DOC or a DOC contract facility shall be granted the opportunity to inspect their individual PHI. Certain PHI, subject to rules listed in this directive in Chapter 7, Section 2 §§c and e, shall be removed from the medical record prior to the inmate's inspection.

6. NOTICE OF NON-DISCRIMINATION.

a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Code section 2.1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

b. DOC prohibits discrimination against inmates when making administrative decisions and in providing access to programs.

7. DIRECTIVES AFFECTED

a. Directives Rescinded

1) PS 6300.3 "Medical Records" (5/30/00)

b. Directives Referenced

1) PS 1300.1B "District of Columbia Freedom of Information Act (FOIA)" (12/15/03)

2) PS 1300.2A "Consent to Release of Information" (12/15/03)

3) 1300.3TRM "Health Privacy Information Operations" (1/12/04)

4) PS 1311.1C "Management Controls – Research Activity" (5/20/02)

5) DO 1320.1A "Inquiries and Request from Governmental Officials and Agencies" (8/31/90)

6) PS 2000.2 "Retention and Disposal of Department Records" (4/6/01)

7) PS 2420.4A "E-Mail and Internet Usage" (9/30/03)

8) PS 2420.2 "Information Security" (12/15/03)

9) PS 2420.8 "Disaster Recovery Plan" (12/15/03)

10) PS 2921.2 "Reporting on the Job Injuries" (6/25/82)

11) DO 3800.2 "Section 504 Handicapped Americans with Disability Act Accommodations" (8/10/92)

12) PS 3800.3 "ADA: Communications for Deaf and Hearing Impaired" (9/30/03)

13) PS 4060.2A "Inmate Record" (2/15/00)

14) DO 4160.3C "Attorney-Client Relationship" (2/28/79)

15) PS 4740.1C "Culinary Workers-Examination and Daily Workers Inspection" (1/12/01)

16) PS 6000.1 "Medical Management" (12/15/03)

c. **Health Care Provider (CCHPS) Policies and Procedures**

1) 800.0 "Medical Record Confidentiality" (4/12/03)

2) 801.0 "Medical Record Format And Content" (4/12/03)

3) 802.0 "Sharing of Health Information" (4/12/03)

4) 803.0 "Availability and Use of Medical Records" (4/12/03)

5) 900.0 "Informed Consent" (4/12/03)

8. OBJECTIVES

a. Protected health information shall be used, stored and disclosed in accordance with HIPAA Privacy Rules as implemented in this directive.

b. All employees shall receive appropriate training in what constitutes protected health information and guidance to ensure appropriate use and disclosure.

c. Each designated record set that is maintained shall be identified and the titles of persons or offices responsible for receiving and processing access requests shall be identified. Documentation shall be maintained on *DOC – HIPAA FORM 5—DOC Designated Record Set Determinations* (Attachment A).

9. AUTHORITY

a. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) DC Privacy Rules

b. 45 Code Federal Regulations Parts 160 and 164 (Privacy Rules)

c. 42 USCS §263a Certification Of Laboratories

d. 5 USCS §552a Public Information; agency rules, opinions, orders, records, and proceedings

e. The Computer Security Act of 1987, Public Law 100-235 (January 8, 1988)

f. D.C. Code Section 2-531 et seq.

g. Title 7 Human Health Care and Safety, Chapter 12 Mental Health Information, §7-1201.3 and §7-1202.06

h. D.C. Code § 24-211.02 Powers; Promulgation of Rules [Formerly § 24-442]

i. District Personnel Regulations Chapter 31A "Records Management and Privacy of Records"

j. HIPAA DC Guide on Preparing Contingency Plans, HIPAA DC Program Management Enterprise Compliance Implementation Project (June 2003)

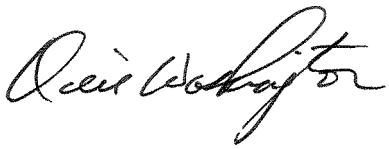
k. Family Educational Rights and Privacy Act, as amended, 20 U.S.C. 1232g

10. **STANDARDS**

a. American Correctional Association (ACA) 3rd Edition, Standards For Adult Local Detention Facilities: 3-ALDF-4E-22, 3-ALDF-4E-42, 3-ALDF-4E-43, 3-ALDF-4E-44, 3-ALDF-4E-45, 3-ALDF-4E-46, 3-ALDF-4E-47 and 3-ALDF-4E-48

b. American Correctional Association (ACA) 4th Edition, Standards for Adult Correctional Institutions: 4-4354, 4-4396, 4-4397, 4-4402, 4-4410, 4-4413, 4-4414 and 4-4415

c. National Commission on Correctional Health Care 1997: P-09, P-11, P-12, P-42, P-53, P-57, P-60 through P-65, P-67, P-68, P-70, P-71 and P-72



Odie Washington
Director

Table of Contents

	Purpose and Scope	Page 1
	Policy	Page 1
	Applicability	Page 1
	Exclusions	Page 2
	Use and Disclosure	Page 3
	Notice of Non-Discrimination	Page 3
	Directives Affected	Page 3
	Objectives	Page 5
	Authority	Page 5
	Standards	Page 6
	Table of Contents	Page 7
Chapter 1	Introduction	Page 13
Chapter 2	General Requirements	Page 14
	District of Columbia Privacy Official	Page 14
	Training	Page 14
	HIPAA Project Manager	Page 14
	Internal Controls, Compliance and Accreditation	Page 15
	DOC Privacy Officer	Page 15
	Contracts	Page 16
	DOC Business Associates	Page 16
	Employee Responsibilities	Page 16

Chapter 3	Protected Health Information (PHI)	Page 19
	PHI in Medical Records	Page 19
	PHI in Official Inmate Institutional Files	Page 19
	Medical Designated Record Set – Common Types of PHI in	Page 20
	Non-medical Designated Record Set – Common Types of PHI in	Page 21
Chapter 4	Security for Protected Health Information	Page 22
	Information Security	Page 22
	Disaster Recovery Plan	Page 22
	General Requirements	Page 23
	Incidental Use and Disclosure	Page 23
	Verbal Communications	Page 23
	Custody and Storage	Page 23
	Telephone	Page 24
	Faxing	Page 24
	Copying	Page 25
	E-mail	Page 25
	Personnel Changes	Page 25
Chapter 5	Permitted Uses and Disclosures	Page 27
	Terms – Meaning/applications of Use and Disclosure	Page 27
	Permitted Use/Disclosures w/o Inmate Authorization	Page 28
Chapter 6	Exceptions to Permitted Disclosure – Denial of Access	Page 34
Chapter 7	Inmate Request for Access to PHI	Page 35
	Translator Services	Page 35

	Inmate Access to PHI in Their Medical Records	Page 35
	Risk of Harm if PHI is Disclosed	Page 36
	Inmate Supervision During Records Review	Page 36
	Inmate Access to PHI in Institutional File	Page 36
Chapter 8	Procedures for Disclosure of PHI	Page 38
	Review of Request for Access to PHI (DOC –HIPAA Form 38A)	Page 38
	Inmate Consent to Release PHI (DOC-HIPAA Form 3)	Page 38
	PHI Access-Personal Representative' (DOC-HIPAA Form 38A)	Page 39
	Revocation of Consent (DOC-HIPAA Form 3)	Page 39
	Verification of Identity (DOC-HIPAA Form 10)	Page 39
	Evidence of Authority to Access PHI (DOC-HIPAA Form 10)	Page 40
	Minimum Necessary Rules (DOC-HIPAA Form 10)	Page 41
	Restrictions to PHI Disclosure for Law Enforcement Purposes	Page 42
	Disclosure of Entire Medical Record – 3rd Party Request	Page 42
	Referral of Non-routine Requests for PHI to DOC Privacy Officer	Page 43
	Granting Access to Records (DOC-HIPAA Form 38D)	Page 43
	Denial of Access to PHI (DOC-HIPAA Form 38E)	Page 43
	Right of Review to Denial of Access to PHI	Page 44
	Access Fees	Page 45
	Research Studies (DOC-HIPAA Form 12)	Page 45
Chapter 9	Disclosure Accounting	Page 47
	Form 10 and ePartners Automated Accounting/Tracking	Page 47

	PHI Types - Disclosure that must be accounted for	Page 48
	Request for Disclosure Accounting (DOC-HIPAA Form 40A)	Page 49
Chapter 10	Request to Amend, Restrict Disclosure and Complaints	Page 50
	Request to Amend PHI (DOC-HIPAA Form 39A)	Page 50
	Granting the Amendment (DOC-HIPAA Form 39C)	Page 51
	Denying the Amendment (DOC-HIPAA Form 39E)	Page 51
	Request to Restrict Use/Disclosure (DOC-HIPAA Form 42A)	Page 52
	Unenforcable Restrictions and Use in Medical Emergencies	Page 53
	DOC Agreement to Restrict Disclosure (DOC-HIPAA Form 42B)	Page 53
	Termination-Disclosure Restriction (DOC-HIPAA Forms 43A/B)	Page 54
	Denial of Restriction for Disclosure (DOC-HIPAA Forms 42E)	Page 54
	Request for Confidential Communications	Page 55
	Complaint Procedures (DOC-HIPAA Forms 53A/53B/53C)	Page 55
Chapter 11	Records Maintenance, Retention and Disposal	Page 56
	ePartner	Page 56
	Records Retention and Disposal	Page 56
	Policy and Procedures Change Documentation	Page 57
	Retention of Disclosure Documentation	Page 57
Chapter 12	Oversight and Quality Assurance	Page 58
	Contract Administration and Quality Assurance	Page 58
	Department of Health and Human Services Enforcement	Page 58
Chapter 13	Definitions	Page 61

Appendix Attachments

Attachment #	Form #	Form Name
A-1	DOC-HIPAA FORM 5	Medical Designated Record Set
A-2	DOC-HIPAA FORM 5	Institutional File - Designated Record Set
B	DOC-HIPAA FORM 38A	Request to Access PHI
C	DOC-HIPAA FORM 10	Disclosure Log/Authority Verification/ Minimum Necessary Requirement
D	DOC-HIPAA FORM 3	Consent to Release PHI
E	DOC-HIPAA FORM 38B	Direction to Retrieve Records
F	DOC-HIPAA FORM 38C	PHI Access Request Processing
G	DOC-HIPAA FORM 38D	Grant of Access to Records
H	DOC-HIPAA FORM 38E	Denial of Access to Records
I	DOC-HIPAA FORM 12	Research Access Request
J	DOC-HIPAA FORM 40A	Request for Accounting of PHI Disclosure
K	DOC-HIPAA FORM 40B	Disclosure Accounting
L	DOC-HIPAA FORM 39A	Request to Amend PHI
M	DOC-HIPAA FORM 39B	Amendment Request Processing
N	DOC-HIPAA FORM 39C	Grant of Amendment to Records
O	DOC-HIPAA FORM 39D	Notification to Amend Records
P	DOC-HIPAA FORM 39E	Denial of Amendment of Records
Q	DOC-HIPAA FORM 42A	Request to Restrict Disclosure of PHI
R	DOC-HIPAA FORM 42B	Agreement to Restrict Disclosure of PHI

Attachment #	Form #	Form Name
S	DOC-HIPAA FORM 42C	Notification-Restriction on PHI Disclosure
T	DOC-HIPAA FORM 42D	Processing for Request to Restrict
U	DOC-HIPAA FORM 43A	Notice of Termination of PHI Restriction
V	DOC-HIPAA FORM 43B	Notice to Business Assoc – Termination
W	DOC-HIPAA FORM 42E	Denial of Request to Restrict Disclosure
X	DOC-HIPAA FORM 53A	Complaint
Y	DOC-HIPAA FORM 53B	Complaint Investigation and Processing
Z	DOC-HIPAA FORM 53C	Report on Complaint

CHAPTER 1

INTRODUCTION

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) originated as federal legislation and was passed in 1996. This act established standards for the protection, privacy, security and release of health information about individuals. Compliance with the privacy regulations became affective April 14, 2003.

HIPAA legislation mandated regulations that provide standards for the electronic transmission of PHI transactions, protect the privacy and security of an inmate's PHI, offer inmates specific rights regarding their PHI and establish guidelines that enable the health care industry to process claims and transactions more efficiently.

DOC is a covered entity that contracts health care services for DOC inmates through The Center For Correctional Health and Policy Studies (CCHPS). CCHPS is therefore a DOC business associate and thus is a covered entity. ARAMARK (food service provider) and Community Corrections Residential Programs (CCRP), under contract to DOC are also business associates who are covered entities.

Under HIPAA Privacy Rules, DOC, CCHPS, CCA/CTF, ARAMARK and CCRP shall respectively ensure that there are appropriate administrative, technical and physical safeguards to protect the privacy of protected health information about inmates and employees. DOC, CCHPS, CCA/CTF, ARAMARK and CCRP shall comply with applicable requirements under HIPAA Privacy Rules and shall preserve the right to maintain their current policies, procedures, and practices relating to the protected health information when these policies, procedures, and practices are more stringent than HIPAA.

Only designated employees with particular job functions are authorized to **Use** and **Disclose** protected health information. Each member of the District's workforce, shall be responsible for learning and understanding the parts of the rule that generally govern the agency; and where applicable, specifically affects their compliance during daily performance of their individual duties.

CHAPTER 2

REQUIREMENTS – GENERAL

1. **DISTRICT OF COLUMBIA PRIVACY OFFICIAL.** HIPAA shall be administered under the District of Columbia Office of Healthcare Privacy and Confidentiality.

   a. The **District of Columbia Government Privacy Official** can be contacted at:

      Privacy Official
      Office of the Deputy Mayor for Children, Youth, Families and Elders
      1350 Pennsylvania Avenue NW, Suite 307
      Washington, DC 20004
      Telephone: (202) 727-8001 Fax: (202) 727-0246
      TTY: (202) 727-3323

   b. **Training**

      1) The District Privacy Official, in conjunction with DOC, shall ensure that each DOC employee, contractor or future incumbent who may have access to or use of protected health information shall receive training on Privacy Policies and Procedures, as necessary and appropriate to carry out his or her job functions. Training shall be documented.

      2) The District Privacy Official, in conjunction with DOC, shall ensure that employees shall receive training no later than 45 days after there is material change in their job functions or in Privacy Policies and Procedures that affect their access to or use of protected health information.

      3) DOC shall ensure that employees receive annual refresher training regarding HIPAA requirements. Employees who are directly responsible for using and disclosing PHI shall receive annual specialized refresher training.

2. **DIRECTOR.** The Director for DOC has delegated the following authorities for implementation and oversight for this directive.

   a. **HIPPA Project Manager.** The Health Services Director is the HIPAA Project Manager, responsible for:

      1) Providing contract administration and assurance that health care business associates comply with HIPAA Privacy Rules.

2) Providing oversight for the implementation and management process.

3) Liaison with the District HIPAA Project Manager, DOC and its health care business associates.

b. **Internal Controls, Compliance and Accreditation Manager**

1) The OICCA Manager is designated, under the advice and concurrence of the District's Privacy Official, to amend DOC Privacy Policies and Procedures as necessary to comply with each material change in the Privacy Rules of other applicable federal or state law; or for internal business purposes, provided this type of amendment remains in compliance with the Privacy Rules and all other applicable federal and state privacy law.

2) OICCA shall conduct periodic monitoring of the ePartners Automated tracking and accounting database for compliance with this directive.

3) OICCA shall conduct an annual audit of compliance with this directive.

c. **The Privacy Officer.** The Privacy Officer is granted the authority to release or deny access to records and information within the agency in accordance with this directive. The Privacy Officer shall:

1) Provide oversight and technical assistance for adherence to HIPAA and this directive.

2) Monitor and ensure each DRS is identified and that contact information is published as to the location and accessibility of each record of the DRS (Attachment A).

3) Monitor and ensure DOC has identified the titles and locations of persons or offices responsible for receiving and processing PHI access requests, the access response, and any other documentation regarding compliance with obligations to provide access (Attachment A).

4) Monitor and ensure DOC and its business associates document each designated record set (DRS) that it maintains.

5) Maintain a record of activities pertaining to disclosure or non-disclosure of HIPAA-related activities. The record of activities includes written documentation of disclosure as well as documentation in the E-partners automated accounting and tracking database.

6) Submit annual report of activities to the Director no later than October of each year, with a copy provided to the HIPAA Project Manager and the Internal Controls Manager.

7) Coordinate all HIPAA training requirements with the DOC Training Administrator as outlined in Chapter 2, Section 1. "b."

3. **CONTRACTS.** Contracts shall contain requirements, promulgated by D.C. Office of Contracting and Procurement, to ensure compliance with the requirements imposed by Freedom Of Information Act (FOIA). The contracting component shall be responsible for ensuring that the contactor complies with requirements relating to the release of information and records in accordance with the FOIA and this Program Manual.

4. **DOC BUSINESS ASSOCIATES.** Each affected business associate shall:

a. Safeguard PHI and develop appropriate security procedures.

b. Use and disclose PHI in strict compliance with HIPAA Privacy Rules and this directive.

c. Ensure employees with access to PHI are adequately trained on the maintenance, use and disclosure requirements of HIPAA Privacy Rules and this directive.

5. **EMPLOYEES**

a. **Compliance.** Each employee authorized to use and disclose protected health information shall, at all times, comply with the policies and follow the procedures set out in this directive and shall consult with the agency head, or designee, if there is any doubt regarding whether such use or disclosure is permitted.

b. **Noncompliance.** Failure to comply with the policy may subject the employee to:

1) **Administrative Discipline**

a) DOC may impose discipline in accordance with sanctions set forth in Chapter 16 of the DPM and applicable collective bargaining agreements.

b) The health care business associates may impose discipline in accordance with their personnel rules and any contractual rules for discipline.

2) **Civil Penalties**. The Office of Civil Rights can impose penalties of $100 per infraction, up to $25,000 annually per standard.

3) **Criminal Penalties**. Fines up to $250,000 and/or imprisonment for up to ten years.

c. **Reporting Privacy Violations**

1) Each employee is obligated to promptly report any suspected violation of policies and procedures regarding the safeguard, use and disclosure of PHI, Privacy Rules and/or other applicable federal or state privacy law.

2) The report shall be appropriately made to the DOC Director or designee and the DOC Privacy Officer. If the reporting employee is a member of a business associate's workforce, they shall also notify the Chief Administrator.

3) Reports may be made anonymously.

4) Each employee shall cooperate fully with any investigation, corrective action or sanction instituted by the DOC Privacy Officer.

d. **Cooperation.** Each employee shall cooperate fully with efforts, to include contingency plans to mitigate, to the extent possible, any deleterious effect of improper use or disclosure of protected health information by a member of the DOC workforce or by a DOC business associates in violation of these privacy policies and procedures.

e. **Non-retaliation**

1) Employees are prohibited from attempting to intimidate, threaten, coerce, discriminate against or retaliate against an individual who:

a) Exercises any right, including filing complaints, under the Privacy Rules or other privacy laws.

b) Complains to, testifies for, assists or participates in an investigation, compliance review, proceeding or hearing by HHS or other appropriate authority.

c) Opposes any act or practice the individual believes in good faith is illegal under the Privacy Rules (provided the opposition is reasonable and does not involve illegal disclosure of protected health information).

2) Each employee who suspects that another employee has violated the ban on retaliatory acts shall report the suspicion.

3) The report shall be appropriately made to the DOC Director or designee and the DOC Privacy Officer. If the reporting employee is a member of a business associate's workforce, they shall also notify the Chief Administrator.

4) Reports may be made anonymously.

5) Employees shall cooperate fully with any investigation, corrective action or sanction instituted.

CHAPTER 3

PROTECTED HEALTH INFORMATION
(Designated Record Sets)

1. **PROTECTED HEALTH INFORMATION (PHI).** Medical records; created, used, maintained and disclosed between DOC and its business associates; are primarily documentation of the care and treatment of inmates. This PHI is predominantly maintained in the medical record and is generally outlined in *DOC – HIPAA FORM 5 Medical Designated Record Set* (Attachment A-1). Limited PHI as outlined in *DOC – HIPAA FORM 5 Inmate Institutional Designated Record Set* (Attachment A-2) can be found in the inmate's official institution record.

2. **MEDICAL RECORDS.** PHI is usually contained in the inmate's medical record.

   a. The health care provider shall establish a medical record for each inmate committed to the CDF and the Correctional Corporation of America Correctional Treatment Facility (CTF).

   b. Medical data regarding the inmate shall be maintained in this confidential record.

   c. To enhance patient confidentiality, designated medical personnel shall be the only authorized personnel to handle medical records.

   d. The confidentiality of inmate PHI is set forth in compliance with laws, regulations and standards, and in accordance with policies and procedures that comply with DC Privacy and DOC confidential records management requirements.

   e. Although the medical record is the property of the DOC, the affected business associates shall control access to the record consistent with DC Privacy Rules, this directive and the affected business associate's policies.

   f. If the inmate is being transferred to the CCA/CTF, the health care provider shall forward the medical record in a sealed plastic envelope. Only an authorized health care employee shall open the sealed envelope.

3. **OFFICIAL INMATE INSTITUTIONAL FILES**

   a. Sometimes PHI is found in the inmate's institutional record or other DOC administrative files because it is summarized in another report or attached to the report. Some examples are; incident reports that include staff observations, injury reports, parole and work release reports when an

evaluation is being made to determine the inmate's readiness for community release and/or when on-going care will be required upon release.

b. Official inmate institutional files are classified as confidential and shall be preserved, protected, retained and disposed of in accordance with applicable laws, regulations, rights of privacy and DOC policy and procedures at PS 4060.2A "Inmate Record", (2/15/00). Further, PS 4060.2A "Inmate Record Security", § d. limits employee access and handling of this file. This policy complies with DC Privacy requirements.

4. COMMON TYPES OF PROTECTED HEALTH INFORMATION IN THE DESIGNATED RECORD SETS

a. Designated Record Set (Medical)

1) Medical Problem List

2) Physician Notes detailing patient progress

3) Nursing Notes

4) Mental Health Unit Forms (Does not include psychotherapy notes)

5) Dental Progress Notes and X-Rays

6) Consultation Notes from external providers

7) Referral Notes

8) Tuberculosis Documentation

9) Radiology Reports

10) Laboratory Results

11) Medication Administration Records

12) Inmate Injury Reports

13) Correctional Transport Forms to health care facilities

14) Emergency/Urgent Care Encounters Forms

15) Doctors Orders

16) X-Rays

17) Psychiatric Progress Notes

18) Wound Care Forms

b. **Designated Record Set (Non-Medical)**

1) Judgment and Commitment Orders (Medical/Mental Health Alerts from Judge)

2) Incident Report of Bizarre/Unusual Behavior

3) Automated Notification of Significant or Extraordinary Events

4) Injury Reports

5) Classification for Medical Reasons

6) Drug Test Results

7) Psychological Evaluation for Release Readiness

8) Psychological Tests – raw data

CHAPTER 4

SECURITY FOR PROTECTED HEALTH INFORMATION (PHI)

1. **INFORMATION SECURITY.** HIPPA requires that covered entities provide reasonable safeguards for the protection of PHI when it is being electronically stored or transmitted or otherwise maintained. In accordance with PS 2420.2 "Information Security", DOC shall maintain standard procedures for the security, management and control of the DC Department of Corrections (DOC) information and information systems by:

   a. **Access Paths and Systems.** Employing flow control systems, including firewalls, to protect information system resources. The establishment, modification, and termination of network connections shall be centrally managed and controlled by Office of Management Information and Technology Services (OMITS) on an ongoing basis.

   b. **Dial-Up Communications.** OMITS shall control access to and from information systems via dial-up connections. OMITS shall enforce standard policies and procedures governing both the location and employment of telephone modems.

2. **DISASTER RECOVERY PLAN**

   a. In accordance with PS 2420.8 "Disaster Recovery Plan, disruption of information service to users shall be avoided. This plan is "Agency Confidential", and contains procedures that will protect against the loss of automated data processing files, data in DOC's databases and servers, applications and systems software, systems documentation, and processing instructions.

   b. Each covered entity that electronically stores PHI shall develop disaster recovery/contingency plans for their IT systems.

   c. The Office of Management Information and Technology Services (OMITS) shall ensure that IT can continue to operate and communicate in an event of disruption of services or a major disaster.

   d. OMITS shall establish an IT operational capability to process data, implementation of work around solutions for those portions of the system which cannot be immediately restored, and ultimately, restoring IT processes to normal operational status.

3. **GENERAL REQUIREMENTS.** Storage, copying, handling, transmission and disposal of protected health information, including the media used to store PHI, shall be controlled in accordance with this directive.

   a. **Information Privacy – General Rules.** All members of the workforce shall vigilantly watch for and create an attitude and atmosphere of confidentiality.

   b. **Incidental Use and Disclosure**

      1) All members of the workforce may at some point be exposed or legitimately involved in the incidental use or disclosure of PHI about an inmate. For example, information may be contained in an incident report, the inmate may self-disclose information or the employee may overhear a conversation. *Employees shall not repeat this information to anyone.*

      2) Employees who are authorized to use and disclose PHI shall also use good judgment when using or disclosing protected health information in conversation, by mail, electronic transmission or any other means, and when recording and storing protected health information in any medium, to ensure that incidental use or disclosure of the protected health information in connection with an otherwise permitted or required use or disclosure is reasonably kept to a reasonable minimum.

   c. **Verbal communications**. If an employee is authorized to use and disclose PHI, it is to be done so as follows:

      1) Health care providers and other authorized employees shall only communicate the minimum necessary protected health information to another authorized employee or business associate on a need-to-know basis and only during the official conduct of their duties.

      2) Health care providers and other authorized employees shall ensure that any verbal exchange of protected health information is communicated in a confidential manner so that other employees and inmates do not become privy to the information.

   d. **Custody and Storage.** All employees shall adhere to the following safety precautions:

      1) Maintain custody and surveillance of files containing PHI.

      2) Never leave PHI unattended on desks, at photocopiers or printers.

      3) Lock file cabinets containing PHI whenever away from that storage area.

4) Never leave portable media containing PHI (e.g., diskettes, CDs and paper-copy) unsecured when it is not being used.

5) Log off or ensure security screen features are engaged whenever leaving their personal computer/workstation unattended.

e. **Telephone**

Restrict verbal transmission of PHI unless the authorized employee can establish that they personally know the receiver is authorized to use and disclose the requested information or that the requester has submitted required identification and verification of authority.

f. **Faxing**

1) Ensure that the person who is receiving the facsimile containing protected health information is authorized to use and disclose it.

2) Always use a PHI cover fax page. The following confidentiality statement shall be incorporated into all fax transmissions that contain PHI:

> **"PRIVACY/CONFIDENTIALITY NOTICE (PHI)**: The information in this transmission contains protected health information in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This message is intended only for the use of the individual to which it is addressed and contains information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. Violation of Privacy Rules may result in civil and criminal penalties consistent with CFR 164.512(k)(5)(iii). If you are not the intended recipient, please contact the sender by email, fax or phone and destroy all copies of the original message."

3) Take precautions to avoid misrouting.

4) Make every effort to notify the intended receiver in advance that transmission is imminent.

5) If the fax machine is not in a secured area, stay with document until it is scanned and immediately remove and return it to its secure file.

g. **Copying**

1) Ensure that the person making the copy is authorized to use and disclose protected health information.

2) If the copier is not in a secured area, stay with the document until it is copied and immediately remove and return the PHI to its secure file.

h. **Email.** Protected health information may be transmitted via e-mail in accordance with protective measures required in this directive.

1) The following confidentiality statement shall be incorporated into all e-mail transmissions that contain PHI:

> **"PRIVACY/CONFIDENTIALITY NOTICE (PHI)**: The information in this transmission contains protected health information in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This message is intended only for the use of the individual to which it is addressed and contains information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. Violation of Privacy Rules may result in civil and criminal penalties consistent with CFR 164.512(k)(5)(iii). If you are not the intended recipient, please contact the sender by email, fax or phone and destroy all copies of the original message."

2) Employees shall log out from their personal computer upon completion of the task when it contains PHI.

i. **Personnel Changes**

1) Business associates shall immediately notify in-house managers, affected business associates, the DOC Privacy Officer, and other appropriate DOC managers when personnel changes (e.g., reassignments, changes in job responsibilities/titles, terminations, authorization or restrictions of use and disclosure of PHI and any other changes) affect use and disclosure of protected health information.

2) DOC supervisors shall immediately notify the DOC Privacy Officer, OMITS, and the affected business associates of DOC personnel

changes (e.g., reassignments, changes in job responsibilities/titles, terminations, authorization or restrictions of use and disclosure of PHI and any other changes) that affect use and disclosure of protected health information.

CHAPTER 5

PERMITTED USES AND DISCLOSURES

1. TERMS

a. **Use** means the **in-house** sharing, application, utilization, examination, or analysis of PHI within the normal treatment and operational activities of the DOC between covered entities. Covered entities include authorized DOC workforce and contract hospital and health care providers and correctional custodial providers). Particular job functions are authorized to:

1) **Use** PHI in medical databases or on various forms.

2) **Use** PHI when answering questions from treatment providers within the covered entities, or on the phone or in Email about services performed to/for inmates.

3) **Use** PHI when communicating with, responding to medical requests from/to other covered entities under HIPAA Privacy Rules (example: Greater SE Community Hospital, DC Chartered Health Care, Addiction Prevention and Recovery Administration, DOC or CCA/CTF managers).

4) **Use** when communicating during a Housing Board Hearing (for example: about an inmate's injuries related to a suspected assault).

b. **Disclosure** means the release, transfer, provision of access to, or divulging in any other manner of PHI **outside** of the covered entity roof. For example:

1) **Disclosure** by sending PHI to a government agency that could be part of normal reporting on routine and recurring tasks as part of scheduled reporting activities (for example: DOH, DHHS, FBOP).

2) **Disclosure** when required by a court order or subpoena to produce copies of an inmate's institutional or medical record/information from DOC or the health provider's records.

3) **Disclosure** to the inmate's personal representative.

4) **Disclosure** to a former inmate, that inmate's personal representative or to that individual's private physician.

2. **PERMITTED USE AND DISCLOSURE.** Under HIPAA, DOC and the covered entities may use and disclose Protected Health Information (PHI) without the inmate's permission as follows. Disclosure that is outside of these conditions requires authorization and is further covered in Chapter 6, *Exceptions to Permitted Disclosure* of this directive. The inmate's *authorization is not required for use and disclosure of PHI in the following instances*:

   a. **Business Associates.** No authorization from the inmate is necessary for business associates to use PHI on behalf of DOC, nor for DOC to disclose PHI to the business associates.

   b. **Internal treatment and health care operations.** Generally the use and disclosure of minimum necessary protected health information shall be the responsibility of the health care provider or CTF business associate in conjunction with the DOC Privacy Officer. However authorized DOC staff or other business associates may disclose PHI contained in the inmate's institutional file or similar record. In all cases, use and disclosure shall be in accordance with Health Information Privacy, other applicable laws, regulations and standards, this directive, applicable DOC requirements and the health care provider's policies that are consistent with HIPAA.

   c. **Disclosures of PHI to other health care providers.** The Department of Corrections, or its business associates who provide health care and who use and disclose protected health information to other health care providers for treatment purposes are not limited to the "minimum necessary" guidelines.

   d. **For uses and disclosures about public health and safety threats.** Use and disclosure of information to law enforcement to prevent or lessen a serious and imminent health or safety threat to a person or the public provided there is reasonable belief that the use or disclosure involves a person (including the target) who is able to prevent or lessen the threat or to identify or to apprehend an individual who appears from the circumstances to have escaped from a correctional institution or lawful custody, or we reasonably believe may have caused serious physical harm to a victim, based on the individual's statement admitting participation in a violent crime.

   e. **For uses and disclosures for public health, public interest and public benefit.** Only the minimum necessary protected health information shall be used or disclosed for the particular public health or benefit activity involved to include public health authority legally authorized to collect or receive protected health information to prevent or control disease, injury or disability (including disease, injury, birth, death, other vital event reporting, and public health surveillance, investigation or intervention).

   f. **To report adverse events (usually to the Food and Drug Administration (FDA).** The minimum necessary protected health information shall be used or

disclosed for activities related to the quality, safety or effectiveness of a FDA–regulated product or activity to persons subject to FDA jurisdiction with responsibility for that FDA–regulated product or service, including to collect or report adverse events (or similar activities regarding food or dietary supplements); product, product use or labeling defects or problems; or biological product deviations; to enable product recalls, repairs, replacements or look-backs (including locating and notifying individuals who received the products); track FDA–regulated products; conduct post–marketing surveillance.

g. **For disclosures about persons exposed to communicable diseases.** The minimum necessary protected health information shall be disclosed to persons who may have been exposed to communicable disease, or who are otherwise at risk of contracting or spreading disease, when DOC or a public health authority is legally authorized to give notification as needed in conducting public health intervention or investigation.

h. **For disclosures about victims of abuse.** For the purposes of this directive, the minimum necessary protected health information shall be used and disclosed when there is reason to believe an abuse has been committed within the confines of the DOC or when requested from law enforcement pursuant to Sections “i.” through “k.” below.

i. **For disclosures for health oversight activities.** The minimum necessary protected health information shall be disclosed to a health oversight agency as needed for legally authorized health oversight activities, such as audits, civil, criminal or administrative actions or proceedings, inspections, licensure, certification, disciplinary actions, and appropriate oversight of the health care system or government benefits programs (e.g., Medicare and Medicaid) for which health information is relevant to beneficiary eligibility or entities subject to government regulatory programs or civil rights laws.

j. **Judicial and administrative law proceedings.** Authorized employees may disclose the minimum necessary protected health information to the court of a judicial or administrative proceeding; in response to a court or administrative tribunal order, provided only the expressly ordered protected health information is disclosed. Additionally, authorized employees may disclose the minimum necessary protected health information in response to a subpoena, a court order, discovery request or other lawful process not accompanied by court or administrative tribunal order, when DOC has made a reasonable effort to provide notice to the individual sufficient to permit the individual to object to, or seek a qualified protective order from, a court or administrative tribunal or there is “satisfactory assurance” that the information seeker has made reasonable efforts either (a) to ensure the individual has notice, or (b) to secure a qualified protective order from the court or administrative tribunal or by party stipulation that limits the parties’

use or disclosure to the purpose of the proceeding, and requires return or destruction of the protected health information (including all copies) at end of the proceeding.

k. **Law enforcement purposes**

1) The minimum necessary protected health information may be disclosed to a law enforcement official in compliance with a judicial order, warrant, summons, regular or grand jury subpoena. The minimum necessary protected health information shall be disclosed to a law enforcement official in compliance with an administrative subpoena, summons, request, civil investigative demand or similar process. However the PHI shall be specific and limited in scope to that which is relevant and material to a legitimate law enforcement inquiry, and when other non-PHI can be used.

2) Disclosure, unless required by law, shall not be made about DNA, DNA analysis, dental records, or body or tissue typing, samples or analyses (other than blood type).

3) The minimum necessary protected health information shall be used and disclosed when furnishing health care in a medical emergency (other than an emergency on the premises) if the disclosure appears necessary to alert law enforcement officials of commission and nature of a crime, the location of the crime and its victims, and the identity, description, and location of suspected criminals.

4) The minimum necessary protected health information shall be disclosed to a law enforcement official seeking information about an actual or suspected crime victim.

l. **Required by law.** PHI shall be used and disclosed to a law enforcement official as required by law, including to report wounds or physical injuries. There is no minimum necessary limitation for use or disclosure of protected health information required by law, but the use or disclosure shall comply with and be limited to the relevant legal requirements, and all applicable legal procedural requirements shall be followed.

m. **Mental Health.** The following PHI may be used or disclosed for treatment, prerelease and post release care. Inmates are required to sign an authorization to release information to community health care providers and other release programs.

1) Medication prescription and monitoring.

2) Counseling session start and stop times.

3) Modalities and frequencies of treatment furnished.

4) Results of clinical tests.

5) Any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

n. **Correctional institution or law enforcement official**

1) On a need-to-know basis, disclosure of the minimum necessary protected health information regarding an inmate or individual in lawful custody may be made to a correctional institution or a law enforcement official, if the correctional institution or law enforcement official represents that the protected health information is needed to:

a) Ensure the health and safety of the inmate, other inmates, officers, employees or others at the correctional institution or responsible for transporting or transferring inmates to other correctional institutions or facilities.

b) For the administration and maintenance of correctional institution's safety, security and good order.

2) Notations shall be made in the inmate's electronic or paper medical record indicating whether the inmate is free of communicable and/or infectious disease for the purpose of screening for an institutional work assignment in accordance with policy and procedures in DOC PS 4740.1C "Culinary Workers – Examination and Daily Workers Inspection" (1/12/01). The inmate's name and DCDC# maybe included on the Medical Clearance for work memo to ARAMARK.

3) PHI and a referral for specialized housing within the Central Detention Facility based upon the health care providers diagnosis of the inmate's physical or mental condition, shall respectively be handled in accordance with DO 3800.2 "Section 504 Handicap/ Americans with Disabilities Act Accommodations" (8/10/92) and the Post Order for South Three – Mental Health Unit.

o. **Suspicious deaths or other crimes within the DOC.** The minimum necessary protected health information shall be disclosed to alert a law enforcement official about an individual's death that is suspected to be the result of criminal conduct or when there is good faith belief that the protected health information constitutes evidence of criminal conduct within DOC facilities.

p. **Decedents (to a coroner or medical examiner).** The minimum necessary protected health information shall be disclosed to a coroner or medical examiner for identifying deceased persons, determining cause of death or their other legally authorized duties. Protected health information shall be

disclosed to funeral directors, consistent with applicable law, as necessary for them to carry out their duties.

q. **Foreign Government.** Protected health information shall be disclosed at the direction of a public health authority, to a foreign government official acting in collaboration with a public health authority.

r. **Research purposes.** Disclosure of the minimum necessary protected health information for research shall be made in accordance with instructions in chapter 7, section 9 of this directive.

s. **Informed Consent for general research purposes** is covered in DOC PS 1311.1C "Management Controls – Research Activity" (5/20/02).

t. **Specialized government operations (to include Corrections and Jails).** Disclosure of the minimum necessary protected health information shall be made to authorized federal officials for lawful intelligence, counterintelligence, and national security activities.

u. **Public Health and Safety Threats.** Consistent with applicable law and ethical standards, use or disclosure of the minimum necessary protected health information believed, in good faith is to be used to prevent or lessen a serious imminent health or safety threat to a person or to the public.

v. **Disaster Relief.** DOC and its business associates may use and disclose to a public or private entity, authorized by law or charter to assist in disaster relief, the minimum necessary protected health information to coordinate notifying (including identifying or locating) an individual's family members, personal representatives or other persons responsible for the individual's health care, of the individual's location, general condition or death. DOC and its business associates shall follow all applicable procedures unless the Director or other authority determines, that following the applicable procedures will interfere with the public or private entity's ability to respond to the emergency circumstances.

w. **Individual Not Present or Emergency.** When (a) the individual is absent, unavailable, incapacitated or dead, or (b) there is an emergency making advance notice and the opportunity for the individual to restrict or object impractical, DOC may use the individual's PHI with and disclose it to persons involved with the individual's health care (but not persons involved only with payment related to that health care) or disaster relief if DOC determines, in its professional judgment, that the use and disclosure will be in the individual's best interest. DOC may use or disclose only the minimum necessary protected health information directly relevant to the person's involvement with the individual's health care or disaster relief.

x. **Official Inmate Institutional Files**

DOC may use and disclose limited protected health information (PHI) that is maintained in DOC files outside of the inmate medical record. This may include but not be limited to incident or other reports of the inmate's physical and mental health, medical release plans, medication requirements, psychological evaluations that may be incorporated into parole and other release reports or in reports to the courts as required by law to aid in sentencing.

y. **Workers' Compensation**

HIPAA provides that DOC and its covered business associates shall disclose protected health information about employees that is authorized by and needed to comply with workers' compensation or similar programs established by law that provide benefits for work–related injury or illness without regard to fault. Procedures for disclosure of injury reports is provided in DO 2921.2 "Reporting On-the-Job Injuries" (6/25/82).

CHAPTER 6

EXCEPTIONS TO PERMITTED DISCLOSURE – DENIAL OF ACCESS

1. Inmates, their personal representative or a former inmate may be denied access to the information, without being provided the opportunity for review of the reason for the denial.

2. PHI that may be denied access without opportunity for review of the decision are as follows:

   a. The individual does not have the right to inspect the information, or it is otherwise prohibited or protected by law.

   b. Information requested is in reasonable anticipation of or for use in civil, criminal or administrative action or proceeding.

   c. The PHI was obtained in confidence from a source, other than a health care provider, and it can be reasonably demonstrated that access would reasonably likely reveal the source.

   d. The PHI was withheld from the individual under the Clinical Laboratory Improvements Amendments of 1988 (42 U.S.C. § 263a).

   e. The requested PHI is Psychotherapy notes.

      1) The health care provider compiled the PHI in the course of continuing research, including treatment, and the individual agreed to waive access when consenting to participate in the research. Access will be reinstated when the research is completed.

      2) The PHI is restricted from disclosure under the Federal Privacy Act (5 U.S.C. § 552a).

      3) A licensed health care professional, in exercise of professional judgment, has determined that the PHI is reasonably likely to:

         a) Endanger the life or physical safety of the individual or another person.

         b) Cause substantial harm to a person, not a health care provider, who is referenced in the protected health information.

         c) Cause substantial harm to an individual or another person, if a personal representative's access request were granted.

CHAPTER 7

INMATE REQUEST FOR ACCESS TO PHI

1. **ASSISTANCE TO ACCESS PHI.** When a literacy or language problem prevents an inmate from understanding consent to release of PHI or how to access his/her PHI, a staff member shall assist the inmate. Appropriate assistance may include, but is not limited to providing assess to:

   a. **Translator Services**

      1) A staff member, who has been determined to be proficient in the affected inmate's language, may be designated the authority to assist the inmate in accessing PHI in accordance with this directive.

      a. Language Line Service (LLS). This service may be used to assist the inmate and authorized staff to communicate during access and disclosure of PHI.

      2) Translating services for deaf and hearing impaired inmates shall be handled in accordance with PS 3800.3 "ADA: Communications for Deaf and Hearing Impaired" (9//30/03).

   b. **Privacy Officer.** When an employee who is authorized to use and disclose PHI is unable to further assist the inmate in understanding the provisions of this directive or the questions are beyond the expertise of the employee, the employee may request the assistance of the DOC Privacy Officer.

2. **INMATE ACCESS TO PHI IN THEIR MEDICAL RECORD.** The health care provider shall allow inmates access to PHI in their medical record in accordance with HIPAA law, this directive, PS 1300.1B "FOIA" (12/15/03) and CCHPS 800.0 "Medical Records Confidentiality" (4/12/03).

   a. Inmates shall request review of particular documents or their entire medical record by submitting a *DOC-HIPAA FORM 38A Request to Access PHI* (Attachment B) to the CCHPS Records Officer.

   b. The Medical Records Officer shall schedule the records review within five days (excluding weekends and holidays) of receipt of the request.

   c. Prior to the inmate's review, authorized medical staff shall review the requested PHI to determine if the requested PHI is eligible for disclosure pursuant to this directive.

d. **Risk or Harm if PHI is disclosed.** If a document contains PHI; that is determined to jeopardize the health, safety, security, custody, or rehabilitation of the inmate or other inmates, or the safety of any officer, employee or other person at the correctional institution or responsible for transporting the inmate, the employee shall:

1) Make a photocopy of the affected document and store the original in separate folder used to temporarily store PHI that will not be disclosed.

2) Black/blot out the PHI on the photocopy that will not be disclosed.

3) Place the photocopy in the medical record.

4) The inmate shall be allowed to review the remainder of the medical record.

e. **Evaluative Information.** If subjective evaluations and opinions of medical staff relating to the inmate's care and treatment are contained in outpatient notes, consultation reports, narrative summaries or reports by a specialist, operative reports by the physician, and summaries by specialists as the result of laboratory analysis, or in-patient progress reports; a medical officer, in consultation with the DOC Privacy Officer shall determine disclosure.

1) The same procedures outlined in Section c. above shall be implemented.

2) The inmate shall be allowed to review the remainder of the medical record.

f. **Inmate Supervision.**

1) The Medical Records Officer shall provide adequate space to allow the inmate to review his or her medical file.

2) During review of PHI contained in the medical record, the inmate shall remain in sight and sound supervision.

3) The inmate shall not be allowed to take notes or to receive copies of PHI.

g. **Documentation.** Review and documentation of disclosures shall be recorded and maintained in the medical records and DOC Privacy Officer's file. Procedures for documentation are provided in Chapter 9.

3. **INMATE ACCESS TO PHI IN THEIR OFFICIAL INSTITUTIONAL RECORD**
Generally, PHI contained in the inmate's official institutional record is "incidental" because it is obtained from medical files and is generally limited to such

documents as injury reports, a statement in a housing board or disciplinary reports that relates to an injury that occurred, a medical alert contained in a commitment document, a statement pertaining to the inmate's release readiness that is contained in a progress report or a consent to release of information form.

a. The Case Manager is usually the designated employee who supervises an inmate when the inmate is reviewing their official institutional record.

b. The inmate shall submit *DOC-HIPAA FORM 38A* to the Case Manager.

c. The Case Manager shall schedule the records review within five days (excluding weekends and holidays).

d. Prior to the inmate's review of the record, the Case Manager shall review the file to determine if PHI is contained in the institutional record.

e. If PHI is contained in the institutional record, the Case Managers shall consult with the medical records officer and the DOC Privacy Officer to determine if review of this information would present a risk of harm or potential risk to either the inmate or other individuals.

f. If a document contains PHI; that is determined to jeopardize the health, safety, security, custody, or rehabilitation of the inmate or other inmates, or the safety of any officer, employee or other person at the correctional institution or responsible for transporting the inmate, and the inmate has requested a copy of the document; the PHI shall be blacked/blotted out prior to the copy being made.

g. If the DOC Privacy Officer determines that any portion of PHI shall not be disclosed on this basis, the inmate shall be so advised in writing and provided the address to which the inmate may address a formal request for the withheld records.

h. The inmate shall be allowed to review the remainder of the institutional record to include any disclosed PHI in accordance with FOIA and any other applicable security restraints regarding disclosure.

i. However, the inmate shall not be allowed to take notes or receive copies of the PHI that is contained in the file.

CHAPTER 8

PROCEDURES FOR DISCLOSURE OF PHI

1. **REQUEST REVIEW.** The health care provider, other business associate or DOC employee authorized to disclose the requested PHI shall review each request for access to PHI and disclose the minimum necessary PHI in accordance with this directive.

2. **DOC PRIVACY OFFICER.** When needed or if stipulated in this directive, the employee shall consult with the DOC Privacy Officer and/or Health Services Administrator. The provider shall, upon approval for disclosure, review the record and obtain the PHI necessary to respond to the request.

3. **PERMITTED USE AND DISCLOSURE.** The inmate's consent is not required for use and disclosure pursuant to provisions detailed in Chapter 5, "Permitted Uses and Disclosures", Section 2.

4. **CONSENT TO RELEASE PHI TO A THIRD PARTY** Minimum Necessary PHI may be disclosed when the inmate has issued written consent as follows:

   a. Inmates may request or consent to release of PHI to their attorney-of-record in accordance with Privacy Rules, this directive and as outlined in CCHPS Policy 800.0 "Medical Record Confidentiality" (4/12/03) and PS 1300.2A "Consent to Release Information" (12/15/03).

   b. Inmates may request and/or consent to release of PHI to community based programs for future treatment or release assistance in accordance with this directive. Procedures are outlined in CCHPS Policy 800.0 "Medical Record Confidentiality" and supported in PS 1300.1B "Freedom of Information" (12/15/03) and PS 1300.2A "Consent to Release Information" (12/15/03).

   c. The inmate shall submit the consent to disclose PHI, using *DOC -- HIPAA FORM 3 Consent to Disclose PHI Section A* to the staff member who is authorized to disclose the PHI as set forth in Chapter 7 "Procedures for Disclosure".

   d. The inmate shall list all requested PHI to disclosed in the consent.

   e. The form shall contain an expiration date, or expiration event (e.g., "end of research protocol").

   f. The form shall contain the inmate's signature and date, (and if signed by the personal representative—authority to act for the inmate).

g. PHI that has been determined to jeopardize safety and security as described in Section 3 of this Chapter shall not be released without the written permission of the DOC Privacy Officer.

h. The employee who is authorized to disclose the PHI shall place a copy of *DOC-HIPAA FORM 3* in the record that contained the PHI and submit a copy to the DOC Privacy Officer.

i. In some cases when research is being conducted, the inmate may be required to first consent to use of his/her PHI.

5. **PERSONAL REPRESENTATIVE'S ACCESS TO PHI**

a. The inmate's personal representative as defined in this directive shall complete *DOC – HIPAA FORM 38A* to access PHI on behalf of the inmate. Attorneys of record are not personal representatives unless so appointed as the inmate's power of attorney or as appointed by the courts.

b. The inmate's personal representative shall not be given PHI that has been determined to jeopardize safety and security as described in Section 3 of this Chapter.

6. **REVOCATION OF CONSENT.** An inmate may revoke a consent at any time. Revocation of consent does not affect DOC's use/disclosure prior to learning of the revocation.

7. **FORMER INMATE'S REQUEST TO ACCESS INDIVIDUAL PHI.** Inmates who have been released from custody have the right to receive a copy of their PHI.

a. The requester shall obtain *DOC -- HIPAA FORM 38A Section A* from the DOC Privacy Officer.

b. The requester shall submit DOC-HIPAA FORM 38A to the DOC Privacy Officer.

8. **VERIFICATION OF IDENTITY.** Employees who are authorized to disclose PHI must ensure that it is *only* given to persons who are authorized to receive it.

a. Authorized employees and business associates (i.e., covered entities) shall document verification of identity in *Section B of DOC-HIPAA FORM 10 Disclosure Log/Authorization/ Verification/Minimum Necessary Requirement* (Attachment C).

b. If there are still questions regarding either verification of the requestor's identity or their authority to receive the requested PHI, the employee or

health care provider shall consult the DOC Privacy Officer before any disclosure is made.

c. Examples of appropriate identification include:

1) **Personal Recognition.** The employee who is authorized to disclose the PHI shall document on *DOC-HIPAA FORM 10*, Section B that the requestor's or receiver's identity is known and provide a brief statement of how this knowledge was determined.

2) **Documented Identification** such as:

a) Photographic identification card.

b) Government identification card or badge.

c) Appropriate document on government letterhead.

d) If a person purports to be acting on behalf of a public official, appropriate identification includes, if reasonable for the situation:

(1) A written statement of appointment on appropriate government letterhead.

(2) A contract, memorandum of understanding, purchase order or other evidence establishing the appointment to act on behalf of the public official.

9. **EVIDENCE OF AUTHORITY.** Evidence of authority shall be determined as follows:

a. Receipt of a DOC-HIPAA FORM 3 *Consent to Release PHI* that was completed and signed by:

1) The inmate.

2) The inmate's personal representative.

b. If not the inmate or the inmate's personal representative, establish and document on *DOC – HIPAA FORM 10 Section C*, if authority to received PHI is applicable. Examples of appropriate authority include, if reasonable for the situation:

1) A warrant, subpoena, order or other legal process issued by a grand jury, a court, or an administrative tribunal.

2) A written statement of legal authority or, with respect to a properly identified government official, an oral statement of authority, if reliance on such oral statement is reasonable for the situation. The authorized employee shall document the oral statement on *DOC – HIPAA FORM 10*, Section C.

3) Identification as legal guardian, executor or administrator with respect to a deceased individual or an estate, power of attorney or other evidence of legal authority to act on behalf of an individual with respect to health care, or other evidence of appropriate relationship with the individual with respect to health care.

10. **MINIMUM NECESSARY RULES.** In most cases, when using or disclosing PHI or when requesting PHI from another covered entity, limit PHI to the "minimum necessary" to accomplish the intended purpose of the use, disclosure, or request.

a. **Exceptions to the Minimum Necessary Rules.** Minimum Necessary does not apply to:

1) PHI disclosure to, or requests from, a health care provider for treatment and internal operations.

2) Uses or disclosure granted and made when the inmate authorizes release.

3) PHI disclosures made to the DHHS Secretary for HIPAA compliance investigations.

4) Uses or disclosure of PHI that is required by law.

b. **Use and Disclosure of Minimum Necessary PHI.** Staff shall make reasonable effort to use, disclose and request only the minimum necessary PHI to accomplish the intended purpose of the request. The employee shall document on *DOC-HIPAA FORM 10* Section D when the minimum necessary rule does not apply.

c. **Routine and Reoccurring Requests.** Some requests for and disclosure of PHI are routine and reoccurring. Examples of routine and reoccurring requests are:

1) Requests from a covered entity that is subject to the Privacy Rules.

2) Request from a professional who is a member of the agency workforce or business associate, and that person represents that the minimum necessary PHI is being sought.

3) Request from a government agent or law enforcement official who represents that the minimum necessary PHI is being sought.

4) Request based upon an authorized DOC research or statistical activity that documents that the minimum necessary PHI is being sought.

d. **Evaluations and Progress Reports.** Psychological reports, medication requirements and other data or referrals made as part of an inmate's release plan.

e. **PHI Restrictions for Law Enforcement Purposes.** For the purpose of law enforcement regarding identification or location, the minimum necessary protected health information that may be disclosed is limited to not more than the following: Authorized employees shall release only the following PHI as specified below:

1) The individual's statement.

2) Name.

3) Address.

4) Social Security Number.

5) Date and place of birth.

6) Blood type.

7) Type of injury, date and time of treatment.

8) Distinguishing characteristics (e.g., height, weight, gender, race, hair and eye color, facial hair, scars, tattoos).

9) If applicable, death.

f. **Entire Medical Record.** When an entire medical record is requested by a party that is not a covered entity or the subject of the PHI, the health care provider shall:

1) Determine on an individual basis whether the situation justifies using, disclosing or requesting an entire medical record as the minimum necessary protected health information for the purpose. This in regards to when an inmate's personal representative or 3rd party requests to review the entire record.

2) Consult with the DOC Privacy Officer if the disclosure request is made by an individual other than the individual inmate to review his/her medical record.

3) The health care provider shall provide a summary or explanation of the requested protected health information if the individual requests and agrees to pay designated fees for preparing the summary or explanation.

4) The DOC Privacy Officer and the business associate shall maintain all disclosure logs and documentation that are required by HIPAA and set forth in Chapter 8 of this directive.

4. **NON-ROUTINE REQUESTS TO DOC PRIVACY OFFICER.** Requests for PHI that are not routine or reoccurring in the usual conduct of business operations shall be forwarded to the DOC Privacy Officer.

a. The DOC Privacy Officer shall process each access request in accordance with law, regulations, and policies and procedures.

b. The DOC Privacy Officer shall direct the business associate to furnish PHI needed to comply with the access request *using DOC – HIPAA FORM 38B Direction to Retrieve Records* (Attachment E).

c. The DOC Privacy Officer, in conjunction with the business associate, shall verify the identity and authority of the person from seeking disclosure.

d. The DOC Privacy Officer shall respond in writing to the individual's request for access to PHI within 30 days.

1) The initial response may be a written notice that a 30-day extension will be taken for reasons stated in the notice.

2) The DOC Privacy Officer shall track and record the request to access PHI, using *DOC – HIPAA FORM 38C Access Request Processing* (Attachment F).

e. The DOC Privacy Officer shall make, a final determination within 30 days or 60 days when a notice of extension was issued.

5. **GRANT OF ACCESS TO RECORDS**

a. If access is granted, the DOC Privacy Officer shall use *DOC – HIPAA FORM 38D Grant of Access to Records* (Attachment G), Section to provide notice and inform the individual of any applicable fees.

b. The Privacy Officer shall ensure that all disclosure forms are filed in the inmate's medical record, and/or institutional record when appropriate, and retain a copy in the privacy official file.

6. **DENIAL OF ACCESS**

a. Only the DOC Privacy Officer shall determine whether to grant or deny an individual access to protected health information.

b. The DOC Privacy Officer shall deny access to PHI.

c. The DOC Privacy Officer may deny access to PHI if a licensed health care professional has determined, in the exercise of professional judgment that:

1) The access requested is *reasonably* likely to endanger the life or physical safety of a current/former inmate or another person.

2) The PHI makes reference to another person (unless such other person is a health care provider) and the access requested is *reasonably* likely to cause substantial harm to such other person.

3) The request for access is made by an inmate's personal representative and the provision of access to such personal representative is reasonably likely to cause substantial harm to the inmate or another person.

d. When the DOC Privacy Officer denies access to protected health information, the DOC Privacy Officer shall:

1) Inform the individual in writing, using *DOC – HIPAA FORM 38E Denial of Access to Records* (Attachment H), about the reason that the information is being withheld from them. The denial shall include:

a) The basis for the denial.

b) The individual's review rights.

c) Instructions for exercising his/her review rights.

d) The instructions for filing a complaint with DOC or the Department of Health and Human Services (DHHS).

2) After denying a specific PHI request, DOC shall, to the extent possible, give the individual access to any other requested PHI that can be disclosed.

7. **RIGHT OF REVIEW.** If DOC denies access to PHI, in whole or in part, and the requester has the right to review the reason for the denial, the Privacy Officer or designee shall:

a. Forward the request to the DOC Health Services Administrator to review and designate a licensed health care professional who did not participate in the denial decision to review the decision and, within a reasonable time, report to the DOC Privacy Officer whether the denial is justified.

b. Promptly report the reviewer's determination in writing to the individual, and act in accordance with the reviewer's determination.

c. Inform the requester in writing of further appeal options.

8. **ACCESS FEES.** DOC does not charge for search and retrieval of PHI but may charge a reasonable cost-based fee for providing requested summaries pertaining to PHI, copying and mailing the requested PHI.

a. **Notification of Fees.** The DOC Privacy Officer shall inform the individual of accessed fees in advance so that the individual may elect to withdraw or modify the request to reduce or avoid the fee.

b. **Medical Record.** The District Government, upon the Privacy Officer's review and approval, may receive reasonable compensation for preparing a summary or explanation of the requested protected health information.

c. **Fee Assessment.** Fees for copies of PHI contained in either the medical file that is in the custody of the health care provider or PHI that is contained in the inmate's official institutional record are calculated as follows:

1) Inmates may be charged 0.10 per page. The DOC Privacy Officer shall have the discretion to waive a fee when the inmate is indigent.

2) Personal representative shall be charged a fee of 0.25 per page.

3) First class mailing fees shall be accessed based upon the weight of the documents.

4) Generally other government agencies and business associates shall not be assessed copying and mailing fees.

9. **RESEARCH STUDIES**

a. A request to conduct research about inmates (current/former) that includes use of PHI shall be submitted to the DOC Director in accordance with PS 1311.1C "Management Controls – Research Activity" (5/20/02).

b. In addition to documentation required in section a. above, the researcher shall submit *DOC -- HIPAA FORM 12, Research Access Request* (Attachment I).

c. The Office of Internal Controls, Compliance and Accreditation (OICCA) shall, in conjunction with the DOC Privacy Officer, recommend approval or denial

of the request in accordance with PS 1311.1C. When necessary, OICCA shall consult with the DOC Data Access Review Committee (DARC) for guidance.

d. When there is proper representation from a researcher that the protected health information is needed for the research, PHI shall be used and disclosed only as specifically needed to prepare the research protocol or for a similar preparatory purpose, and no protected health information shall be removed from the premises during the review.

e. Both the DOC Privacy Officer and OICCA shall maintain a copy of the research request and all other documentation in the file.

f. Required documentation is set forth in PS 1311.1C noting that at a minimum the following documentation is required.

1) The name of the research protocol or activity.

2) A plain language description of the research protocol or activity, including its purpose and criteria for selecting particular records.

3) A brief description of the type of protected health information disclosed.

4) The dates or period during which the disclosures occurred, or may have occurred, including the date of the last disclosure during the period covered by the individual's request.

5) The name, address, and telephone number of the research sponsor and the researcher to whom the disclosures were made.

6) A statement that the individual's protected health information may or may not have been disclosed for a particular research protocol or other research activity.

7) Assistance in contacting the research sponsor and the researcher, if it is reasonably likely that the individual's protected health information was disclosed for the research protocol or activity.

8) Estimated date that the research study will end.

CHAPTER 9
DISCLOSURE ACCOUNTING

1. **ePARTNERS AUTOMATED DOCUMENTATION AND TRACKING.** In addition to completion of *DOC-HIPPA FORM 10*, the authorized employee shall enter all relevant data for tracking PHI accounting, disclosures and complaints into the ePartners software program. This software generates complete disclosure logs, as well as information on each disclosure, as necessary.

   a. The website for DOC is: http://hipaaepartner.dev.in.dc.gov/hipaa.

   b. The authorized employee shall use their designated computer identification name and password for entry and review. At a minimum the following information shall to be entered:

      1) The disclosure date.

      2) Inmate's Name.

      3) Inmate's DCDC #.

      4) The name and address of each person or entity that received the response.

      5) Social Security Number or other identifier if recipient is not the inmate.

      6) Type of authorization or disclosure.

      7) Verification of Recipient's Identity and Authorization to receive PHI.

      8) A description of the PHI disclosed.

      9) A statement of purpose for the disclosure and/or a copy of any written request for the disclosure.

   c. **Disclosure to be Documented.** Although documentation of disclosure of most of the following PHI is not required by Privacy Rules, DOC has determined that disclosure shall be documented for logging and tracking purposes. However, disclosure accounting to the individual subject shall only be made in accordance with Privacy Rules and this directive.

      1) Disclosures made to the inmate or personal.

      2) Disclosures made pursuant to the inmate's authorization.

      3) Disclosures required by law.

      4) Disclosures made to persons involved in the inmate's health care.

5) Disclosures for public health and health oversight activities.

6) Disclosures for FDA adverse event reporting.

7) Disclosures to a person who may have been exposed to a communicable disease as defined in Chapter 5, Section g.

8) Disclosures to a government authority about victims of abuse.

9) Disclosures for judicial and administrative proceedings.

10) Disclosures pursuant to a court order or subpoena.

11) Disclosures for law enforcement purposes (physical injuries, pursuant to court order or subpoena or summons, pursuant to a grand jury subpoena).

12) Disclosure in response to a law enforcement official's request regarding victims of a crime.

13) Disclosures to law enforcement about deaths of inmates suspected as the result of criminal conduct.

14) Disclosure to law enforcement about criminal conduct on DOC premises or in emergency situations.

15) Disclosures made to correctional institutions or law enforcement officers regarding inmates or individuals in lawful custody.

16) Disclosures about decedents to a coroner or funeral director to carry out their duties.

17) Disclosures to avert a serious threat to health or safety.

18) Disclosures for research purposes when there is a valid waiver.

19) Disclosures for specialized government functions.

20) Disclosures made for national security or intelligence purposes.

2. **DISCLOSURE ACCOUNTING**

b. **Required PHI Disclosure Accounting.** Upon request, disclosure of the following PHI shall be made to the inmate, the inmate's personal representative or a former inmate.

1) Disclosures made to the inmate or personal representative.

2) Disclosures made pursuant to the inmate's consent.

3) The PHI that was disclosed in response to a subpoena, a court order, discovery request or other lawful process not accompanied by court or administrative tribunal order, when DOC has made a reasonable effort to provide notice to the individual sufficient to permit the individual to object to, or seek a qualified protective order from, a court or administrative tribunal or there is "satisfactory assurance" that the information seeker has made reasonable efforts either (a) to ensure the individual has notice, or (b) to secure a qualified protective order from the court or administrative tribunal or by party stipulation that limits the parties' use or disclosure to the purpose of the proceeding, and requires return or destruction of the protected health information (including all copies) at end of the proceeding.

c. **Exemptions for Disclosure Accounting.** DOC shall not provide notice of PHI that falls under the realm of *Permitted Use and Disclosure* (See Chapter 5, Section 2) or when the PHI meets criteria as *Exceptions to Permitted Disclosure* (see Chapter 6).

d. **Individual's Request to DOC for an Accounting of PHI Disclosures.** The inmate, the inmate's personal representative or a former inmate shall submit to the DOC Privacy Officer a request for disclosure accounting, using *DOC – HIPAA FORM 40A* (Attachment J).

e. The DOC Privacy Officer shall access the ePartner Software and extract instances of disclosure as set forth only in ¶ b of this section.

f. The DOC Privacy Officer shall, using *DOC – HIPAA FORM 40B Disclosure Accounting* (Attachment K) provide disclosure accounting.

b. **Response to a request for disclosure accounting**

1) Inmates or their personal representative and former inmates have the right, upon request, to a list of instances in which DOC or its business associates disclosed PHI after April 13, 2003.

2) Disclosure accounting shall be made in accordance with Privacy Rules and this directive in ¶ "b." of this section.

CHAPTER 10

PHI AMENDMENTS, RESTRICTIONS AND COMPLAINTS

1. **AMENDMENT TO PHI**

   a. A current/former inmate or the inmate's personal representative has the right to request that DOC and/or its business associates amend PHI as long as DOC maintains the record.

   b. DOC has no obligation to agree to the request.

   c. Only the DOC Privacy Officer, or designee, shall determine whether to grant or deny a current/former inmate's amendment request.

   d. DOC shall not amend PHI if:

      1) DOC or its business associates did not create the information – unless the individual can provide reasonable proof that the originator is no longer available to act on the request.

      2) The information is not part of the designated record set DOC maintains.

      3) The information would not be available for inspection (due to its condition or nature).

      4) The information is determined to be accurate and complete.

   d. If DOC is informed by another covered entity of an amendment to a current/former inmate's PHI in accordance with the provisions of the Privacy Rule, DOC shall amend the PHI in the designated record set for that inmate.

   e. **PROCEDURES**

      1) **Request Form.** The inmate or the inmate's personal representative shall forward the request to the DOC Privacy Officer, using *DOC-HIPAA FORM 39A Request to Amend PHI* (Attachment L).

      2) **Amendment Request Processing**

         a) DOC shall, at a minimum, identify the records in the designated record set that are affected by the amendment.

b) The DOC privacy Officer shall, using *DOC – HIPAA FORM 39B Amendment Request Processing* (Attachment M) forward the request for amendment to the business entity who is believed to maintain the PHI.

(1) The business entity shall review the request for amendment and, using *DOC – HIPAA FORM 39B*, submit a recommendation to the Privacy Officer.

(2) If amendment is recommended, the business partner shall prepare the specific language for amendment and submit it as an attachment to *DOC-HIPAA FORM 39B*.

3) **Granting the Amendment**

a) The DOC Privacy Officer shall document the grant of amendment on FORM 39B and in the EPartner software.

b) The DOC Privacy Officer shall, using *DOC -- HIPAA FORM 39C Grant of Amendment to Records* (Attachment N), respond in writing to the request to amend PHI within 60 days of its receipt.

c) The DOC Privacy Officer shall, using *DOC – HIPPA FORM 39D Notification to Amend Records* , (Attachment O) make reasonable efforts to inform and provide the amendment within a reasonable time to:

(1) People identified by the current/former inmate or personal representative as having received the PHI and needing the amendment.

(2) The business associates, that control the PHI and who may have relied, or could rely, on the information.

(3) The current/former inmate or personal representative must agree with the parties with whom the amendment will be shared.

(4) The DOC Privacy Officer shall inform the current/former inmate or personal representative of complaint rights if the inmate does not agree with the amendment made or with whom the amendment was shared.

f. **Denying the Amendment**

1) If a request to amend is denied, the DOC Privacy Officer shall, using *DOC – HIPAA FORM 39E Denial of Request to Amend Records*

(Attachment P), provide the current/former inmate or personal representative with a determination in a timely manner that is written in plain language, stating:

a) The basis for the denial.

b) Notification of the right to submit a written statement of disagreement and instructions for doing so.

c) Notification of the right to ask DOC to include the request for amendment, the denial and the disagreement with any future disclosures of PHI that are the substance of the amendment.

d) Procedures for filing a complaint to include the name, address and telephone number to the District Privacy Official and the Secretary of the Department of Health and Human Services.

2) If the current/former inmate or the inmate's personal representative has submitted a written statement of disagreement, DOC shall, using *DOC – HIPAA FORM 39D*, direct its business entities to, when making future disclosure of the affected PHI, include the following:

a) The request for amendment.

b) The denial.

c) The statement of disagreement.

d) The rebuttal (if any).

e) At the DOC Privacy Officer's discretion, an accurate summary of the requester's disagreement along with DOC' s rebuttal.

4) The DOC Privacy Officer shall document the actions taken in response to the amendment request on HIPAA FORM 39B and in ePartner Software.

2. **REQUEST TO RESTRICT USE AND DISCLOSURE OF PHI.** A current/former inmate or the inmate's personal representative may request DOC or the business associate to restrict use and disclosure of or the inmate's personal representative PHI for treatment, health care operations, disclosure to specified family members or others, and for other notification purposes.

a. Only the DOC Privacy Officer, or designee, may grant the current/former inmate or personal representative's request to restrict use and disclosure of PHI.

b. DOC has no obligation to agree to the request.

c. **Unenforceable Restrictions.** The DOC Privacy Officer shall not grant a restriction to disclosure as follows:

1) When the use or disclosure when the inmate's consent to disclose the PHI is not required,

2) Disclosure to the Department of Health and Human Services for compliance investigation or enforcement, or

3) When use or disclosure is for permitted public interest or benefit activities.

d. **Medical emergencies.** DOC and its business entities may use restricted PHI for treatment in a medical emergency but shall:

1) Exercise professional judgment to determine that the medical emergency justifies disclosure.

2) Document the basis for the determination.

3) Send documentation to the DOC Privacy Officer and place a copy in the inmate's medical record.

e. **Procedures**

1) **Request Form.** The requester shall submit *DOC – HIPAA FORM 42A Request to Restrict Disclosure of PHI* (Attachment Q) to the DOC Privacy Officer.

2) The DOC Privacy Officer shall, at a minimum, identify the records in the designated record set and where the records are maintained that are affected by the restriction.

3) **Agreement to the Restriction**

a) Upon agreement to the Restriction, the DOC Privacy Officer shall:

(1) Using *DOC – HIPAA FORM 42B Agreement to Restrict Disclosure of PHI* (Attachment R), notify the requester of the restriction and limitations of restriction cited in ¶c. of this Section.

(2) Using *DOC – HIPAA FORM 42C Notification of Restriction Protected Health Information* (Attachment S) notify affected agencies and business entities of their obligation to comply with the restriction.

(3) Ensure *DOC – HIPAA FORM 42C* is filed in the inmate's medical; and institutional filed when applicable; and retain a copy in the DOC Privacy Office's File.

b) Employees who are authorized to use and disclose PHI shall immediately notify the DOC Privacy Officer if they receive a request from HHS or another government agency or organization for PHI that is restricted.

c) Employees who are authorized to use and disclose PHI shall consult with the DOC Privacy Officer whenever there is any question of whether a particular use or disclosure may be contrary to the restriction agreement.

d) The DOC Privacy Officer shall document the transactions on *DOC – HIPAA FORM 42D Processing of Request to Restrict Disclosure* of PHI (Attachment T).

4) **Termination of the Restriction on Use and Disclosure of PHI.** Termination of Restriction can be made by either DOC or the inmate/ inmate's personal representative.

a) DOC may terminate a restriction agreement with or without the current/former inmate's or personal representative's concurrence by giving written notice of termination.

b) Only the DOC Privacy Officer has the authority to terminate a Restriction of Use and Disclose of PHI.

c) Termination of the Restriction can be enacted as follows:

(1) The Requester may submit a written request to the DOC Privacy Officer to lift the restrictions.

(2) The DOC Privacy Officer shall, *using DOC – HIPAA FORM 43A Notice of Termination of PHI Restriction Agreement* (Attachment U) notify the individual of the termination.

d) The DOC Privacy Officer shall, using *DOC – HIPAA FORM 43B Notice to Terminate Restriction for Use and Disclosure of PHI* (Attachment V), notify affected agencies and business entities that the restriction has been terminated.

5) **Denial of the Restriction.** If the DOC Privacy Officer denies a request to restrict use and disclosure of PHI, the DOC Privacy Officer shall, using *DOC – HIPAA FORM 42E Denial of PHI Restriction Request* (Attachment W), provide the current/former inmate or

personal representative with a determination in a timely manner that is written in plain language, stating the basis for the denial.

6) **Documentation.** The DOC Privacy Officer shall document the restriction request using *DOC -- HIPAA FORM 42D* and shall include in both the individual's and the Privacy Officer files records of each restriction request received, DOC response, each restriction agreement made, each restriction agreement terminated and any other documentation regarding compliance with respect to disclosure accounting.

3. **REQUESTS FOR CONFIDENTIAL COMMUNICATIONS.** Inmates may request that communications of PHI be made by alternative means, or at alternative locations. DOC may accommodate such reasons, if deemed reasonable and not likely to present a security and safety problem. The alternative is usually when the inmate requests to come to the infirmary to be verbally given the requested PHI rather than at sick call.

4. **COMPLAINTS**

a. **Authority.** The DOC Privacy Officer shall timely investigate and appropriately respond to each written complaint.

b. **Request Form.** The current/former inmate or the inmate's personal representative shall submit each complaint regarding compliance with the Privacy Rules and/or this directive using, *DOC -- HIPAA FORM 53A Health Information Privacy Complaint* (Attachment X).

c. **Procedures.** The DOC Privacy Officer shall process a complaint as follows:

1) Investigate the complaint, using *DOC -- HIPAA FORM 53B Complaint Investigation and Processing* (Attachment Y) to document the investigation, findings, and conclusions.

2) Using *DOC – HIPAA FORM 53C Report on Complaint* (Attachment Z), notify the complainant of the resolution of the complaint.

3) Institute appropriate action to correct the matters complained of, if corrective action is warranted.

4) Mark any portion of *DOC – HIPAA FORM 53C* that is subject to the attorney-client or attorney work product privilege as "privileged and confidential," and send the completed *DOC – HIPAA FORM 53C* to the DC Privacy Officer.

CHAPTER 11

RECORDS MAINTENANCE, RETENTION AND DISPOSAL

1. **Epartner.** The DOC Privacy Officer shall implement documentation and implementation practices that are consistent with the Privacy Policies and Procedures.

2. **Documentation.** The DOC Privacy Officer shall ensure that business entities and DOC staff, who are responsible for use and disclosure, enter required data into the ePartner software.

3. **Records Retention and Disposal.**

   a. The DOC Privacy Officer is the repository of all documents regarding privacy practices and compliance. Some of these documents are:

      1) Documentation of the designation of DOC Privacy Officer, documentation of designated record and limited data sets.

      2) Privacy Policies and Procedures.

      3) Consent to release PHI and revocations of the consent to release PHI.

      4) Requests from individuals for access, amendment, disclosure accounting, restriction or confidential communication.

      5) Complaints and any material generated as a result of investigating and resolving the compliant, if any.

      6) Documentation of when PHI has been declassified and notification to each covered entity.

      7) Documentation relating to personal representative relationships and business associate relationships.

      8) Documentation of workforce training and sanctions, mitigation plans and other administrative requirements.

   b. The DOC Privacy Officer, DOC and the affected business associate shall maintain or retain, on paper or electronically, the documentation obtained or received in connection with use or disclosures of PHI for 6 years after its creation or last effective date that it was used or disclosed. Documentation shall include:

1) Disclosure to or a request by a health care provider for treatment.

2) Use with and disclosure to an individual (or the individual's personal representative).

3) Use and disclosure pursuant to an authorization by an individual (or the individual's personal representative).

4) Disclosure to Health and Human Services for complaint investigation or compliance enforcement or review.

5) Use and disclosure required by law.

c. The DOC Privacy Officer shall maintain, retain and dispose of PHI in accordance with the Privacy Policy and DOC policy PS 2000.2 "Retention and Disposal of Department Records" (4/6/01) and subsequent Records Retention Schedule.

4. **Policy and Procedures Change Documentation**

a. The DOC Privacy Officer shall furnish to the District Privacy Official any documentation regarding changes in Privacy Policies and Procedures and corresponding changes in Privacy Practices Notices.

b. The District Privacy Official shall retain each set of the Privacy Policies and Procedures and all documentation reflecting changes in them and in the Privacy Practices Notices for 6 years after their creation or last effective date.

c. Privacy Policies and Procedures as well as all documentation pertaining to implementation of all policy and procedures contained in this directive shall retain documentation until 6 years after their creation or last effective date.

5. **Retention of Disclosure Documentation**

a. DOC and the affected business associate shall maintain or retain, on paper or electronically, the documentation obtained or received in connection with use or disclosures for public interest or benefit activities until 6 years after its creation or last effective date.

b. Documentation shall include:

6) Disclosure to or a request by a health care provider for treatment;

7) Use with and disclosure to an individual (or the individual's personal representative);

8) Use and disclosure pursuant to an authorization by an individual (or the individual's personal representative);

9) Disclosure to HHS for complaint investigation or compliance enforcement or review; and

10) Use and disclosure required by law.

CHAPTER 12

Oversight and Quality Assurance

1. **Contract Administration and Quality Assurance**

   a. The DOC Health Services Administrator shall in accordance with the contracts between the District, CCA and CCHPS and in accordance with DOC management controls guidelines conduct regular monitoring and oversight of agency compliance with this directive.

   b. The DOC Privacy Officer shall conduct regular monitoring activities for compliance with this directive.

   c. The Office of Internal Controls, Compliance and Accreditation shall conduct annual audits of DOC compliance with HIPAA, related laws, standards, regulations and this directive.

2. **Department of Health and Human Services (HHS) Enforcement and Compliance**

   a. Officials and employees shall immediately notify the DOC Privacy Officer of any inquiry from HHS or any other government official and shall await instruction from the DOC Privacy Officer before responding to these inquiries or providing any documents or other information on behalf of the organization.

   b. The DOC Privacy Officer, shall coordinate responses to any HHS compliance review, complaint investigation or other inquiry, to ensure that all applicable obligations of the organization are fulfilled and all applicable rights and privileges of the organization are preserved and protected.

   c. The DOC Privacy Officer shall keep sufficient non-privileged records of the compliance to be able to submit compliance reports in the time, manner, and with the information HHS requests to ascertain compliance.

   d. The DOC Privacy Officer, shall arrange for HHS to have access to facilities, books, records, accounts, and other non-privileged information.

   e. The DOC Privacy Officer, shall endeavor to obtain non-privileged information required by HHS that is in the exclusive possession of the business associates, other agents, institutions or persons who fail or refuse to furnish the information directly to HHS.

   f. No DOC official or employee shall attempt to or obstruct or interfere with any lawful process, warrant, order or subpoena that may be presented.

g. If the officials insist they have the right of immediate search and seizure of the organization's records, equipment or other matters specified in the process presented, no DOC employee or covered entity shall obstruct or interfere with them. Instead, the affected employee shall use best efforts to contact the DOC Privacy Officer or General Counsel and in the interim, observe and document everything that the officials search, seize, say, and do.

CHAPTER 13

DEFINITIONS

1. **Agency.** The DOC designated as a *health care component* in the District's *hybrid entity* declaration on file in the Privacy Officer's office.

2. **Attorney-of-record.** Disclosure to an inmate's attorney shall be handled as would all disclosures to a third party with the inmate's written consent.

3. **Covered Entity.** A health care provider who transmits any health information in electronic form in connection with a transaction covered by this directive. A *Health care provider* a provider of services (as defined in section 1861(u) of the Act, 42 U.S.C. 1395x(u)), a provider of medical or health services (as defined in section 1861(s) of the Act, 42 U.S.C. 1395x(s)), and any other person or organization who furnishes, bills, or is paid for health care in the normal conduct of business. The Center For Correctional Health and Policy Studies (CCHPS) is the *covered entity* contracted by the DOC to provide health care services to inmates confined within the DOC.

4. **De-identified Information.** Under certain circumstances, all identifiers of the individual and the individual's relatives, household members, and employers, associated with the health information may be removed so that the information can be used for research or statistical reporting without there being the ability to identify the individual.

5. **Designated Record Set.** For the purposes of this directive, the term *record* means any item, collection or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity. A designated record set is a group of records maintained by or for a covered entity that is (1) medical and medical billing records about individuals maintained or for a covered health care provider; (2) the enrollment, payment, claims adjudication, and case of medical management record systems maintained by or for a health plan; or (3) used in whole or in part, by or for the covered entity to make decisions about individuals. Designated records sets are listed in Attachment A of this directive.

6. **Disclosure.** The release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

7. **Health Care.** Care, services, or supplies related to the health of an individual, to include, but is not limited to preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an

individual or that affects the structure or function of the body; and dispensing of a drug, device, equipment, or other item in accordance with a prescription.

8. **Health Care Clearinghouse.** A public or private entity, including a billing service, re-pricing company, or health management service that processes or facilitates the processing of health information. The Department of Health (DOH) provides health care clearinghouse services for the DOC.

9. **Health Oversight Agency** means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.

10. **Hybrid Entity.** A hybrid entity is an entity whose covered functions are not its primary function therefore compliance with HIPAA Privacy Rules for protected health information is a hybrid entity's primary concern. DOC as a hybrid entity shall ensure the health care provider, as a covered entity, complies with all aspects of HIPAA to include privacy rules, individual identifiers, electronic transactions, payments, etc.

11. **Individually Identifiable Information.** Anything that can be used to identify a patient such as names, addresses, dates of birth, relative's names, employers, telephone numbers, e-mail addresses, social security numbers, medical record number, DCDC numbers, fingerprints, photographs, codes or other characteristics that may identify the individual.

12. **Law Enforcement Official.** An officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, who is empowered by law to investigate or conduct an official inquiry into a potential violation of law; prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

13. **Minimum Necessary** means to request only and to give or supply to the requester only the PHI that is required to fulfill the requester's inquiry. <u>Do not give or supply more</u> than is necessary to fulfill that particular inquiry.

14. **Personal Representative**. For the purposes of this directive, a personal representative is defined as an individual with a power of attorney or an individual appointed by the court or otherwise has legal authority to act on behalf of an

inmate when medical decisions must be made. *The inmate's attorney is not defined as a personal representative.*

15. **Protected Health Information.** Information regarding a person's past, present, or future physical or mental condition, provision of health care or payment for health care.

16. **Psychotherapy Notes** are personal notes as mental health information disclosed to the mental health professional in confidence by other persons on condition that such information is not disclosed to the individual or other persons; and the mental health professional's speculations.

17. **Record.** Any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity.

18. **Required by Law** means a mandate contained in law that compels an entity to make a use or disclosure of protected health information and that is enforceable in a court of law. *Required by law* includes, but is not limited to, court orders and court- ordered warrants; subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information; a civil or an authorized investigative demand; Medicare conditions of participation with respect to health care providers participating in the program; and statutes or regulations that require the production of information, including statutes or regulations that require such information if payment is sought under a government program providing public benefits.

19. **Transaction** means the transmission of information between two parties to carry out financial or administrative activities related to health care. It includes the following types of information transmissions:

    a. Health care claims or equivalent encounter information.

    b. Health care payment and remittance advice.

    c. Coordination of benefits.

    d. Health care claim status.

    e. Enrollment and de-enrollment in a health plan.

    f. Eligibility for a health plan.

    g. Health plan premium payments.

    h. Referral certification and authorization.

i. First report of injury.

j. Health claims attachments.

k. Other transactions that the Secretary may prescribe by regulation.

20. **Treatment** means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.

21. **Use.** With respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

22. **Workforce.** Employees, contractors, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity.

DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS

Program Statement

OPI: OMITS
Number: 2420.2
Date: December 15, 2003
Subject: Information Security

1. **PURPOSE AND SCOPE.** To establish standard procedures for the security, management and control of the DC Department of Corrections (DOC) electronic data and information systems.

2. **POLICY.** It is the policy of the DOC to control access to mission-critical information while ensuring accuracy, the privacy of government documents, inmates and staff, and minimizing the risk of loss for any reason.

3. **APPLICABILITY.** This policy applies to all DOC's entities and to all employees, agents, consultants, contractors, volunteers and vendors involved in the use and/or development, implementation and maintenance of information systems.

4. **PROGRAM OBJECTIVES.** The expected results of this program are:

   a. Access to information shall be granted and controlled based on the requirements of official duties and achievement of departmental goals and objectives, or as stipulated by the DC Freedom of Information Act (FOIA) and the Health Information Portability and Accountability Act (HIPAA) of 1996.

   b. Information security procedures shall comply with applicable security laws, regulations and policies, both federal and local.

   c. DOC's data and information systems assets shall be provided adequate security commensurate with the risk and magnitude of harm resulting from the loss, misuse or unauthorized access to or modification of the information.

   d. DOC data and information systems shall be protected from loss and unauthorized disclosure.

   e. Standard procedures and instructions shall be employed for computer systems operators and operations. These procedures define both required and prohibited activities, retention of department records, and specify controls and documentation to be used.

5. **DIRECTIVES AFFECTED**

a. **Directives Rescinded.** None

b. **Directives Referenced**

1) PS 1280.2C "Notification of Significant Incidents and Extraordinary Occurrences", (9/15/00)

2) PS 1300.1B "District of Columbia Freedom of Information Act (FOIA)", (12/15/03)

3) PM 1300.3 "Health Information Privacy", (12/15/03)

4) PS 2000.2 "Retention and Disposal of Department Records", (2/26/01)

5) PS 2420.4A "Email & Internet", (9/30/03)

6) PS 2420.8 "Recovery Disaster Plan", (12/15/03)

6. **AUTHORITY**

a. The Computer Security Act of 1987, Public Law 100-235 (January 8, 1988)

b. Defense Authorization Act P.L. 106-398 (Government Information Security Reform)

c. D.C. Code § 24-211.02 Powers; Promulgation of Rules [Formerly § 24-442]

d. OMB CIR A-130 Security of Federal Automated Information Resources

e. DC Code §§2-531 through 2-539 (2001) Freedom of Information Act

f. OCTO Information Security Policy (10/15/01)

g. OCTO User Password Protection Procedure (10/15/01)

h. OCTO Desktop Security Standard (10/15/01)

i. 45 Code Federal Regulations Parts 160 and 164 (Privacy Rules)

j. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) DC Privacy Rules

k. 45 Code Federal Regulations Parts 160 and 164 (Privacy Rules)

l. HIPAA DC Guide on Preparing Contingency Plans, HIPAA DC Program Management Enterprise Compliance Implementation Project (June 2003)

7. **NOTICE OF NON-DISCRIMINATION** In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Code section 2.1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

8. **STANDARDS REFERENCED**

   a. American Correctional Association (ACA) 2nd Edition Standards for Administration of Correctional Agencies: 2-CO-1E-01, 2-CO-1E-06, 2-CO-4E-47, 2-CO-1F-01, 2-CO-1F-03 and 2-CO-1F-06.

   b. American Correctional Association (ACA) 3rd Edition Standards for Adult Local Detention Facilities: 3-ALDF-1E-01, 3-ALDF-1F-01 and 3-ALDF-1F-02.

9. **RESPONSIBILITIES**

   a. **Director** shall approve or disapprove external requests for data access to inmate population or departmental programs and operations.

   b. **DOC Data Access Review Committee (DARC)** shall determine, or when required, recommend action to the Director for the release of information regarding inmates or agency operations or for the conduct of research by external sources.

   c. **Office of Management Information and Technology Services (OMITS) Manager** shall administer the Information Security Program.

   d. **DOC Information Security Officer (ISO)** shall monitor and document compliance with DOC Information Security Program procedures, and identify and correct known deficiencies.

   e. **OMITS Technical Staff** shall provide oversight, including inventory control, system performance monitoring, and technical assistance for the operation and maintenance of DOC computer rooms.

   f. **OICCA** shall conduct annual audits for compliance with this directive.

   g. **Warden/Administrators/Office Chiefs** shall ensure that the IT data, access privileges, and equipment under their responsibility comply with this directive.

   h. **DOC Employees** are responsible for assisting in the protection of DOC's automated correspondence, data, IT systems and equipment they are authorized to use by complying with the security procedures outlined in this directive.

10. GENERAL REQUIREMENTS

a. **Data Security**. All employees shall safeguard all electronic data they create, collect or maintain commensurate with the risk and magnitude of the harm that would result from the loss, misuse, unauthorized access to or modification of information.

b. **Data Confidentiality**

1) Sensitive information shall be protected from unauthorized disclosure.

2) Data classification categories, designation criteria, and markings shall be employed consistently.

3) Copying, handling, movement, and disposal of sensitive material, including media used to store sensitive material shall be controlled in accordance with DOC policy.

c. **Data Integrity.** Information shall be protected from intentional or unintentional destruction or modification. OMITS will ensure that the source of data transmitted is known and not modified in transit.

d. **Information Systems Data Availability**

1) Critical information shall be accessible when needed to support the DOC mission.

2) A system of access controls shall be employed and enforced to limit access to systems and data to those with a valid need to know.

e. **Monitoring.** OMITS shall employ automated tracking for monitoring system operations and user activity and for detection of computer crime or abuse.

f. **Telecommunications Security**

1) **Establishment of Access Paths and Systems.** OMITS shall employ flow control systems, including Firewalls, to protect information system resources. The establishment, modification, and termination of network connections shall be centrally managed and controlled by OMITS on an ongoing basis.

2) **Dial-Up Communications.** OMITS shall control access to and from information systems via dial-up connections. OMITS shall enforce standard policies and procedures governing both the location and employment of telephone modems.

3) **Downloaded Data.** The download of DOC data, other than that intended for public dissemination to internal and external sites, shall be restricted. Exceptions require prior written authorization by DOC Director.

4) **E-mail, Internet/Intranet Systems.** OMITS shall control and regulate use of the DOC electronic mail (E-mail) system and the Internet/Intranet.

g. **Workstation Security**

1) Personal computers and workstation equipment shall be "locked-down" with secure devices to safeguard against theft.

2) Security control requirements shall be used in evaluating new hardware and equipment as part of the overall acquisition process.

h. **IT Systems Security.** Adequate security shall be provided for application systems, databases, automated information system facilities (mainframes, minicomputer, and/or microcomputer platforms), Local Area Networks (LANs), Wide Area Networks (WANs), and major applications and general support systems.

i. **Computer Room Security.** Access to computer rooms shall be tightly controlled. Computer rooms are areas that contain controllers, communications servers, or local area network (LAN) file servers used to process or store DOC data and any areas with LAN gateways or tape backup units.

11. **PROCEDURES**

a. **Authorized users of DOC Computer Systems shall:**

1) Comply with all other policies and procedures related to information security, e-mail, and Internet use.

2) Access systems and data only by means of their personally assigned user IDs and passwords.

3) Adhere to software installation protocol and shall not install unauthorized software on personal computers and workstations.

4) Ensure that unattended personal computers and workstations are either logged off or that the security screen features are engaged.

5) Terminate communication links when they are not in use (e.g., Internet, e-mail).

6) Ensure confidential and/or sensitive information is handled by secure electronic mail and/or use of confidentiality notice(s).

7) Ensure sensitive information that is stored on hard-disk drives or other internal components is protected by either password access or encryption.

8) Ensure that sensitive information that is stored on computer media (floppy diskettes, CD's) are maintain in a locked storage compartment when they are away from their workstation.

9) Ensure that portable laptops, notebooks, PDA's and other transportable computers are not left unattended and device and storage media protection is used.

b. **Warden/Administrators/Office Chiefs shall:**

1) On an annual or as needed basis, identify and provide OMITS with a list of sensitive and operationally critical systems that meet the requirements of "major applications". Major applications are those where critical or significant harm to DOC operations would result from the loss, misuse or unauthorized access to, or modification of, the information in the application.

2) Provide OMITS with a listing of data, files, and systems requiring special backup and controls.

3) Under OMITS leadership, develop appropriate levels of risk assessment and accessibility for each employee under their management or supervision.

4) Notify OMITS of all personnel changes, i.e., reassignments, changes in job responsibilities/titles, terminations, and any other changes affecting data/systems "access" privileges. (Attachment A)

5) Maintain records on assigned keys and personnel approved for entry into computer rooms.

6) Notify OMITS in the event of any confirmed or suspected security violations, including virus infections, unauthorized access, or attempt to access, computer rooms or data in accordance with PS 1280. "Notification of Significant Incidents and Extraordinary Occurrences" (9/15/00).

7) Include special provisions in Duty Officer and/or Post Orders for notification and access to computer rooms in the event of emergencies or disaster.

c. **OMITS Information Security Officer (ISO) shall:**

1) **Risk Assessments**

a) In coordination with Administrators/Managers/Office Chiefs, develop and maintain an information risk assessment that is appropriate and applicable to all IT systems.

b) Conduct a risk assessment survey quarterly, or when there are modifications made to any IT system.

c) Review and update the information risk assessment annually to ensure that protection methods, procedures, and tool sets are current and appropriate to the threats and vulnerabilities involved.

2) **Data Access and Security**

a) Process requests, from external parties for data access, through the DOC Director and the DARC. (Attachment B and C)

b) Ensure appropriate training and certification is obtained before access to a system is permitted.

c) Ensure that prompt notification is made regarding personnel changes that affect access privileges, or revocation of access when employees are separated or are terminated.

d) Process all requests for NCIC access via the Metropolitan Police Department WALES/NCIC Computer Access Request Form (Attachment D) along with the employee's fingerprints (Attachment E) and forward it to the Metropolitan Police Department (MPD) for authorization and signature.

3) **Quality Assurance**

a) Monitor employees' information systems activities to ensure users are able to understand and adhere to the policies and procedures in this directive.

b) Monitor and review automated security tracking log reports at least weekly to ensure current security measures are operating efficiently and identify any attempts to breech security.

c) Maintain a technology performance measurement system that is current with business needs and directions. Key measures/indicators shall be selected and aligned, in coordination with the Warden/Administrators/ Office Chiefs, for tracking daily operations and overall performance. The results shall be used as a basis for projections and for performance improvement.

d) Conduct system compliance reviews on DOC IT systems to ensure that the information security policies and procedures in this directive are strictly adhered.

4) **Incident Management**

a) Report significant incidents or unusual occurrences.

b) Manage the resolution of any reported security incidents and maintain a record of the problem report.

c) Review all retained reports twice annually for purposes of improving operations, policies, and procedures.

d) Prepare a report of findings and recommendations for quality assurance purposes when applicable.

5) **Computer Rooms**

a) Maintain an inventory of computer rooms and their contents.

b) Maintain Entry Authorization Lists (EALs) and Visitor Access Control Logs (Attachment F) for computer rooms in accordance with this directive.

c) Maintain and enforce procedures to ensure cleanliness and minimal accumulation of paper, dust, and flammables in and around computer rooms.

d) Assess each computer room's equipment to determine the requirements related to environmental controls (temperature, humidity, fire suppression, fail safe mechanisms, and alarms). Acquire, install and maintain automated tools for each computer room to:

(1) Provide a record of environmental data;

(2) Monitor environmental conditions (temperature, humidity, power, fire safety, intrusion detection, and emergency lighting); and

(3) Provide notification (electronic and audible) to designated key personnel and/or designated workstations when conditions approach or have exceeded pre-established limits (upper or lower).

e) **Computer Room Security.** The Information Technology Administrator shall conduct an annual site analysis/survey of each computer room and document all findings and recommendations. The survey, at a minimum, shall address the following areas:

(1) Power and electrical backup;

(2) Fail safe mechanisms;

(3) Fire protection and detection;

(4) Physical security;

(5) Information security; and

(6) Structural conditions: heating, ventilation, air conditioning, and environmental monitoring systems.

6) **Software Security**

a) **System Access Control.** These controls shall include, at a minimum, the use of user identifications and passwords, as well as their implementation procedures.

b) **Logging.** Automated logging shall be used to track sensitive system operations and use of critical functions, as well as the activities of key users.

1) Logging shall also be used to monitor all detected or suspected cases of computer crime or abuse;

2) Access to logs shall be restricted; and

3) Retention and disposition of logs shall be strictly controlled in accordance with guidance outlined in PS 2000.2, Retention and Disposal of Department Records (2/26/01).

c) **Computer Viruses and Worms.** Active preventive measures against computer viruses, worms, and other forms of hostile code shall be used throughout the DOC.

d) **Development and Change Control Process.** Formal development and change processes for software, including risk assessment, shall be used to ensure compliance with security policies and avoidance of negative effects on DOC operations.

7) **Electronic Data Disposal.** Dispose and destroy electronic information by:

a) Ensuring information on a hard disk is concealed or destroyed prior to being traded-in, serviced or otherwise disposed;

b) Degaussing or Zeroizing; and

c) Destroying CD's and diskettes in accordance with the Records Retention and Disposal policy.

8) **Backup and Recovery.** Acquire, install and maintain automated tools to ensure DOC's readiness to implement backup and recoverability procedures in the event of an emergency or disaster, in accordance with PS 2420.8, "Recoverability Disaster Plan" (12/15/03).

12. **TRAINING**

a. The DOC Training Office, in conjunction with OMITS, shall:

1) Provide basic orientation about information security policies and procedures before employees, consultants, volunteers or contractors are granted access to a system;

2) Provide annual In-Service Training on DOC's Information Security Program; and

3) Provide training, as appropriate, when new systems are implemented.

b. NCIC Clearance. The OMITS chief shall ensure that employees, whose duties require access to NCIC, complete NCIC training and certification via MPD prior to authorization.

Odie Washington
Director

ATTACHMENTS:

Attachment – A “Application Access Request Form”

Attachment – B “Data Access Review Committee Data Request Detail”

Attachment – C “Data Access Review Committee Data Access Decision Log”

Attachment – D “Metropolitan Police Department WALES/NCIC Computer Request Form”

Attachment – E “Fingerprint ”

Attachment – F “Grimke Computer Room Visitor Access Control Log”

DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS

Program Statement

OPI Number:	**DIR 2920.4B**
Date:	**January 15, 2008**
Supersedes:	**PM 2920.4 (2/15/07)**
Subject:	**Inspections and Abatement Program**

1. **PURPOSE AND SCOPE.** The environmental safety and sanitation program provides requirements and procedures for daily housekeeping, preventive maintenance and life safety inspections and corrective actions necessary to provide a safe work environment at the Central Detention Facility (CDF).

2. **POLICY.** It is DC Department of Corrections (DOC) policy to, consistent with applicable codes and standards, ensure action is taken to prevent, identify and document correction of sanitation, health and safety problems and deficiencies at DOC and contract facilities.

3. **APPLICABILITY.** This directive applies to all DOC employees, contract employees, volunteers and inmates assigned to the CDF.

4. **NOTICE OF NON-DISCRIMINATION**

   a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2.1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

   b. DOC prohibits discrimination against inmates based on an inmate's race, religion, national origin, gender, sexual orientation, disability or any other type of prohibited discrimination when making administrative decisions and in providing access to programs.

5. **PROGRAM OBJECTIVES.** The expected results of this program are that:

   a. DOC shall conduct daily, weekly and monthly inspections as set forth by policy and external agencies shall conduct not less than annual inspections of safety, health and sanitation at the CDF.

b. DOC shall generate a plan of action any time a deficiency requiring a written response is identified during an internal or external audit, facility inspection or walk through and shall document the corresponding corrective action.

6. DIRECTIVES AFFECTED

a. Directives Rescinded

PS 2920.4A Environmental Sanitation Program (2/15/07)

b. Directives Referenced

1) PS 2120.3 Food Service Program

2) PS 2920.1 Fire Safety Program

3) PS 2920.3 Hazardous Waste Management

4) PS 2920.5 Environmental Safety and Sanitation Inspections

5) PS 2920.6 Housekeeping Plan

6) PS 4210.2 Inmate Institutional Work Programs

7) PS 7500.2 Facilities Maintenance

7. AUTHORITY. DC Code § 24-211.02. Powers; Promulgation of Rules

8. STANDARDS REFERENCED

a. National Fire Protection Association, NFPA, National Fire Codes (NFC) and NFPA 101, the Life Safety Code.

b. American Correctional Association (ACA) 2nd Edition Standards for Administration of Correctional Agencies: 2-CO-4D-01.

c. American Correctional Association (ACA), 4TH Edition, Performance-Based Standards for Adult Local Detention Facilities: 4-ALDF-1A-01, 4-ALDF-1A-08, 4-ALDF-IC-09.

9. RESPONSIBILITIES

a. *Annual Independent Inspections.* The Environmental Safety Officer shall coordinate and maintain documentation of life safety inspections at the CDF and Corrections Corporation of America-operated Correctional Treatment Facility. These inspections include but may not be limited to the

DC Fire and Emergency Management Services (DCFEMS) and DC Department of Health. Inspectors shall be given unfettered access to pertinent areas of the institution, and reports and recommendations shall be issued to the Warden and responsible agency executives for corrective action.

b. *The Risk Assessment and Control Committee.* Chaired by the agency Risk Manager, the committee shall meet monthly to resolve issues including environmental safety and sanitation conditions, fire safety and facilities maintenance. These issues may include deficiencies that were cited but not abated within the designated time frame, that require additional action and deficiencies that require resolution beyond the Committee's control. The Committee may be composed of the Warden, the Safety Officer, the Fire Protection Specialist, Facilities Management Manager and a Union Representative. Deputy Wardens, the Chief Engineer, Program Managers, Office Chiefs, Zone Lieutenants and the Environmental Lieutenant may be called upon when needed.

c. *The Warden* is responsible for the implementation of the environmental safety and sanitation program at the CDF.

d. *The Deputy Warden for Support* shall at the CDF manage the fire and environmental safety and sanitation programs, ensure compliance with acceptable health and sanitation standards, and provide advice and assistance in correcting deficiencies.

e. *The Deputy Warden for Operations* shall ensure all uniformed staff at CDF performs their responsibilities related to environmental safety and sanitation.

f. *The Environmental Safety and the Fire Safety Officers* shall respectively:

1) Conduct regular environmental safety and fire safety inspections, cite deficiencies and assist with appropriate corrective action activities.

2) Inspect corrective action(s) to ensure the problem is adequately abated.

3) Provide technical support to staff and managers and ensure staff and inmates receive appropriate orientation and refresher training in the performance of their related duties..

g. *The Facility Maintenance Manager* shall oversee the contracted Facilities Management program to ensure preventive maintenance, routine and emergency repairs are completed

h. *The Food Services Contract Monitor* shall inspect/monitor contactor compliance for food service operations.

i. *Program Managers and Office Chiefs* shall regularly inspect work areas under their responsibility for compliance with life safety requirements.

j. *Uniformed Staff*

1) The *Environmental Supervisor* shall manage and/or supervise environmental officers and the inmate environmental work details and arrange schedules and other logistics for the major cleaning projects.

2) *Environmental Officers* shall supervise the inmate environmental squad workers.

3) *Zone Supervisors* shall manage day-to-day operations within the four (4) zones at the CDF. They shall regularly monitor housing unit inspections.

4) *Unit Officer-in-Charge (OIC) and Cellblock Officers* shall conduct inspections and ensure cellblocks are clean and safe; monitor and supervise inmate's use of cleaning equipment and ensure equipment is maintained in a locked, secure area. The Unit OIC shall supervise the housing unit detail squad.

k. *Employees.* DCDC employees are responsible for ensuring their respective work areas are clean, safe and in full compliance with this and supportive directives.

l. *Inmates.* Inmates shall keep their cell and personal living space clean.

10. ACCOUNTABILITY FOR CORRECTIVE ACTION(S)

a. When a housing unit is cited for deficiencies, responsible managers and staff shall be given an opportunity to improve their level of attention given to the inspection process or to ensure that inmate workers clean deficient areas.

b. The Environmental or Fire Safety Officer shall ensure that on-the-job or formal remedial training are provided when appropriate.

c. Continuous failure to correct deficiencies after retraining shall result in corrective action.

d. Managers and supervisors are subject to corrective action for failure to comply with responsibilities and procedures set forth in this directive.

e. Inmates who fail to maintain their personal areas in accordance with this directive, or who otherwise contribute to citations, shall be subject to disciplinary action in accordance with PM 5300.1C "Inmate Disciplinary and Administrative Housing Board Procedures."

f. Inmates assigned to work details may be given an opportunity to improve their performance however, failure to improve work performance or repeated deficiencies may result in loss of detail assignment.

11. PLAN OF ACTION(S)

a. In all cases when an inspection is performed by an outside agency, the Correctional Program Specialist designated to coordinate quality assurance for the environmental safety and sanitation program shall upon receipt of the deficiency notice, generate the Plan of Action (POA) within fifteen (15) days of receipt of the inspection report and forward it to the Warden for review and approval. Upon approval the POA will then be forwarded to the appropriate Deputy Warden for implementation).

b. The plan of action will include the area where the deficiency was discovered, the date of the audit, the type of audit conducted, the total number of POA's generated, the reference number used in the inspection report identifying the particular deficiency, the statement of non-compliance, the strategies to abate the deficiency, the person responsible for corrective action and the target completion date.

c. The target date should be set as soon as practical. If the abatement requires staffing, funding, equipment, etc. the target date should be set for no more than sixty (60) days. Such abatement activity shall be consistent with regulations and programs for funding and procurement of good and services.

d. The Deputy Warden shall ensure the responsible program manager/office chief receives a copy of the POA and implements the necessary strategies.

e. The responsible program manager/office chief shall consult when needed with other facility managers, quality assurance coordinators or the Risk Assessment Committee to coordinate corrective action or to seek managerial/administrative guidance for implementing the strategies/action steps as indicated on the POA within the established target date.

f. Upon abatement of all noted deficiencies the senior manager shall forward a signed copy of the POA to the Correctional Program Specialist responsible for quality assurance. The Correctional Program Specialist will confirm the deficiencies were corrected.

g. Internal Inspections

1) Internal informal POA's developed from facility walk-throughs do not require the approval process. The program manager or affected

department shall take immediate corrective action such as submitting a work order to facilities management.

2) When immediate corrective action is not possible, the Environmental Safety Officer, Fire Safety Officer, Contract Monitor, Correctional Program Managers/Office Chiefs, Correctional Program Officer or other senior manager will generate a POA and forward a copy to the Correctional Program Specialist designated to coordinate quality assurance for the environmental safety and sanitation program and the appropriate Deputy Warden.

3) The senior manager shall forward the POA to the Correctional Program Specialist when corrective action is successfully completed.

12. MONITORING/FOLLOW-UP

a. The Correctional Program Specialist responsible for quality assurance shall monitor completion of determined strategies/action steps. Outstanding POA's will be reviewed every thirty (30) days.

b. In the event that a POA cannot be completed by the target date, the Correctional Program Specialist shall meet with the senior program manager to determine if additional time is required. If an extension is necessary the Warden or when required the Deputy Director will approve the extension.

13. CERTIFICATION

a. Upon completion of strategies/action steps Correctional Program Specialist and the Warden shall sign the POA certifying that all strategies/action steps were completed and the deficiency is corrected.

b. The Correctional Program Specialist shall close out the deficiency in the tracking system.

c. The Correctional Program Specialist shall coordinate with the Risk Manager for issuance of notice of completed corrective action to external agencies.

Devon Brown
Director

DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS

PROGRAM STATEMENT

OPI: DIRECTOR
Number: 3800.3
Date: September 30, 2003
Subject: ADA: Communications for Deaf and Hearing Impaired

1. **PURPOSE AND SCOPE.** To establish and implement a program within the DC Department of Corrections (DOC) that provides auxiliary aids and services, whenever necessary, to ensure effective communications with inmates, visitors, and members of the public who are deaf or hearing impaired.

2. **POLICY.** It is the policy of DOC to take appropriate steps to ensure that communications with the hearing disabled are as effective as communications with others.

3. **APPLICABILITY.** This policy applies to services, programs, and activities provided or operated by the DOC and to contractors who provide services, programs and activities to DOC inmates, visitors and members of the public.

4. **NOTICE OF NON-DISCRIMINATION.** In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Code section 2.1401.01 et seq., ("the Act") the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

5. **OBJECTIVES**

   a. DOC will furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, services, programs or activities conducted by DOC.

   b. DOC shall ensure by contract or other arrangements that all services, programs, or activities provided or operated by contractors are in compliance with the Americans with Disabilities Act. Contracts with those entities that fail or refuse to comply with the ADA shall be subjected to formal termination proceedings.

6. DIRECTIVES AFFECTED

a. **Rescinded.** None

b. **Referenced**

1) PS 1220.1B Customer Service (5/30/02)

2) PS 2920.1B Fire Safety Program (3/9/01)

3) DO 3800.2 Handicapped Americans with Disabilities Act Accommodations, Section 504 (8/10/92)

4) DO 4030.1E Grievance Procedures, Inmate (IGP) (5/4/92)

5) DO 4070.1A Telephone Access, Inmate (4/8/94)

6) PS 4080.1B Visiting Regulations, Inmates (3/7/00)

7. AUTHORITY

a. Title 2 Americans with Disabilities Act (ADA) of 1990, USC §§ 12131-12134 and 28 C.F.R. § 35.104.

b. DC Code 2-1901 DC Interpreters for Hearing Impaired and Non-English Speaking Persons Act.

c. Section 504 of the Rehabilitation Act of 1973.

d. DC Code § 24-211.02 Powers; Promulgation of Rules (formerly § 24-442).

8. STANDARDS

a. American Correctional Association 3rd Edition, Standards for Adult Local Detention Facilities: 3-ALDF-1D-04, 3-ALDF-1D-05, 3-ALDF-2F-03, 3-ALDF-3C-14, 3-ALDF-3E-06, 3-ALDF-3D-21, 3-ALDF-3E-04, 3-ALDF-3E-11, 3-ALDF-4B-03 and 3-ALDF-5D-09.

b. American Correctional Association 4th Edition, Standards for Adult Correctional Institutions: 4-4079, 4-4142, 4-4169, 4-4243, 4-4277, 4-4284, 4-4288, 4-4303, 4-4344, 4-4394, 4-4399, 4-4429, 4-4475, 4-4497 and 4-5599.

c. National Commission on Correctional Health Care Standards for Health Services in Prisons 1997: P-08, P-31, P-34, P-51 and P-59.

9. **DEFINITIONS**

a. **Communication-Impaired Person.** A person whose hearing is impaired or who does not speak English.

b. **Hearing-Impaired Person.** A person who, because of a hearing impairment, cannot readily understand oral communications or who cannot communicate effectively through speech.

c. **Non-English Speaking Person.** A person who is unable to understand oral and written communications in the English language or who cannot communicate effectively in the *spoken* English language.

d. **Qualified Interpreter**. An individual who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

e. **Intermediary Interpreter.** Any person, including any hearing-impaired person, who is able to assist in providing an accurate interpretation between spoken English and sign language or between variants of sign language (ex: American Sign Language vs. Signed English) by acting as an intermediary between a hearing-impaired person and a qualified interpreter.

f. **Telecommunications Relay Services (TRS).** TRS allows an individual who is deaf, hard of hearing, or speech disabled to communicate with a hearing person who does not have a TTY system. A Communications Assistant (CA) will place the call from the inmate who is typing the message using the DOC TTY phone, and speak the words to the individual receiving the call. The CA will then type the spoken words from that individual so the inmate can read the returned message.

g. **Videoconferencing.** Videoconferencing allows two or more people at different locations to see and hear each other at the same time. This is the service that will primarily be used for DOC contracted interpreting services.

10. **REQUIREMENTS**

a. **Contracts for the Provision of Interpreting Services**

1) DOC has contracted with an interpreter service to provide an effective means to ensure that qualified interpreters are available, when required, without delay.

2) DOC may, but shall have no obligation to, hire or otherwise contract with

qualified interpreters in a staff position.

3) Staff interpreters must be qualified as set forth in § 10, "Procedures, subsection "e" of this directive.

b. **Policies and Security Concerns.** Nothing in this policy shall require that an electronic device or piece of equipment used as an appropriate auxiliary aid be used when or where its use may be inconsistent with DOC policies or pose security concerns.

For instance, closed-captioned televisions are provided consistently for inmates with hearing disabilities with the same duration and frequency as televisions are provided to the other inmates classified in the same status within DOC. No inmate is provided a television if his/her status would not otherwise permit him/her access to one.

c. **Equal Service Provisions.** Inmates and visitors who are provided with staff interpreters must have the same level of coverage (for both duration and frequency) as DOC is otherwise obligated to provide under this Policy. DOC may assign other duties as appropriate to staff interpreters.

11. **RESPONSIBILITIES**

a. **Director.** The Director shall ensure the following:

1) The Auxiliary Aids and Services (AAS) Program is conducted in accordance with requirements and procedures in accordance with this directive.

2) The Director designates operational compliance of the AAS Program to the Deputy Director. This responsibility may be further delegated.

b. **Deputy Director.** The Deputy Director shall ensure that:

1) The *DOC AAS Coordinator(s)* shall provide program oversight. The Coordinator(s) shall work with the Central Detention Facility (CDF) Warden and the DOC Office of Contract Services to determine the appropriate auxiliary aids and services that are necessary, and the timing, duration and frequency with which they will be provided. Auxiliary aids and services include qualified interpreters, note takers, transcription services, written materials, assistive listening devices, assistive listening systems, or other effective methods of making aurally delivered materials available to individuals who are deaf or hard of hearing.

2) The *Office of Contract Services* ensures contract facility compliance with

the AAS program outlined in Section “c” below, and shall ensure that contractors develop and issue similar operational procedures.

c. **CDF Warden.** The Warden shall ensure the following requirements are accomplished:

1) The Warden shall within 45 days of the issuance of this directive, develop a CDF Institutional Supplement (IS) that defines specific procedures and personnel assignments for operational implementation and compliance as outlined in this directive.

2) The Warden shall forward the IS to the Office of Internal Controls, Compliance and Accreditation for policy, program, operational, and legal sufficiency prior to issuance.

d. **AAS Coordinator(s).** AAS Coordinator(s) shall:

1) Maintain all necessary information about access to the AAS program to include a system of documentation for inquiries regarding the provision of auxiliary aids and services and responses.

2) Maintain all necessary information about the operation of the AAS program to include knowing where the appropriate auxiliary aids are stored, how to obtain services, how to operate them, and shall be responsible for their maintenance, repair, replacement, and distribution.

3) Publicize its purpose and telephone number broadly within DOC and to the public.

4) Provide appropriate assistance regarding immediate access to and proper use of the appropriate auxiliary aids and services available under the Program.

e. **Employee.** Employees shall:

1) An employee, who is made aware of or who has any reason to believe that an inmate or visitor is deaf or hard of hearing, shall advise the person that appropriate auxiliary aids and services will be provided.

2) The employee shall direct that person to the appropriate Auxiliary Aids and Services Program Coordinator(s).

3) Likewise such information must be forthcoming in response to any overt request for appropriate auxiliary aids or services.

12. PROCEDURES

a. Initial Communication Assessment

1) When the employee has reason to believe or is informed that a newly admitted inmate or a visitor, with whom the employee is communicating or attempting to communicate with, has a hearing impairment, the employee shall immediately take the following steps:

   a) Ascertain, through the exchange of written notes or by other means, whether the individual has a hearing impairment.

   b) Notify the individual through the exchange of a written note or standardized notice (Attachment A) that a free, qualified sign language interpreter will be provided if the inmate desires via videoconferencing.

   c) If the individual expresses a preference for the use of written communication, the employee shall provide a pad and pen or pencil and shall communicate with the individual in writing; permitting the individual to communicate back to the employee in writing.

   d) If the individual expresses a belief, through the exchange of written notes or otherwise, that a qualified sign language interpreter is necessary for effective communication, the employee shall ascertain whether the individual uses American Sign Language or Signed English to communicate.

   e) The AAS Coordinator or designee shall contact appropriate interpreter services to provide assistance.

2) Written communication cannot be used as a substitute where the individual has expressed a preference for a sign language interpreter.

3) If the individual appears to be unable to express a preference or to otherwise communicate without a qualified sign language interpreter, a qualified sign language interpreter shall be contacted by means of videoconferencing as outlined in Section e. 4 below.

b. Determination of Auxiliary Aid or Service

1) DOC shall provide to inmates and visitors who are deaf or hard of hearing, an appropriate auxiliary aid or service that may be necessary for effective communication as soon as practicable after determining that the

aid or service is necessary.

2) When an auxiliary aid or service is required to ensure effective communication, DOC shall provide an opportunity for an individual with a disability to request the auxiliary aid or service of his or her choice and DOC shall give primary consideration to the choice expressed by the individual. DOC shall honor the expressed choice, unless it can show that another equally effective means of communication is available, or that use of the means chosen would result in a fundamental alteration in the nature of its service, program, or activity or in undue financial and administrative burdens.

c. **Individual Notice in Absence of Request.** If an inmate or a visitor who is deaf or hard of hearing does not request appropriate auxiliary aids or services, but DOC personnel have reason to believe that the person would benefit from appropriate auxiliary aids or services for effective communication, DOC shall inform the individual, through the exchange of a written note, standardized, posted notice that appropriate auxiliary aids and services are available free of charge.

d. **Communication with Inmates and Visitors.** DOC shall take appropriate steps to ensure that all employees having contact with an inmate or visitor who is deaf or hard of hearing are made aware of the person's disability so that effective communication with the person will be achieved.

e. **Provision of Qualified Interpreters**

1) DOC shall provide or ensure provision of qualified interpreters when necessary for effective communication with, or effective participation in, DOC programs and activities by inmates and visitors who are deaf or hard of hearing. Procedures for providing qualified interpreter service via videoconferencing is outlined in Section 4 below.

2) A qualified interpreter means an interpreter who is able to interpret effectively, accurately, and impartially both receptively and expressively, using any necessary specialized vocabulary.

a) Someone who has only a rudimentary familiarity with sign language or finger spelling is not a "qualified interpreter" under this policy.

b) Likewise, someone who is fluent in sign language but who does not possess the ability to process spoken communication into the proper signs or to observe someone else signing and change their signed or finger spelled communication into spoken words is not a qualified sign language interpreter.

c) An employee who signs “pretty well” should not be considered an interpreter until he or she possesses the proper skills to observe someone signing and change their signed or finger spelled communication into spoken words and vice versa.

d) A DOC employee should not be allowed to interpret if his or her presence poses a conflict of interest or raises confidentiality and privacy concerns.

e) On occasion, an inmate may possess the skill level necessary to provide interpreting services; however, the impartiality concerns remain, and in many--if not most--situations, inmate interpreters should not be used due to confidentiality, privacy, and security reasons.

3) The following list of circumstances where interpreters may be required is neither exhaustive nor mandatory, and shall not imply that there are not other circumstances when it may be appropriate to provide interpreters for effective communication. Except in the case of the initial intake and initial medical encounter, emergency medical encounters, sick call, or other emergent encounters, the responsible employee shall request interpreter videoconferencing service via the AAS Coordinator three (3) business days in advance of the below activities:

a) Initial intake

b) Classification processing;

c) Regularly scheduled health care appointments and programs (medical, dental, visual, mental health, and drug and alcohol recovery services);

d) Treatment and other formal programming;

e) Educational classes and activities;

f) Parole board hearings (USPB);

g) Disciplinary board hearings;

h) Criminal investigations (to the extent controlled by DOC);

i) Classification review interviews;

j) Grievance interviews; and

k) Formal investigations conducted by DOC staff.

4) The following information shall be maintained in the offices of the AAS Coordinator(s), Command Center, Receiving and Discharge, Visitor’s

Control, Staff Entrance, Housing Unit Control Bubble, Unit Manager, Case Manager, Chaplain and the health services contractor:

a) A list of employees who are qualified interpreters, along with their work locations and phone numbers.

b) The phone number and information for the contract interpreting service that provides videoconferencing or in-person assistance:

Sign Language Associates, Inc.
11160 Veirs Mill Road, Suite 506
Silver Spring, MD 20902
Contact: Mary Capold Carr
(301) 946-9710
Direct (301) 962-3066
TTY (301) 946-9710
Fax (301) 946-9685
E-mail: mcarr@signlanguage.com

c) Telecommunications Relay Services provider telephone number or the national TRS number of *711*.

5) The AAS Coordinator(s) may request the interpreter to provide in-person services at the Central Detention Facility (CDF) when deemed appropriate.

f. **Other Means of Communication for Unscheduled Circumstances**. Between the time that an interpreter is requested and the interpreter is contacted by means of videoconferencing service, DOC personnel shall continue to try to communicate with the inmate or visitor who is deaf or hard of hearing for such purposes and to the same extent as they would have communicated with the person but for the hearing impairment, using all available methods of communication.

1) For instance, seeking the services of an interpreter shall not mean that medical treatment will be delayed until an appropriate interpreter service is available.

2) In addition, upon connection of the videoconference or arrival of the interpreter, personnel shall review and confirm with the inmate all information that was communicated prior to the interpreter's intervention.

3) This provision in no way lessens DOC's obligation to provide qualified interpreter videoconferencing or interpreters in a timely manner as required by this Policy.

g. **Ongoing Communication Assessment.** The AAS Coordinator(s) shall conduct a minimum of two (2) monthly routine assessments of each inmate with hearing or speech disability regarding the provision of appropriate auxiliary aids and services. The AAS Coordinator(s) shall keep appropriate records that reflect the ongoing assessments.

h. **Complaint Resolution**

1) Inmates shall be informed in writing at initial classification that he or she can file complaints regarding the provision of auxiliary aids and services through the Inmate Grievance Program.

2) DOC shall provide notice to other individuals who access facilities of complaint and resolution procedures.

13. **HEARING AIDS AND BATTERIES**

a. **Replacement Batteries.** The AAS Coordinator(s) shall purchase and keep appropriate types of hearing aid batteries in stock in the medical supply room during the length of time an inmate(s) who wears a hearing aid is in the custody of DOC. AAS Coordinator(s) shall provide replacement hearing aid batteries to inmates requesting them as soon as possible but no later than 24 hours after such request.

b. **Hearing Aid Repairs.** The AAS Coordinator(s) shall send inmate hearing aids to a hearing aid repair company as soon as possible but no later than 24 hours (excluding weekends and holidays) following a request by an inmate for repair of his or her hearing aid. The AAS Coordinator(s) shall inform the inmate as soon as possible when the hearing aid was sent for repair and when it is expected to be returned by the repair company. The AAS Coordinator(s) shall provide the inmate with written documentation of all hearing aid repairs, including detailed information regarding the vendor used, the date of the repair, and the specific repairs performed.

14. **TELEPHONES**

a. **Telecommunications Typewriters (TTY)** also known as Telecommunications Device for the Deaf (TDD). The Warden shall ensure that written procedures are developed and implemented to provide telecommunication devices (“TTYs”) for inmates who are deaf or hard of hearing in a manner that ensures effective access to telephone services. These procedures shall also provide that inmates have access to TTYs to communicate with family members or friends who are deaf or hard of hearing.

b. **TTYs in Visiting Areas**

1) DOC shall make at least one TTY device available in each of the visiting areas.

2) DOC can either permanently install the required TTYs or make available a sufficient number of portable TTYs. Wherever portable TTYs are made available as an alternative to installed TTYs, and wherever there is a bank of three or more pay telephones, DOC shall provide a shelf and an electrical outlet.

3) Wherever pay telephones are available but TTYs are not permanently installed, DOC shall post permanent signs to indicate the location of the nearest portable or permanently installed TTY.

c. **TTYs in Housing Units and Other Areas.**

1) DOC shall promptly provide TTY units to all deaf and hard of hearing inmates residing in housing units to the extent that pay telephones are available to other inmates.

2) In those situations where DOC provides portable TTYs, the housing staff shall promptly provide the units upon the inmate's request, unless precluded due to emergency circumstances such as a facility lock-down.

3) DOC shall also make a TTY unit(s) available whenever a pay telephone is made available to inmates in other areas than housing units.

d. **Telecommunications Relay Services.** TRS calls from payphones are free of charge for local calls. TRS calls are available by dialing *711*. Notice shall be posted near all pay telephones.

e. **Time limits on TTY calls.** In light of the fact that telephone calls placed via a TTY unit take three to five times longer than telephone calls placed using standard voice telephone equipment, DOC shall not impose on TTY calls a time limit of less than four times the time allowed for voice telephone calls.

f. **Volume Control and Hearing Aid Compatible Telephones.** DOC shall ensure that no less than twenty-five *(25)* percent of all of its pay telephones are equipped with volume control mechanisms. DOC shall ensure that volume control phones are dispersed among all pay telephones throughout DOC. DOC shall ensure that appropriate universal signs are displayed at each volume control telephone.

15. **VISUAL AND TACTILE ALARMS**

a. DOC shall ensure that in areas where there are audible emergency alarms and it is anticipated that individuals who are deaf or hard of hearing have access, visual alarms are also provided.

b. To the extent that the present capabilities of an existing audible alarm system are not sufficient to handle an electrical load that would allow a retrofit to include visual alarms without extensive re-wiring, such visual alarms shall be added within two (2) years of the effective date of this Policy.

c. DOC shall place visual emergency alarms in rooms where inmates who are deaf may reside alone or work alone to ensure that they will always be alerted when an emergency alarm is activated. To be effective, such devices must be located and oriented so that they will spread signals and reflections throughout a space or raise the overall light level sharply. Note: Activation of a building alarm system can be accomplished either by a separate circuit activating an auditory alarm, which would, in turn, triggers the visual alarm or by a signal transmitting through an ordinary 110-volt outlet.

d. DOC shall ensure that housing units that have audible alarms shall also have visual signal devices and bed vibrators, whenever necessary, to alert inmates who are deaf or hard of hearing to announcements (e.g., security checks). Note: To be effective, visual alarms more than seven times brighter (110 candela v. 15 candela, at the same distance) are required to awaken sleepers in a normal daytime illuminated room.

16. **TELEVISIONS**

DOC shall provide and maintain closed captioned television decoders (or built-in decoder televisions) in television rooms to enable inmates who are deaf or hard of hearing to enjoy the same opportunity for television viewing as that afforded to other inmates.

17. **NOTICE**

a. **Signs.** DOC shall post and maintain signs of conspicuous size and print at all facilities, and wherever other posters or flyers are required by law to be posted. Such signs shall be to the following effect:

1) Sign language and oral interpreters, TTYs, and other auxiliary aids and services are available free of charge to people who are deaf or hard of hearing.

2) For assistance, please contact any DOC personnel or the Auxiliary Aids and Services Coordinator at _____ (voice/TTY), Room _____.

3) These signs will include the international symbols for “interpreters” and “TTYs.” An example is attached hereto as Exhibit __.

b. **Verbal Notification.** An employee, who is made aware of or who has any reason to believe that an inmate or visitor is deaf or hard of hearing, shall advise the person that appropriate auxiliary aids and services will be provided.

18. **Inmate Handbook.** DOC will include in all future printings of its Inmate Handbook (or equivalent) and all similar publications a statement to the following effect:

a. To ensure effective communication with inmates and their visitors who are deaf or hard of hearing, we provide appropriate auxiliary aids and services free of charge, such as: sign language and oral interpreters, TTY's, note takers, computer-assisted real time transcription services, written materials, telephone handset amplifiers, assistive listening devices and systems, telephones compatible with hearing aids, closed caption decoders, and open and closed captioning of DOC programs.

b. Please ask your case manager for assistance, or contact the Auxiliary Aids and Service Coordinator at _____ (voice or TTY), room _____

19. **TRAINING**

a. **Comprehensive Training.** DOC shall provide training sessions for all DOC personnel having contact with deaf or hard of hearing inmates and all management or administration staff regarding all relevant policies and procedures implementing this Policy.

b. **Content**

1) Such training shall be sufficient in duration and content to train a reasonable number of DOC personnel in access to the Program, use of the Program, and sensitivity to the needs of the deaf and hard of hearing inmate population.

2) Such training shall include topics relevant to the health care needs of the deaf and hard of hearing inmates, such as:

a) The various degrees of hearing impairment, language and cultural diversity in the deaf community,

b) Dispelling myths and misconceptions about persons who are deaf or hard of hearing,

c) Identification of communication requirements of persons who are deaf or hard of hearing,

d) The unique needs and problems encountered by late-deafened individuals,

e) Psychological implications of hearing loss and its relationship to interaction with hearing health care professionals,

f) Types of auxiliary aids and services as required under this Policy,

g) The proper use and role of qualified sign language interpreters,

h) Procedures and methods for accessing the AAS Program for providing interpreters, making and receiving calls through TTY's and the Maryland Relay or other relay service providers,

i) Third party resources that can provide additional information about people who are deaf or hard of hearing, the existence of DOC's complaint resolution process.

20. TERMINATION OF CONTRACT WITH NONCOMPLYING ENTITIES

DOC shall ensure by contract or other arrangements that all services, programs, or activities provided or operated by contractors are in compliance with the Americans with Disabilities Act. Contracts with those entities that fail or refuse to comply with the ADA shall be subjected to formal termination proceedings.

Illustration: DOC has a contract with a State university for providing post secondary education to inmates, and the university refuses to provide a qualified interpreter to ensure effective participation in the program by an inmate who is deaf. DOC shall 1) offer to provide for the services as required, or 2) terminate the contract or shall itself provide the necessary auxiliary aids and services for individuals with who are deaf or hard of hearing.

Odie Washington
Director

DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS

Program Statement

OPI: SEC
Number: 5010.3D
Date: February 29, 2008
Supersedes: 5010.3C
Subject: Contraband Control

1. **PURPOSE AND SCOPE.** To establish procedures designed to prevent the introduction and trafficking of contraband within the DC Department of Corrections (DOC), Central Detention Facility (CDF)

2. **POLICY.** It is the DOC policy to minimize the possession and introduction of contraband into the facilities and to detect it when present in the facilities.

3. **APPLICABILITY.** This directive is applicable to all DOC employees, inmates and individuals who enter a DOC facility.

4. **PROGRAM OBJECTIVES.** The expected results of this program are:

   a. The security, safety and orderly operation of the CDF will be maintained.

   b. A regular system of searches and inspections will be implemented to prevent the introduction and trafficking of contraband.

   c. Appropriate sanctions will be levied against any individual who attempts to introduce, introduces or traffics contraband within DOC facilities.

5. **DIRECTIVES AFFECTED**

   a. **Directives Rescinded**

   PS 5010.3B Contraband Control

   b. **Directives Referenced**

   1) PS 5009.2 Searches of Inmates, Inmates Housing Units, work and Program Areas

   2) PS 4080.1 Inmate Visiting Regulations

   3) DO 6050.2 Inmate Drug Testing

4) PS 5300.1 Inmate Disciplinary Housing and Administrative Housing Procedures

6. **AUTHORITY.** D.C. Code § 24-211.02, Powers; Promulgation of Rules [Formerly §24-442.]

7. **STANDARDS REFERENCED**

a. American Correctional Association 2nd Edition Standards for Administration of Correctional Agencies: 2-CO-3A-01.

b. American Correctional Association 4th Edition Performance Based Standards for Adult Local Detention Facilities 4-ALDF-2C-01; 4-ALDF-2C-04 and 4-ALDF-2C-06.

8. **NOTICE OF NON-DISCRIMINATION.**

a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2.1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

b. DOC prohibits discrimination against inmates based on an inmate's race, religion, national origin, gender, sexual orientation, disability or any other type of prohibited discrimination when making administrative decisions and in providing access to services, programs and activities.

9. **Definitions.** For the purpose of this order, the following definitions apply to items possessed by inmates:

a. **Major Contraband** – Major Contraband includes but its not limited to:

1) Knives, blackjacks, guns, home made weapons, any other weapon, tool, roping, civilian clothing, service uniforms of any kind, flammable substances or syringes, vessels containing urine, feces or other body fluid.

2) Any illegal drug or controlled substance unless prescribed by a physician.

3) Smoking materials (i.e., matches, lighters) and/or tobacco products.

4) Any unauthorized locking device, key, lock pick or other device capable of destroying, altering, interfering with or damaging any security equipment.

5) Cellular telephones and accessories.

b. **Serious Contraband** – Serious Contraband includes but is not limited to:

1) Making, attempting to make, or usage of any intoxicating beverage.

2) Currency or coins.

3) Chewing gum.

c. **Minor Contraband** – Any article, other than those defined as major or serious contraband which is not issued by the Institution, not purchased from the Canteen or not specifically authorized by the Department of Corrections.

d. **Nuisance Contraband** - Any authorized item(s) maintained by inmates which, when stored in excess, may create a health, safety or fire hazard. In addition, any authorized item which has been altered from its original form or used for a purpose other than originally intended is contraband.

10. **Procedures**

e. **Accountability and Storage of Contraband**

When any DOC employee discovers Major or Serious Contraband as outlined above, that employee will:

1. Confiscate the item;

2. Notify his/her supervisor of the discovery;

3. Document on a DCDC 1 form who the contraband item was taken from, the location and time of the discovery, and the immediate action taken;

4. The Shift Supervisor will then take it to the Command Center or other designated area and place it in a plastic contraband bag. The bag will be labeled with the following information:

a. A description of the Contraband item;

b. Where the Contraband item was found;

c. The name of the inmate/resident/student suspected of having the Contraband;

d. The name of the victim (if applicable);

e. The rank and name(s) of the employee(s) recovering the Contraband item;

f. The date and time of recovery; and

g. The recovering employee(s) signature verifying that all information on the label is correct.

5. Complete a Chain of Custody Form (Attachment 2)

6. Assign the contraband item a number in accordance with the sequential numbering located on the Contraband Log.

7. After the Contraband item has been properly labeled and the plastic bag sealed, the contraband will be secured in the contraband locker.

8. Complete the Contraband Log.

9. Prepare an inmate disciplinary report, if necessary.

f. If any Contraband is suspected to be a controlled substance, it will be tested on-site prior to placement in a plastic bag and a chain of custody label attached. The Office of Internal Affairs shall be notified.

g. If the confiscated Contraband item is suspected to have been used in a crime and/or if criminal charges are anticipated, the Shift Commander will notify the Office of Internal Affairs.

h. Drugs, weapons and other major contraband shall be held until turned over to another law enforcement agency or until final disposition of any criminal or administrative proceeding.

i. Confiscated monies are to be recorded on the contraband log, including the serial number of the money, photocopied, and turned into the Inmate Finance Office. The Inmate Finance Office will be required to sign the Chain of Custody Form to indicate receipt. The monies will then be deposited into the DC General Fund.

j. All confiscated medication will be returned to the Medical Department for identification. The Medical department will then follow all legal guidelines as to the proper procedure for the handling of confiscated medication.

k. Department property seized as contraband shall be inventoried and returned to the appropriate location (i.e. Receiving and Discharge, Recreation, Supply etc.)

l. Nuisance contraband shall be inventoried and disposed of in a secure dumpster, compactor or by other appropriate method.

m. Each time a contraband item is released or received each person receiving and releasing the contraband will be required to record the date, reason for transfer, and signature on the Chain of Custody Form. The Chain of Custody Form will be maintained by the Facility Security Supervisor.

11. STORAGE

a. A secure locker/safe shall be identified and used to store contraband. This locker/ safe shall be located in an area accessible to supervisors on all shifts.

b. The keys and/or combination to the contraband locker/safe shall be restricted. Only the Facility Security Supervisor or other person/persons designated by the Warden shall be permitted access to the keys and/or combination.

c. All items placed in or removed from the contraband safe shall be recorded on the contraband log (Attachment 1)

d. The Facility Security Supervisor shall maintain an accurate inventory of all items maintained in the safe.

e. The Facility Security Supervisor will ensure that all Chain of Custody Reports are complete and accompany each item of contraband. The Facility Security Supervisor will ensure that the Contraband Log is accurate and complete.

f. The Facility Security Supervisor will make daily checks of the contraband locker to ensure accountability of the contraband.

12. Disposal of Contraband

a. The date of disposal will be indicated on the contraband log along with the disposing authority's signature and method of disposal.

b. Disposal of contraband will be witnessed and verified by at least one (1) additional staff member. The witnessing staff member will initial the contraband log that disposal was completed.

c. When approved for disposal by the Warden, contraband weapons shall be rendered safe and disposed of in a secure dumpster, compactor or by other appropriate method.

d. Contraband drugs shall be recorded on form PD 81. The Chief of Internal Affairs will be contacted to arrange for pick up and disposal by Metropolitan Police Department.

Devon Brown
Director

DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS

Program Statement

OPI: SEC
Number: 5010.3D
Date: February 29, 2008
Supersedes: 5010.3C
Subject: Contraband Control

1. **PURPOSE AND SCOPE.** To establish procedures designed to prevent the introduction and trafficking of contraband within the DC Department of Corrections (DOC), Central Detention Facility (CDF)

2. **POLICY.** It is the DOC policy to minimize the possession and introduction of contraband into the facilities and to detect it when present in the facilities.

3. **APPLICABILITY.** This directive is applicable to all DOC employees, inmates and individuals who enter a DOC facility.

4. **PROGRAM OBJECTIVES.** The expected results of this program are:

   a. The security, safety and orderly operation of the CDF will be maintained.

   b. A regular system of searches and inspections will be implemented to prevent the introduction and trafficking of contraband.

   c. Appropriate sanctions will be levied against any individual who attempts to introduce, introduces or traffics contraband within DOC facilities.

5. **DIRECTIVES AFFECTED**

   a. **Directives Rescinded**

   PS 5010.3B Contraband Control

   b. **Directives Referenced**

   1) PS 5009.2 Searches of Inmates, Inmates Housing Units, work and Program Areas

   2) PS 4080.1 Inmate Visiting Regulations

   3) DO 6050.2 Inmate Drug Testing

4) PS 5300.1 Inmate Disciplinary Housing and Administrative Housing Procedures

6. **AUTHORITY.** D.C. Code § 24-211.02, Powers; Promulgation of Rules [Formerly §24-442.]

7. **STANDARDS REFERENCED**

a. American Correctional Association 2nd Edition Standards for Administration of Correctional Agencies: 2-CO-3A-01.

b. American Correctional Association 4th Edition Performance Based Standards for Adult Local Detention Facilities 4-ALDF-2C-01; 4-ALDF-2C-04 and 4-ALDF-2C-06.

8. **NOTICE OF NON-DISCRIMINATION.**

a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2.1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

b. DOC prohibits discrimination against inmates based on an inmate's race, religion, national origin, gender, sexual orientation, disability or any other type of prohibited discrimination when making administrative decisions and in providing access to services, programs and activities.

9. **Definitions.** For the purpose of this order, the following definitions apply to items possessed by inmates:

a. **Major Contraband** – Major Contraband includes but its not limited to:

1) Knives, blackjacks, guns, home made weapons, any other weapon, tool, roping, civilian clothing, service uniforms of any kind, flammable substances or syringes, vessels containing urine, feces or other body fluid.

2) Any illegal drug or controlled substance unless prescribed by a physician.

3) Smoking materials (i.e., matches, lighters) and/or tobacco products.

4) Any unauthorized locking device, key, lock pick or other device capable of destroying, altering, interfering with or damaging any security equipment.

5) Cellular telephones and accessories.

b. **Serious Contraband** – Serious Contraband includes but is not limited to:

1) Making, attempting to make, or usage of any intoxicating beverage.

2) Currency or coins.

3) Chewing gum.

c. **Minor Contraband** – Any article, other than those defined as major or serious contraband which is not issued by the Institution, not purchased from the Canteen or not specifically authorized by the Department of Corrections.

d. **Nuisance Contraband** - Any authorized item(s) maintained by inmates which, when stored in excess, may create a health, safety or fire hazard. In addition, any authorized item which has been altered from its original form or used for a purpose other than originally intended is contraband.

10. **Procedures**

e. **Accountability and Storage of Contraband**

When any DOC employee discovers Major or Serious Contraband as outlined above, that employee will:

1. Confiscate the item;

2. Notify his/her supervisor of the discovery;

3. Document on a DCDC 1 form who the contraband item was taken from, the location and time of the discovery, and the immediate action taken;

4. The Shift Supervisor will then take it to the Command Center or other designated area and place it in a plastic contraband bag. The bag will be labeled with the following information:

a. A description of the Contraband item;

b. Where the Contraband item was found;

c. The name of the inmate/resident/student suspected of having the Contraband;

d. The name of the victim (if applicable);

e. The rank and name(s) of the employee(s) recovering the Contraband item;

f. The date and time of recovery; and

g. The recovering employee(s) signature verifying that all information on the label is correct.

5. Complete a Chain of Custody Form (Attachment 2)

6. Assign the contraband item a number in accordance with the sequential numbering located on the Contraband Log.

7. After the Contraband item has been properly labeled and the plastic bag sealed, the contraband will be secured in the contraband locker.

8. Complete the Contraband Log.

9. Prepare an inmate disciplinary report, if necessary.

f. If any Contraband is suspected to be a controlled substance, it will be tested on-site prior to placement in a plastic bag and a chain of custody label attached. The Office of Internal Affairs shall be notified.

g. If the confiscated Contraband item is suspected to have been used in a crime and/or if criminal charges are anticipated, the Shift Commander will notify the Office of Internal Affairs.

h. Drugs, weapons and other major contraband shall be held until turned over to another law enforcement agency or until final disposition of any criminal or administrative proceeding.

i. Confiscated monies are to be recorded on the contraband log, including the serial number of the money, photocopied, and turned into the Inmate Finance Office. The Inmate Finance Office will be required to sign the Chain of Custody Form to indicate receipt. The monies will then be deposited into the DC General Fund.

j. All confiscated medication will be returned to the Medical Department for identification. The Medical department will then follow all legal guidelines as to the proper procedure for the handling of confiscated medication.

k. Department property seized as contraband shall be inventoried and returned to the appropriate location (i.e. Receiving and Discharge, Recreation, Supply etc.)

l. Nuisance contraband shall be inventoried and disposed of in a secure dumpster, compactor or by other appropriate method.

m. Each time a contraband item is released or received each person receiving and releasing the contraband will be required to record the date, reason for transfer, and signature on the Chain of Custody Form. The Chain of Custody Form will be maintained by the Facility Security Supervisor.

11. STORAGE

a. A secure locker/safe shall be identified and used to store contraband. This locker/ safe shall be located in an area accessible to supervisors on all shifts.

b. The keys and/or combination to the contraband locker/safe shall be restricted. Only the Facility Security Supervisor or other person/persons designated by the Warden shall be permitted access to the keys and/or combination.

c. All items placed in or removed from the contraband safe shall be recorded on the contraband log (Attachment 1)

d. The Facility Security Supervisor shall maintain an accurate inventory of all items maintained in the safe.

e. The Facility Security Supervisor will ensure that all Chain of Custody Reports are complete and accompany each item of contraband. The Facility Security Supervisor will ensure that the Contraband Log is accurate and complete.

f. The Facility Security Supervisor will make daily checks of the contraband locker to ensure accountability of the contraband.

12. Disposal of Contraband

a. The date of disposal will be indicated on the contraband log along with the disposing authority's signature and method of disposal.

b. Disposal of contraband will be witnessed and verified by at least one (1) additional staff member. The witnessing staff member will initial the contraband log that disposal was completed.

c. When approved for disposal by the Warden, contraband weapons shall be rendered safe and disposed of in a secure dumpster, compactor or by other appropriate method.

d. Contraband drugs shall be recorded on form PD 81. The Chief of Internal Affairs will be contacted to arrange for pick up and disposal by Metropolitan Police Department.

Devon Brown
Director

DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS

Program Statement

OPI:	**SECURITY**
Number:	**5022.1D**
Date:	**February 29, 2008**
Supersedes:	**5022.1C**
Subject:	**Tool Control**

1. **PURPOSE AND SCOPE.** To establish effective policy for the supervision, accountability and control of tools stored and/or used within the DC Department of Corrections (DOC).

2. **POLICY.** It is the policy of DOC to ensure that tools are controlled in the most efficient manner in order that safety and security are maintained at all times.

3. **APPLICABILITY.** This policy applies to all DOC employees. All employees are responsible for reading this policy and ensuring that tool control procedures are observed in their respective work areas.

4. **PROGRAM OBJECTIVES.** The expected results of this program are:

   a. Safety, security and the orderly operation of the facility will be enhanced by minimizing improper access to and use of tools.

   b. Tools will be accounted for at all times.

   c. Tools will be stored in secure locations.

   d. Accurate inventories of tools will be maintained.

5. **NOTICE OF NON-DISCRIMINATION**

   a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2.1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

   b. DOC prohibits discrimination against inmates based on an inmate's race, religion, national origin, gender, sexual orientation, disability or any other type of prohibited

discrimination when making administrative decisions and in providing access to services, programs and activities.

6. **DIRECTIVES AFFECTED**

   a. **Directive Rescinded.** PS 5022.1C Tool Control

   b. **Directives Referenced**

      1) PS 1280.2 Notification and Reporting Procedures for Significant Incidents and Extraordinary Occurrences

      2) PS 2000.2 Retention and Disposal of Department Records

      3) PS 5020.1 Entrance and Exit Procedures

7. **AUTHORITY.** D.C. Code § 24-211.02, Powers; Promulgation of Rules

8. **STANDARDS REFERENCED**

   a. American Correctional Association (ACA), 2nd Edition, Standards for Administration of Correctional Agencies: 2-CO-3A-01.

   b. American Correctional Association (ACA), 4th Edition, Performance-Based Standards for Adult Local Detention Facilities: 4-ALDF-2D-02 and 4-ALDF-2D-03.

9. **DEFINITION.** For the purpose of the Program Statement, the following definition shall apply:

   a. **Direct Supervision**. Constant sight and sound supervision by a designated employee.

   b. **Intermittent Supervision**. Observation by a designated employee(s) on a thirty (30) minute basis.

   c. **Shadow.** For the purpose of this policy, shadow is defined as a red or black silhouette outlining a designated tool.

   d. **Tool** - Any implement, instrument or utensil designed for a particular kind of work, i.e., cutting, hitting, digging, rubbing, by directing manually applied force or by means of a motor; or the cutting or shaping part of a power-driven device, as a drill bit or band saw blade.

10. **TOOL CLASSIFICATION.** The tool classification outlined in this policy applies to all service areas. All tools shall be appropriately classified under one of the following two headings:

    a. **Class "A" Tool.** The Class "A" tool group includes those tools most likely to be used in an escape or escape attempt, to manufacture or serve as weapons capable of doing serious bodily harm or as being hazardous to facility security or personal

safety. Class "A" tools are identified as such on the Master Tool Classification list (Attachment 1)

b. **Class "B" Tool.** : Any tool that is of a less hazardous nature and is not likely to be used for the purposes outlined in "A" above.

11. TOOL IDENTIFICATION AND CLASSIFICATION

a. All facility tools will be classified in accordance with Attachment 1, Tool Classification List. All tool classification will be approved by the Warden and Maintenance COTR.

b. The Tool Control Officer shall mark all tools assigned to each work/storage location with a unique number.

c. Tools that cannot be marked without damage, such as surgical instruments, micrometers and small drill bits, shall be inventoried and kept in locked storage when not in use.

12. TOOL STORAGE

a. **Class "A".** All Class "A" tool storage areas shall be secured behind at least two (2) locked doors/gates.

b. **Class "B".** All Class "B" tool storage areas shall be secured behind at least one (1) locked door or gate.

c. **Shadow Boards**

1) Shadow boards shall be used to store any tool that can be mounted. Only one tool or tool set shall be kept on each shadow and the shadow must be identical to the tool in size and shape.

2) All shadow boards shall have white backgrounds.

3) Class "A" tool shadows shall be red and Class "B" tool shadows shall be black.

4) All shadow boards accessible to inmates shall be caged with expanded metal and locked. Ladders shall be secured to a stationary object, in the horizontal position if possible, with an approved chain and padlock.

5) In the event a tool is no longer used and is subsequently removed from the inventory, the corresponding shadow shall be removed immediately from the shadow board.

6) Tools not adaptable to a shadow board shall be kept in a locked drawer, cabinet or a secure metal toolbox within the corresponding class A or B storage area. Toolboxes shall be shadowed on the floor or shelf where they are stored.

13. **INVENTORY.** All tool storage areas shall be maintained through an inventory and audit system. A current inventory will be displayed and maintained at each tool storage area.

    a. **Tool Control Officer Responsibilities**:

        1) Maintain the Master Tool Inventory of all approved facility tools.

        2) Update and maintain all individual area tool inventories as needed.

        3) Review monthly and weekly inventories.

        4) Conduct monthly and quarterly audits.

        5) Conduct random inspections of area inventories for accuracy.

        6) Notify the Major for Operations, in writing, of any tool control discrepancies.

    b. **Daily Tool Inventory Verification Procedures**

        1) A physical inventory of all tool areas will be conducted, verified, and documented on the Tool Inventory Verification (Attachment) at the beginning and end of shift/work day.

        2) End of shift/work day inventory requires verification by two (2) staff members, one (1) of whom is in a supervisory position.

        3) Tool Inventory Verification shall be maintained by the Tool Control Officer.

        4) Individual(s) will account for all tools issued under the following circumstances;

            a) Prior to the release of any inmate/resident(s) from the work area to include, completion of the inmate work day, meals, medical appointments, visitation, etc.

            b) Prior to moving inmate/residents from one location to another location.

            c) Prior to leaving a work location.

    c. **Weekly/Monthly Inventory Procedures.** A weekly and monthly tool inventory shall be conducted by each area manager. These inventories will be documented using the Weekly/Monthly Tool Inventory Report. Completed weekly inventories shall be maintained by the area manager. Complete monthly inventories will be forwarded to the Tool Control Officer. The Tool Control Officer shall be responsible for reviewing these inventories for completeness and accuracy.

    d. **Monthly/Quarterly Audit Procedures.** A monthly tool audit shall be conducted by the Tool Control Officer. A quarterly tool audit shall be conducted jointly by the Maintenance Supervisor and the Tool Control Officer. These audits will be documented on the Monthly/Quarterly Tool Audit Report and a copy of the completed reports shall be forwarded to the Warden. If any tool control discrepancies are discovered or recommendations made, a copy will be forwarded to the affected area manager for corrective action. These audits will include the following:

1) Verification of monthly inventory received

2) Verification of weekly inventories conducted

3) Verification of daily inventories conducted

4) Review of Tool Control Log

5) Verify tools stored/secured properly

6) Verify tools are marked properly

7) Identify any damaged or worn tools

8) Identify any excessive tools

9) Verify monthly inventory

d. **Revisions To The Master Tool Inventory**

1) Additions. Any addition of tool(s) to the Master Tool Inventory must be classified according to the Tool Classification List. If the tool is not listed on the Tool Classification List, it must be approved by the Warden and Maintenance COTR

2) Deletions. Deletion of tool(s) from the Master Tool Inventory requires approval of the Warden and Maintenance COTR.

15. **SURPLUS TOOLS.** Surplus tools shall not be stored in the facility.

16. **TOOL CONTROL FILES**

a. The Tool Control Officer shall maintain a file for each location where tools are stored.

b. This file shall contain monthly and quarterly inventories, tool acquisitions and dispositions with incident statements if applicable, Daily Construction Tool inventories, tool reports and logs, and any other pertinent information.

17. **OUTSIDE SERVICE PROVIDERS**

a. Outside service providers will be escorted by an assigned staff member at all times.

b. Outside service providers will submit to routine inspections and inventories of all tools. The outside service providers' tools will be listed on the Daily Construction Tool Inventory.

c. Verification that a physical inventory of all tool areas has been conducted and will be documented on the Daily Construction Tool Inventory, at a minimum, as follows:

1) Prior to entering facility.

2) When leaving the work area (i.e, meals, breaks, etc).

3) When moving from one work location to another work location.

d. Prior to exiting facility. The Daily Construction Tool Inventory will be held by the escorting staff member until departure from the facility. Prior to departure from the facility a staff member must account for all tools listed on the Daily Construction Tool Inventory. Any discrepancies will require immediate action to locate and account for the missing tool(s). Any discrepancies noted will be reported to the Major of Operation or Shift Captain before the outside service provider exits the facility. The completed Daily Construction Tool Inventory and will be forwarded to the Tool Control Officer.

e. All tools brought into the facility by outside service providers, will be removed from the facility at the close of each business day, unless authorization is given in writing by the Major of Operations or higher authority.

f. All incidents involving outside service providers, to include loss or damage of tool(s) will be documented on a DCDC 1.

18. ISSUANCE

a. Tools shall be issued by the area manager or designated individual, when tools are assigned to specific departments, who shall record the issuance in the Tool Control Log.

b. Tools assigned to the Maintenance Department shall be issued by the Tool Control Officer, Lt., or higher authority.

c. The Tool Control Log shall be maintained in close proximity to the tool storage area.

d. Tools issued after hours will be signed out in the same manner as normal working hours. A Lieutenant or higher authority must document any access to a tool storage area, to include a physical inventory of tools issued time in/out, purpose, and to whom the tool was issued or returned by, in the Tool Control Log.

e. Each employee who draws tools shall be issued unique tool chits. When the employee draws a tool, he/she shall surrender a chit. When a tool is issued from a shadow board, the chit shall be placed on the shadow corresponding to the tool. When a toolbox or tool cart is issued, the tab shall be placed on the designated tool cart tab. Tool issuance shall be documented using the Tool Sign Out Log (Attachment 5).

19. **RETURN**

a. Return of all tools and tool carts will be recorded in the Tool Control Log by the Tool Control Officer, Lieutenant or higher authority.

b. Class "A" tools must be returned to the issuing storage area by close of business each day.

c. Any Class "B" tool not returned by the end of the work period must be approved in writing by the Major for Operations and recorded as such in the Tool Control Log.

20. **SUPERVISION**

a. **Class "A" Tools**. Class "A" tools are issued only to staff responsible for maintaining direct supervision of the inmate(s) using the tool(s).

b. **Class "B" Tools**. Any inmate using Class "B" tools shall be under intermittent supervision of an employee.

21. **MEDICAL/DENTAL TOOLS**

a. The Health Services Department will comply with tool control procedures as set forth in this policy, with the exception of classification procedures.

b. Surgical, dental and other medical tools, supplies, equipment and materials will be maintained in the safest manner possible in keeping with good medical practice, and state and local standards of infection control. Tools and supplies of a hazardous nature will be maintained in a locked storage area or container. The Medical Department will conduct a weekly tool inventory and the Dental Department will conduct a monthly inventory. Both inventories will be forwarded to the Tool Control Officer. The Tool Control Officer will conduct weekly random audits of the tools in both departments. Medical tools will not be marked due to the size and character of the tools.

c. Reserve stock of hypodermic needles will be kept in a locked and secure area. An accurate daily perpetual inventory of needles and syringes will be maintained. This inventory will be submitted to the Tool Control Officer weekly and the Health Authority will be responsible for periodic verification of the inventory.

1) Only the minimum number of syringes and needles for proper operation of the clinic will be available for daily use. These items will be kept in a convenient, secure and safe place.

2) Used disposable syringes and needles represent both a security and potential health hazard and should be handled with extraordinary care to prevent unintentional injuries, and the likelihood of spreading infectious diseases, such as AIDS and hepatitis. In keeping with the state and local health department standards and guidelines of infection control, Health Services personnel will adhere to the following procedures:

3) Disposable syringes and needles, scalpel blades and other disposable sharp instruments will be placed into puncture-resistant, tamper-proof containers that are located as close as practical and secured to the area which the sharps were used.

22. **FOOD SERVICE**

a. **Class "A" Tool Issuance**. Class "A" tools maintained in food service areas shall be issued and inventoried by correctional staff only. Class "A" food service tools shall be managed and maintained in accordance with all Class "A" tool procedures outlined in this policy.

b. **Class "B' Tool Issuance**. Class "B" tools maintained in food services areas may be issued and inventoried by contracting agency personnel. Contracting agency personnel will be required to adhere to all issuance and inventory procedures as outlined in this policy.

23. **HAIR CARE**. All hair care service areas and equipment will be managed and maintained in accordance with all procedures outlined in this policy.

24. **TOOL ACQUISITIONS.** The Tool Control Officer and Major for Operations will approve or deny any tool purchase in writing. The area manager requesting the purchase/order of tool(s) will submit a Tool Acquisition Request (attachment 2), to the Tool Control Officer. The procedure for processing a request is as follows:

    a. The area manager submits the completed Tool Acquisition Request, to the Tool Control Officer.

    b. The Tool Control Officer will review the request and make a recommendation for approval or denial to the Major for Operations.

    c. If the request is approved by the Major for Operations, the Tool Acquisition Request will be attached to a completed Purchase Order and forwarded to the Tool Control Officer.

    d. If disapproved by the Major for Operations, a copy will be forwarded to the area/department supervisor.

    e. The original Tool Acquisition Request, and a copy of the Purchase Order will be maintained by the Tool Control Officer.

    f. Staff assigned to Basement Security shall ensure that when tools are delivered to the facility the Tool Control Officer is notified. Tools may not be issued until they have been marked and inventoried by the Tool Control Officer.

25. **DISPOSITION OF TOOLS**. A tool chit labeled "Out Of Service" will be placed on the shadow of the tool when it is not present due to any of the below outlined situations. If a tool is not to be replaced, the shadow is to be removed immediately, following authorization on the Tool Dispositions Form

    NOTE: Tool chits will be controlled by the Tool Control Officer and have identifying (engraved) marks (i.e. OOS 1, OOS 2, OOS 3, etc). Tool chits cannot be constructed of paper or any material that can be easily duplicated or easily destructed.

    a. **Damaged Tools**

        1) Damaged tools will be turned in to the Tool Control Officer. In the event the damage results in multiple pieces, all pieces should be present and accompanied by a completed Tool Disposition Report.

        2) The Tool Control Officer will forward the unserviceable tool(s) to the Major for Operations for disposal. Unserviceable tools shall be secured in a locked storage area and shall be destroyed/disposed of within one (1) month.

3) A record of receipt and disposal of these tools will be maintained.

4) Damaged tools sent out for repair, shall be removed from service by the Tool Control Officer for the duration of the repair time. In the event a tool is to be repaired at the facility, that tool will be placed on the repair site's inventory.

5) In the absence of the Major for Operations and Tool Control Officer (i.e. after hours), the damaged tool(s) and Tool Disposition Report will be forwarded to Shift Captain to be appropriately secured.

b. **Missing Tools**

1) The on-duty Shift Captain will be notified immediately of any tool that is missing. The Shift Captain will notify the Major for Operations, Maintenance COTR, and Tool Control Officer. The Warden will be immediately notified of any Class "A" tool that is missing.

2) When a tool is unaccounted for, the area surrounding the last known location of the missing tool will be locked down and a thorough search conducted to include all inmate/residents in the area. Inmates/residents in the immediate area having access to the tool may be strip searched at the discretion of the Shift Captain. If the immediate area searched does not produce the tool, the areas of lockdown and searches will be expanded to the extent necessary.

3) A Tool Disposition Report, must be completed and submitted to the Tool Control Officer when a tool is missing.

4) In the event a missing tool has not been located after a complete investigation and at the end of a sixty (60) day waiting period, the tool will be removed from the Master Tool Inventory.

5) In the event the tool is later found, a DCDC 1, on the surrounding circumstances will be submitted to the Major for Operations and Tool Control Officer.

c. **Worn Tools**

1) Worn out tools will be forwarded to the Tool Control Officer, accompanied by a completed Tool Disposition Report.

2) Worn out tools shall be removed from service and deleted from the facility inventory by the Tool Control Officer. For tool replacement follow procedures listed in Tool Acquisition.

d. **Relocation of Tools**

1) In the event it is determined necessary to relocate a tool from one storage area to another, a Tool Disposition Report will be completed and forwarded to the Tool Control Officer.

2) The Tool Control Officer will make a recommendation to the Major for Operations for final approval.

3) The Tool Control Officer will make the appropriate inventory changes to the affected tool storage area(s) if approved.

26. **INMATE WORKERS.** Any inmate working on a detail squad where tools are used shall be searched prior to return to his/her housing unit at the end of the workday. If a tool is found on the inmate's person, he/she shall be subject to disciplinary action in accordance with the institutional disciplinary code.

27. **TRAINING.** The Training Administrator shall ensure that all employees receive pre-service training on the Tool Control policy and annual refresher training.

Devon Brown
Director

ATTACHMENTS

Attachment 1 - Master Tool Classification List
Attachment 2 - Tool Acquisition Request
Attachment 3 - Tool Sign Out Log
Attachment 4 - Tool Inventory Verification Form
Attachment 5 - Tool Disposition Report

DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS

Program Statement

OPI:	**SEC**
Number:	**5320.1C**
Date:	**February 12, 2008**
Supersedes:	**5320.1B (4/30/07)**
Subject:	**Key Control**

1. **PURPOSE AND SCOPE.** To establish policy and procedures to ensure a safe and secure method of issuing, controlling, distributing and accounting for keys within the District of Columbia Department of Corrections (DOC).

2. **PROGRAM OBJECTIVES.** The expected results of this program are:

   a. An accurate indexing system for all keys shall be maintained.

   b. Staff shall account for all keys prior to assuming responsibility of their post and report any misuse, loss or the need to replace any keys assigned.

   c. All keys, doors, gates and locks shall be identified and classified based on the level of security requirements, i. e., security, non-security and restricted.

   d. Operational keys shall be issued from a centralized location.

   e. Accurate records shall be kept regarding reproduction of keys and maintenance of all gates, doors, keys, locks and locking devices in the facility.

   f. Keys shall be accounted for at all times.

3. **DIRECTIVES AFFECTED**

   a. **Directives Rescinded.** PS 5320.1B Key Control (4/30/07)

   b. **Directives Referenced.** PS 1280.2, "Reporting and Notification Procedures for Significant Incidents and Extraordinary Occurrences", (9/15/00).

4. **STANDARDS REFERENCED**

   a. American Correctional Association, 2nd Edition, Standards for Administration of Correctional Agencies 2-CO-3A-01.

b. American Correctional Association, 4th Edition, Standards for Adult Local Detention Facilities 4-ALDF-2D-01

5. **AUTHORITY.** D.C. Code § 24-211.02, Powers; Promulgation of Rules

6. **NOTICE OF NON-DISCRIMINATION**

a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2.1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

b. DOC prohibits discrimination against inmates based on an inmate's race, religion, national origin, gender, sexual orientation, disability or any other type of prohibited discrimination when making administrative decisions and in providing access to services, programs and activities.

7. **DEFINITIONS**

a. **Emergency Keys** -- Keys used to unlock all doors, emergency exits, security and controlled access areas in case of an emergency situation. Emergency keys shall be marked to distinguish them by sight and touch from other keys.

b. **Non-Security Keys** - Any key which, if lost, damaged or compromised, would not jeopardize the safety/security of the facility. These may include but are limited to keys to individual offices, desks, lockers, and file cabinets.

c. **Permanent Issue Key** – Operational key assigned to a specific location or employee that remain on that location or with that employee on a permanent basis. Permanent Issue keys shall be marked to easily distinguish them from other keys.

d. **Restricted Keys** - Keys to sensitive areas within the facility. These include but are not limited to the Security Office; Armory; Supply Unit; Culinary Unit; offices of the Warden, Deputy Wardens and Office Chiefs; Records Office; the Medical Unit; Facilities Management shops; padlocks for security gates and any other area in the facility designated, in writing, as restricted access by the Warden. Restricted keys shall be marked to easily distinguish them from other keys.

e. **Security/Operational Keys** - Any key which if lost, damaged or compromised, would jeopardize the safety/security of the facility. Security keys shall be marked to easily distinguished them from other keys.

8. GENERAL PROCEDURES

a. The Key Control Officer shall have overall responsibility for key control management. This includes maintaining the key inventory, issuance of keys, replacement broken or damaged keys and conducting monthly and quarterly key inventories.

b. The Key Control Officer shall ensure that each key ring has a metal tag attached indicating the ring number on the front of the tag and the number of keys assigned to the ring on the back of the tag. Key rings shall be bonded prior to issuance to prevent unauthorized addition/removal of keys.

c. Employees are strictly prohibited from, and may be disciplined for the unauthorized possession, duplication, alteration or other improper use of keys.

d. Employees are strictly prohibited from taking security keys away from the facility grounds except when the keys have been assigned as permanent issue.

e. The Shift Supervisor shall immediately contact and order an employee to return keys to the facility if that employee inadvertently carries a key ring off of the facility grounds.

f. Inmates are strictly prohibited from possessing any key.

g. Employees are prohibited from possessing personal restraint keys while on duty.

h. Issuance of vehicle keys requires a current valid drivers license.

i. Keys must remain on the person or properly secured at all times. Keys must be passed from hand to hand and shall never be tossed or thrown to another employee.

j. The Major for Operations shall review inventories, shift reports, lost/misplaced key reports and other documents concerning key control procedures and taking appropriate action to ensure accountability for keys.

9. LOST/MISPLACED KEYS

a. If a key is lost, the employee in control of the key shall immediately make verbal notification to a Shift Supervisor indicating when the loss was discovered, circumstances surrounding the loss, and providing any other pertinent information. The employee must submit a DCDC-1 form prior to the end of the shift in accordance with PS 1280.2. A copy of the report will be forwarded to the Key Control Officer and the Deputy Warden for Operations.

b. Upon notification, the Shift Supervisor shall take any immediate and appropriate action if it is determined that the keys might be easily located.

c. The Shift Supervisor shall conduct an investigation and forward findings and recommendation within 24 hours to the Warden or designee.

d. When security keys are lost or when security locks are compromised for any reason, the Shift Commander shall notify the Major for Operations to determine whether steps need to be taken to secure the area and/or arrange for the locks to be changed or re-keyed.

10. **KEY STORAGE**

a. **General Procedures**

1) Keys shall be systematically stored in secure key cabinets that provide an individual location for each key ring.

2) The facility shall maintain the following cross-indices of all keys, locks and padlocks:

a) An alpha-numerical listing of all keys referencing the key ring number and the location of the lock(s) that the key(s) operates.

b) An alpha-numerical listing of all locks in the facility referencing the key ring number that corresponds to the lock.

c) Key maps, floor plans and blueprints will be maintained indicating the location of all security locks in the facility.

d) These documents and or files shall be stored in a secure area, separate from the key cabinet.

b. **Restricted Keys**

1) The Warden shall designate in writing which keys are to be considered restricted.

2) The Security Supervisor shall ensure that access rights in the Key Watcher system limits issuance of restricted keys to persons/positions designated by the Warden.

3) Keys assigned to the restricted key cabinet and shall only be issued to a supervisor or other employee designated by the Warden who shall be accountable for their use. A record shall be maintained of the issuance of restricted keys. In addition, a notation shall be made in the shift log indicating the reason for the issuance of the keys.

c. **Pattern Keys** - A pattern key cabinet shall be maintained in the vault. This cabinet shall contain a pattern key for each lock in the facility. These keys are to be used as patterns for the reproduction of facility keys and are not for distribution. Pattern

keys must be secured behind two locked doors and will only be accessible to authorized staff.

d. **Duplicate Keys** A complete duplicate set of keys to all facility locks shall be maintained in the vault . Duplicate keys must be secured behind 2 locked doors and will only be accessible to authorized staff.

e. **Emergency Keys**

1) A complete set of emergency keys to facility locks classified as fire and/or emergency locks shall be maintained in a location known by and easily accessible to Shift Supervisors.

2) Another complete set of emergency keys shall be maintained in a secure key cabinet in the tower.

3) Emergency keys and the locks that they operate shall be color coded for easy identification and notched to provide for identification by touch.

4) Each emergency key cabinet shall contain:

a) An alpha-numerical listing of all keys referencing the key ring number and the location of the lock that the key operates; and

b) An alpha-numerical listing of all fire and emergency locks in the facility referencing the ring number of the key that fits the lock.

c) Color coded diagrams/floor plans of the facility showing the locations of all emergency doors/gates and identifying the key/key ring which opens each door/gate.

5) If the emergency keys are accessed for any reason, the Major for Operations shall be notified and a notation shall be made in the shift log.

6) If the emergency keys are issued due to an actual emergency, notification shall be made in accordance with P.S. 1280.2, "Reporting and Notification Procedures for Significant Incidents and Extraordinary Occurrences"

f. **Armory Keys**

1) The armory keys shall be restricted and may only be issued to the Major for Operations, Facility Security Supervisor or other personnel approved in writing by the Warden.

2) The armory keys shall be stored in a secure key cabinet located in the tower.

3) In an emergency situation, the armory keys may be issued to a correctional supervisor. If the armory keys are accessed during an emergency, a notation shall be made in the shift log and notification will be made in accordance with

P.S. 1280.2, "Reporting and Notification Procedures for Significant Incidents and Extraordinary Occurrences".

11. **KEY ISSUANCE**

a. All operational keys not designated as permanent issue shall be issued from centralized location(s) established by the Warden.

b. The Warden shall approve issuance of all permanent issue keys in writing.

c. All employees shall be assigned unique identifiers (PIN, Access Codes, etc.) which shall be recorded each time the employee is issued a key.

d. The following information shall be recorded when keys are issued/returned:

1) Employee identifier

2) Date and time of issuance

3) Date and time of return

4) Key ring number

e. When keys are maintained on post the officer assuming responsibility for the post shall inventory all keys at each change of shift. A signed inventory form shall be forwarded to the Command Center.

f. Restricted keys shall only be issued to a supervisor or higher authority or other employee designated by the Warden. Issuance of restricted keys shall be documented in the shift log and the key log.

12. **KEY ACCOUNTABILITY**

d. **Command Center.** The Shift Commander shall ensure that all operational, emergency and restricted keys are accounted for on each shift and documented in the shift report.

b. **Post OIC's.** When keys are maintained on post, the Officer in Charge (OIC), prior to assuming and being relieved of the post, shall ensure that:

1) All key rings are counted and the number of keys corresponds to the number assigned on the tag. Key inventories shall be forwarded to the Command Center.

2) All keys are inspected for breaks, bends, wear or other damage.

3) Key inventories and inspections shall be noted in the post log book.

4) The Shift Supervisor is immediately notified of any discrepancies.

e. All duplication of keys and installation, repair, re-keying and maintenance of locks and/or locking devices shall be documented by the locksmith or other person performing the service. The Key Control Officer shall ensure that the cross-indices and key maps are updated to reflect the change.

f. The Major for Operations shall ensure that keys, locks and locking devices are inspected and serviced on an established preventive maintenance schedule. Inspection, preventive maintenance and repairs shall be documented.

g. The locksmith or other designated employee shall immediately update the indices, diagrams, key maps and other records when keys, locks and/or locking devices are changed.

Devon Brown
Director

DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS

Program Manual

OPI	**HEALTH SERVICES**
Number:	**6000.1F**
Date:	**November 16, 2009**
Supersedes:	**6000.1E (11/16/09)**
Subject:	**Medical Management**

1. **PURPOSE AND SCOPE.** To establish procedures for oversight and general operational procedures for health care delivery that is appropriate, necessary, and adequate for inmates housed in the DC Department of Corrections (DOC) and its contract facilities.

2. **POLICY**

   a. It is DOC policy to ensure that inmates have an unimpeded access to continuity of health care services from admission to transfer or discharge, including referral to community-based providers when indicated, so that their health care needs, including prevention and health education are met in a timely and efficient manner.

   b. Health care includes services that are determined to be medically appropriate, necessary and adequate for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. Experimental medical care shall not be conducted on inmates.

   c. Inmates are not required to make medical co-payments while confined at the Central Detention Facility (CDF) and Correctional Treatment Facility (CTF).

3. **APPLICABILITY.** This policy applies to the medical contractor, DOC employees, and DOC contractors and inmates confined at the CDF, CTF and CCC.

4. **ANNUAL PROGRAM AND DIRECTIVES CERTIFICATION.** The DOC Health Services Administrator in conjunction with the medical contractor, DOC and CCA managers shall on at least an annual basis review and update or recertify this directive.

5. **REQUIREMENTS.** A health services contractor provides direct medical services to inmates at the Central Detention Facility (CDF), the Corrections Corporation of America Correctional Treatment Facility (CCA/CTF) and community correctional center (CCC) with whom DOC contracts.

a. The DC Office of Contracting and Procurement shall provide contract administration and DOC Health Services Administration shall provide oversight.

b. The DOC Office of Health Services Administration shall provide oversight and shall monitor the medical contractor's compliance with the contractual agreement, accrediting health care standards and practices, national and local regulations.

c. The DOC and CCA/CTF Wardens and CCC Administrators shall provide correctional security, custody, other applicable administrative support, space, equipment, furniture, cleaning and pest control.

6. **PROGRAM OBJECTIVES.** The expected results of this program will be:

a. To establish guidelines and oversight for health care services.

b. To ensure that DOC inmates receive efficient and effective health care services.

c. To ensure that health care services complies with federal standards, District laws, ACA standards and contract obligations.

7. **NOTICE OF NON-DISCRIMINATION**

a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2.1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intra-family offence, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

b. DOC prohibits discrimination against inmates based on race, religion, national origin, gender, sexual orientation or disability when making administrative decisions in providing access to programs.

c. When both males and females are housed in the same facility, all available services and programs are comparable. Neither gender is denied opportunities on the basis of its smaller number in the population.

d. Inmates with disabilities, including temporary disabilities, are housed in a manner that provides for their safety and security. Housing used by inmates with disabilities, including temporary disabilities, is designed for their use and

provides for integration with other inmates. Programs and service areas are accessible to inmate with disabilities who reside in the facility. Discrimination on the basis of disability is prohibited in the provision of services, programs and activities.

e. Discrimination on the basis of disability, to include but not be limited to, individuals infected with the human immunodeficiency virus or an acquired immunodeficiency syndrome is prohibited and such individuals shall have equal access to all services.

8. **DIRECTIVES AFFECTED**

a. **Directives Rescinded**

1) DO 6000.1C *Medical Management* (11/15/06)

2) DO 6010.2 "Procedures for Reporting and Receiving Medical Treatment by Employees and Inmates: (7/18/67)

b. **Directives Referenced**

1) PS 1280.2 *Reporting and Notification Procedures for Significant Incidents and Extraordinary Occurrences*

2) DO 1300.1 *District of Columbia Freedom of Information Act (FOIA)*

3) PS 1300.3 *Health Information Privacy*

4) PS 1311.1 *Management Controls Research Activities*
5) PS 2920.3 *Control of Hazardous and Non-Hazardous Material*

6) PS 2920.4 *Inspections and Abatement Program*

7) PS 2921.2 *Reporting Employee Accidents and On-the-Job Injuries*

8) PS 3550.2 *Elimination of Sexual Abuse, Assault and Misconduct Against Inmates*

9) PS 3800.3 *ADA: Communications for Deaf and Hearing Impaired*

10) PS 4352.1 *Inmate/Offender Deaths*

11) PS 4910.1 *Escorted Trips*

12) PS 6014.6 *Psychiatric Evaluation and Hospitalization of Inmates*

13) PS 6050.1 *Tuberculosis Control Program*

14) PS 6080.2 *Suicide Prevention and Intervention*

15) PS 6060.1 *Smoke/Tobacco Free Environment*

9. **AUTHORITY**

a. D.C. Code § 24-211.02 Powers; Promulgation of Rules

b. D.C. Code § 21-2210 Health Care Decisions

c. D.C. Code § 22-101 Criminal Offenses and Penalties

d. Title 7, Human Health Care and Safety, Chapter 12 Mental Health Information, §7-1201.1 through §7-1202.6

e. Title 2, Americans with Disabilities Act (ADA) of 1990, USC §§ 12131-12134 and 28C.F.R. § 35.104.

f. Health Insurance Portability and Accountability Act of 1996 (HIPAA) DC Privacy Rules.

g. Law S. 1435, the Prison Rape Elimination Act of 2003

h. Agreement Regarding Provision of Medical/Surgical Care for Saint Elizabeth Hospital Sentenced Prisoner Patients and Pre-Trial Criminal Defendants

10. **STANDARDS REFERENCED**

a. American Correctional Association (ACA) 4th Edition, Standards For Adult Local Detention Facilities: 4-ALDF-2A-45, 4-ALDF-4C-01 through 4-ALDF-4C-41 and 4-ALDF-4D-01 thru 4-ALDF-4D-28.

b. National Commission on Correctional Health Care (NCCHC) Standards for Health Services in Jails.

c. D.C. Department of Health, Addiction Prevention and Recovery Administration (APRA) DC Municipal Regulations Chapter 23 titled “Certification Standards fro Substance Abuse Treatment Facilities and Programs”.

Devon Brown
Director

TABLE OF CONTENTS

	Purpose and Scope	Page 1
	Policy	Page 1
	Applicability	Page 1
	Annual Program Review Certification	Page 1
	Requirements	Page 1
	Program Objectives	Page 2
	Notice of Non-Discrimination	Page 2
	Directives Affected and Referenced	Page 3
	Authority	Page 4
	Standards Referenced	Page 4
	Table of Contents	Page 5
Chapter 1	Overview	Page 9
	Medical Care Delivery System	Page 9
	Access To Care	Page 9
	Provision of Treatment	Page 10
	Confidentiality	Page 11
	Emergency Response	Page 11
	Quality Assurance – Contract Administration	Page 11
	Quality Assurance – Health Services Provider	Page 12
	Medical Research	Page 13
Chapter 2	Department of Corrections – Administrative Responsibilities	
	Wardens	Page 14
	Support Services	Page 14
	Security	Page 14
	Environmental Safety and Sanitation	Page 15

	DOC Privacy Officer	Page 15
	DOC Provided Training	Page 15
Chapter 3	Medical contractor Administrative Responsibility	
	Medical contractor	Page 17
	Accreditation	Page 17
	Policies and Procedures	Page 17
	Personnel	Page 17
	Contractor Provided Training	Page 18
	Equipment and Supplies	Page 18
	Bio-hazardous Waste Collection and Disposal	Page 18
Chapter 4	Procedures--Provision of Continuum of Health Care Services	
	Medical Intake Processing	Page 19
	Medical Hold	Page 19
	Sexual Abuse Screening	Page 20
	Health Precautions Outreach	Page 20
	Condom Issuance	Page 21
	Health Appraisal	Page 21
	Periodic Examinations	Page 21
	Mental Health Program	Page 21
	Information on Health Services	Page 22
	Medical Transfer	Page 22
	Sick Call	Page 22
	First Aid	Page 23
	Chronic Care	Page 23
	Communications About Special Needs Patients	Page 23
	Exercise	Page 23

Specialty Services	Page 23
Management of Chemical Dependency	Page 23
Dental Services	Page 25
HIV Counseling and Testing	Page 25
Intra-System Transfers	Page 27
Infirmary	Page 27
Emergency/Urgent Medical Care of Inmates	Page 27
Emergency Transportation To An Outside Hospital	Page 28
Off Site-Inpatient Services	Page 29
Suicide and Suicide Prevention	Page 29
Involuntary Administration- Psychotropic Medication	Page 29
Psychiatric Evaluation and Hospitalization	Page 29
Treatment for Victims of Sexual Assault	Page 30
Pregnancy Management	Page 30
Abortion	Page 30
Elective Procedures	Page 30
Ancillary Services	Page 31
Pharmaceuticals	Page 31
Non-prescription Medication	Page 31
Prostheses and Orthodontic Devices	Page 31
Nutrition Services/ Therapeutic Diets	Page 31
Communicable Disease and Infection Control Program	Page 31
Tuberculosis	Page 32
Hepatitis A, B, C	Page 32
HIV/AIDS Management	Page 32
Health Education	Page 32

	Discharge Planning	Page 32
	Inmate Death	Page 33
Chapter 5	Inmate Treatment	
	Fair Treatment	Page 34
	Notification	Page 34
	Privacy	Page 34
	Confidentiality	Page 34
	Informed Consent	Page 34
	Health Care Decisions	Page 34
Chapter 6	Medical Records	
	Inmate Medical Record	Page 36
	Confidentiality of Medical Records	Page 36
	Inactive Records	Page 37
	Records Retention and Disposal	Page 37
Chapter 7	Emergency Medical Treatment for Employees, Contractors and Visitors	
	Requirement	Page 38
	Procedures	Page 38
	Notification	Page 38
	Medical Response	Page 38
	Medical Referral	Page 38
	Crime Scene	Page 39
	Supervisory Administrative Follow-up	Page 39

CHAPTER 1

OVERVIEW

1. MEDICAL CARE DELIVERY SYSTEM

a. The provision of health care is a joint effort of DOC Administrators, DOC contracted correctional care providers, and contracted medical contractors. The medical contractor arranges for the availability of health care services; the responsible clinician determines what services are needed; and the official responsible for the facility provides the administrative support for making the services accessible to inmates.

b. DOC contracts with a private medical contractor for delivery of health care services to include fiscal responsibility for on-site primary and emergency medical, dental and mental health care services; inpatient, outpatient and ambulatory care services; pharmaceuticals; and medical supplies for inmates housed at the CDF and CTF.

c. Health care shall be provided in accordance with legal requirements imposed by Federal and DC laws, DC licensing or professional boards, court orders, DOC administrative policies and procedures, and guidelines established by the American Medical Association (AMA), the Health Resources and Services Administration (HRSA) of the US Department of Health and Human Services (DHHS) applicable American Correctional Association (ACA) Standards, National Commission on Correctional Health Care (NCCHC), Addiction, Prevention and Recovery Administration (APRA) and Substance Abuse and Mental Health Services Administration (SAMHSA) .

d. The medical contractor shall provide and be responsible for all inpatient and outpatient hospital and ambulatory costs for DOC, CCA/CTF and DOC inmates in Community Corrections Centers (CCC).

e. DOC and CCA/CTF provide custody and security for inmates housed within their respective facilities.

f. DOC provides custody and security in hospitals when inmates from CDF, CTF and community residential programs (CCC) are admitted.

g. The CDF and CTF have acute mental health housing, safe cells and chronic mental health housing to serve inmates in the DOC.

2. ACCESS TO CARE

a. Inmates shall be informed about how to access health services and the grievance system during the admission/intake process.

b. Information shall be provided to inmates about sexual abuse and sexual

assault to include identification, prevention/intervention, self protection, how to report sexual abuse/assault, and available treatment and counseling.

c. There is no smoking inside CDF. All medical staff and inmates shall follow guidelines set forth in DOC PS 6060.1 *Smoke/Tobacco Free Environment.*

d. All of the above information is communicated orally and in writing, and is conveyed in a language that is easily understood by each inmate. The information is translated into those languages spoken by significant numbers of inmates.

e. Interpretation services via staff, contracted interpreters or use of language line services shall be available to inmates that have limited understanding or who do not speak sufficient English in order to communicate with health care providers.

f. Sign language interpreter services shall be made available to deaf and hearing-impaired individuals.

g. Health care professionals shall on a daily basis triage inmate requests for health services and schedule clinical services based upon the established priority. The priority system addresses routine, urgent and emergent complaints and conditions.

h. Inmates are not precluded from individual treatment based upon their need for a specific medical procedure that is not generally available. However DOC and the medical contractor shall maintain guidelines for such treatment in accordance with federal and local regulations and contractual agreements.

3. PROVISION OF TREATMENT

a. The DOC Medical Director is the designated Responsible Health Authority for the DC Department of Corrections.

b. The contracted Medical Director for Health Services is responsible for the day-to-day delivery of health care services in all departments to arrange for and monitor the level of services provided to the inmate population.

c. Clinical decisions are the sole province of responsible clinicians and can not be countermanded by non-clinicians.

d. Non-medical staff has no authority to approve or disapprove an inmate's request for health care services.

4. CONFIDENTIALITY

a. Information about an inmate's health status is confidential.

b. The medical contractor shares with the DOC Health Services Administrator and when appropriate with the Warden, information regarding an inmate's medical management.

c. .DOC and the medical contractor both shall maintain written procedures and ensure staff are notified that:

1) Only information necessary to preserve the health and safety of an inmate, other inmates, volunteers, visitors, or the correctional staff is provided.

2) Information provided to correctional, classification staff, volunteers, and visitors addresses only medical, mental health and related factors that may assist DOC in providing the inmate with appropriate housing, treatment, programs, security and transport.

5. EMERGENCY RESPONSE

a. Correctional and health care personnel shall respond to health-related situations within a four-minute response time. Responsibilities and procedures are outlined in Chapter 4 Section 18 "Emergency/Urgent Care for Inmates" of this directive.

b. The medical contractor shall participate in, and assist in planning, procedures pertaining to the delivery of comprehensive health care in the event of a disaster (fire, storm, epidemic, riot, strike or mass arrests). The medical disaster plan shall include a communications system; recall of key staff; health care staff assignments; establishing a command post; safety and security of patient and work areas; use of emergency equipment and supplies; establishing a triage area and triage procedures; ambulance services; transferring the injured to outside hospitals; evacuation procedures and practice CPR and fire drills.

6. QUALITY ASSURANCE

a. Contract Administration—DOC

1) Under the auspices of the DC Office of Contracts and Procurement, the DOC Health Services Administrator has oversight to ensure that the health care contractor provides medical, dental and mental health services at the CDF and CTF in accordance with federal law, local regulations, NCCHC standards, ACA standards, the contractual agreement and applicable policies and programs of each entity.

2) The DOC Health Services Administrator shall conduct regular program review of the health care delivery system to determine if the provider remains in compliance with the delivery of health care services pursuant to the contractual agreement and this directive.

3) At least an annual fiscal review is conducted via the DC Office of Contracts and Procurement.

4) DOC Health Services Administrator, in conjunction with the medical contractor, will participate in a multidisciplinary quality improvement program, collect and evaluate data and ensure adequate provision of services.

5) DOC shall maintain a system for facilitating resolution of inmate grievances relating to health care.

6) DOC shall maintain a system for monitoring complaints and inquiries made on behalf of inmates and shall facilitate appropriate resolution.

7) The medical contractor, DOC Health Services Administration, CDF and CTF Security Officials shall periodically meet to address the effectiveness of the health care system, factors that require improvement and all other findings and recommendations for corrective action.

8) Should the medical contractor fail to maintain required staffing; refuse or neglect to supply adequate and competent supervision or personnel; fail to provide equipment/drugs of the proper quality or quantity; fail to perform the contracted service requirements with promptness and diligence; or fail to meet contractual requirements, DOC Health Services Administration shall take appropriate measures to ensure continuity of health care and impose appropriate sanctions, in coordination with the Office of Contracts and Procurement.

b. **Health Services Provider**

1) **Quality Assurance**

a) Pursuant to standards for medical care provision and applicable ACA and NCCHC Standards, the medical contractor shall develop a quality management program and implement a system of documented monthly and quarterly internal reviews to evaluate the quality of care and performance, investigate complaints and monitor corrective action plans.

b) The health services provider and DOC shall meet at least once every three months to review issues surrounding comprehensive health care services, including utilization, projections and other components for coordination of quality health care.

2) **Peer Reviews.** The medical contractor shall provide an external peer review program for physicians, mental health professionals and dentists. The review shall be conducted at least every 2 years. When problems of practice arise, the Director for the medical contractor will determine appropriate action that may include initiation of an investigation and peer review; using a panel of independent physicians to review the practice and practice patterns of the physician on whom the complaint was made.

7. MEDICAL RESEARCH

a. Inmates shall not be used for medical, pharmaceutical, or cosmetic experiments.

b. Inmates are not precluded from individual treatment based on their need for a specific medical procedure that is not generally available. Rules of informed consent shall apply.

c. All medical research requests shall follow guidelines set forth in DOC PS 1311.1 *Management Controls Research Activities*.

CHAPTER 2

DC DEPARTMENT OF CORRECTIONS

ADMINISTRATIVE RESPONSIBILITIES

1. **WARDENS.** The Wardens, Central Detention Facility (CDF) and Correctional Treatment Facility (CTF) shall ensure that correctional supervision and appropriate administrative support are provided to health care staff in accordance with this directive.

2. **SUPPORT SERVICES**

   a. DOC shall conduct background checks on all impending personnel that the medical contractor recruits. The background check and drug testing shall be a prerequisite for initial and continued employment and the final selection of all subcontractors may be subject to the approval of the COTR.

   b. DOC and CCA/CTF and CCC shall supply and provide maintenance for office, communications, technology and medical equipment pursuant to the contractual agreement and adequate space for administrative, clinic space, professional and clerical staff.

3. **SECURITY.** DOC, CCA/CTF and CCC staff shall provide appropriate custody and supervision of all inmates while they are engaged in health care to include:

   a. Employees shall ensure that inmates have unimpeded access to medical services in accordance with this directive.

   b. Administration and correctional officers shall ensure that health care professionals are not impeded from carrying out their health care responsibility.

   c. Uniform correctional officers shall provide security supervision or escort for inmates as they travel to or from the medical unit in a timely manner.

   d. DOC shall provide transportation for inmates to non-emergency medical treatment outside of the facilities in accordance with guidelines set forth in DOC PS 4910.1 *Escorted Trips.*

   e. DOC shall provide the security personnel, whether inmates are admitted to the Locked-Ward or to an “outpost” location for inpatient management.

   f. When ordered by the court, DOC shall provide outpost security and custody when sentenced inmates and pretrial criminal defendants who are housed at Saint Elizabeth Hospital (SEH) require admission at a hospital outside of the SEH grounds.

g. Upon authorization from a qualified medical or mental health professional that less intrusive measures are not successful, DOC will provide specialized restraint equipment and required correctional supervision for inmates who are under close observation or intensive monitoring.

4. **ENVIRONMENTAL AND SANITATION.** DOC and CCA/CTF shall ensure that facilities comply with federal and local applicable environmental health, safety, sanitation and fire safety codes and regulations. In addition, DOC and CCA/CTF shall:

a. Provide sufficient services and supplies so that inmates' personal hygiene needs are met.

b. Medical housing units and infirmaries shall have sufficient wash basins, bathing facilities and toilets that are accessible 24 hours per day.

c. Provide support for general cleaning to support environmental safety and sanitation through use of inmate labor.

d. Clean up infectious spills in accordance with P.S. 2920.4 "Environmental Safety and Sanitation Manual".

e. Provide environmental services for pest control.

f. Ensure kitchen, dining and food storage areas are kept clean and sanitary for preparing and serving meals. Food handlers follow hygienic practices.

5. **DOC PRIVACY OFFICER.** Under the auspices of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and pursuant to DC regulations and DOC policy and procedures, the DOC Privacy Officer has oversight and managerial responsibility for the use and disclosure of protected health information that is maintained by the medical contractor and other contract business associates.

6. **DOC PROVIDED TRAINING**

a. The DOC Training Administrator shall ensure that professional and support employees receive correctional orientation and annual refresher training pursuant to PS 3700.2 Employee Training and Staff Development.

b. At a minimum each affected employee will receive training in health information privacy under the Health Information Portability and Accountability Act (HIPAA), Sexual Harassment against Employees, Sexual Misconduct against Inmates, appropriate employee attire, fire safety, environmental safety and sanitation, professional inmate-employee relationships, inmate con games, key control, tool control, and inmate accountability.

c. The CDF Warden shall provide and document training for inmates, who are

assigned to the environmental squad, in safety precautions and methods for the clean up of infectious waste spills and proper disposal of bio-hazardous materials.

CHAPTER 3

MEDICAL CONTRACTOR

ADMINISTRATIVE RESPONSIBILITIES

1. **MEDICAL CONTRACTOR**. The Contractor's Health Services Administrator shall ensure that health care is administered, managed, coordinated and provided to inmates pursuant to federal and local law(s), AMA, ACA, NCCHC standards, the contractual agreement, contractor's policies and procedures. This directive and other applicable DOC policies and procedures.

2. **ACCREDITATION.** The medical contractor shall maintain ACA and NCCHC accreditation status pursuant to the contractual agreement.

3. **POLICIES AND PROCEDURES.** The medical contractor shall maintain a manual of written policies and procedures regarding health care services at each facility that addresses federal and local laws and regulations, contractual requirements and each applicable ACA and NCCHC Standard.

4. **PERSONNEL.** The Contract Health Services Administrator shall ensure that health services is staffed in accordance with the contractual agreement and scope of services and that all personnel are:

   a. **Qualified.** Health care services are provided by qualified health care personnel whose duties and responsibilities are governed by written job descriptions that are on file in the facility and are approved by DOC's Health Services Administrator.

   b. **Credentials.** All professional staff shall comply with applicable federal and local licensures, certification or registration requirements. Verification of current credentials and job descriptions are on file in the facility.

   c. **Students and or Interns.** No students, interns or residents shall be used to deliver health care in the facility without the DOC approval.

   d. **Inmate Assistants.** No inmates may perform peer support and education, hospice activities, assisting impaired inmates on a one-on-one basis with activities for daily living or serve as a suicide companion.

   e. **Security.** The contractor and its personnel are subject to and shall comply with all security regulations of DOC and/or CCA/CTF correctional procedures. Violation of these regulations may result in the employee being denied access to the facilities. In this event, the Medical contractor shall provide correspondingly alternate personnel to supply contracted services.

f. **Discipline.** The DOC Contracting Officer Technical Representative (COTR) reserves the right to remove or require the immediate removal of any health care personnel from DOC facilities upon written notice to the medical contractor of dissatisfaction with the employee's performance.

5. **CONTRACTOR PROVIDED TRAINING**

a. The medical contractor shall provide training for its personnel in accordance with the contractual agreement and its personnel manual.

b. The medical contractor shall provide the following training for DOC employees:

1) *Suicide Prevention Training* (8 hours) for uniform correctional personnel assigned to the CCA/CTF Mental Health Units.

2) *Annual mental health training* (40 hours) for uniform correctional personnel assigned to the CCA/CTF Mental Health Units.

3) *Medical emergency response training,* in cooperation with the Warden, to include instruction on recognizing signs and symptoms of medical and mental health emergency response, suicide prevention/intervention, acute chemical intoxication and withdrawal; administration of basic first aid; patient transport and infection control.

6. **EQUIPMENT AND SUPPLIES.** The medical contractor shall provide all material and supplies for health care delivery, office supplies and telephone services for medical staff, and environmentally friendly, consumable medical supplies cleaning supplies. The medical contractor shall provide maintenance, repair or replacement of government-furnished medical, dental and mental health equipment, including maintaining service contracts. Such equipment includes but is not limited to electrical tables, x-ray machines, electrocardiogram equipment and equipment utilized in administrative functions, such as photocopiers and typewriters.

7. **BIOHAZARDOUS WASTE COLLECTION AND DISPOSAL.** The medical contractor shall be responsible for collection and disposal of all biohazardous waste at the CDF/CTF in accordance with Federal, District of Columbia and DOC requirements.

CHAPTER 4

PROCEDURES FOR PROVISION OF A CONTINUUM OF HEALTH CARE SERVICES

1. **MEDICAL INTAKE PROCESSING**

a. Medical, dental and mental health intake shall be performed and documented by licensed and credentialed contract health care personnel upon the inmate's commitment. The medical intake process shall be completed prior to an inmate's placement into the general population, special housing unit or employment in food services.

b. Medical Intake processing shall include:

1) History and Physical which includes, a mental health screening,

2) Mental Health Evaluation if indicated,

3) Testing for Communicable Diseases,

4) HIV Rapid Counseling and Testing,

5) Vital Signs, to include Tuberculosis testing if indicated,

6) Peak flow- Asthmatics/ Finger Stick- Diabetics

7) Chest X-ray if indicated,

8) Pregnancy Testing,

9) Labs: RPR, Gonorrhea, Chlamydia

10) Initial Discharge Treatment Plan,

11) Discharge Planning Intake visit and,

12) Issuance of pertinent written materials regarding sexually transmitted diseases.

c. *Medical Hold*

1) Medical staff shall counsel inmates who refuse the intake chest x-ray for tuberculosis screening, refuse to provide medical history information or refuse the physical exam for assessment of a contagious disease such as chicken pox, measles or hepatitis regarding the importance of completing all aspects of the medical intake process. Staff shall inform the inmate of the possibility of placement on medical hold until evaluation is completed

in order to prevent potential harm to him/herself, other inmates or staff.

2) A physician shall document and issue written notification to the DOC shift supervisor if the inmate continues refusal.

3) The inmate shall be placed in an intake housing unit and contact with other inmates shall be restricted.

4) Medical staff shall provide and document daily counseling with the inmate to encourage compliance with needed testing.

5) Once the inmate consents to completing the intake assessment or the physician determines that the medical hold is no longer warranted, the physician shall provide written notification to the housing unit and document the release of the inmate from medical hold in the medical record.

d. *Exclusions from Medical Hold*

1) Refusal of the HIV Rapid Ora-Quick Counseling and Testing is excluded from the medical hold process.

e. *Sexual Abuse Screening*. Mental Health staff shall screen inmates during intake for potential vulnerabilities or tendencies for acting out sexually aggressive behavior.

1) Staff shall when screening the inmate inquire if the individual has been a victim of or has committed sexual assault in the past.

2) Medical and mental health staff shall be observant for other possible indications or any other information that is contained in the medical record or that is obtained from the inmate that might identify potential sexual vulnerabilities or aggressions.

3) Mental Health staff shall assess the need for continued counseling or other appropriate intervention to include offering counseling to the inmate within ten (10) business days of commitment.

f. *Health Precautions Outreach*. Inmates shall receive prevention education to include but not limited to:

1) Health Education. Within 72 hours of commitment inmates shall receive further health precautions education in a group setting. Education shall include but not be limited to:

a) Information about risk prevention from HIV/AIDS, Hepatitis and Tuberculosis and

b) How to obtain and properly use male and female condoms and dental dams.

2) Condom Issuance. Inmates may throughout their incarceration obtain condoms from designated staff in the following manner:

a) During the intake medical screening and testing process;

b) From medical discharge planners during interviews;

c) From medical contractors when they are in the housing unit to conduct medical triage or sick call;

d) While the inmate is at the infirmary for health care services; and

e) Issued at Receiving and Discharge as a part of their release resources package.

3) Confidentiality. Staff shall not record names or other identifying data about inmates who request issuance of condoms.

2. **HEALTH APPRAISAL.** The medical contractor shall ensure that each new inmate and/or transferred inmate placed in CDF and/or CTF has, within 24 hours, a completed and documented medical and mental health evaluation or screening in the medical record.

3. **PERIODIC EXAMINATIONS.** The medical contractor determines the conditions for periodic health examinations.

4. **MENTAL HEALTH PROGRAM**

a. The medical contractor shall ensure that there are an adequate number of qualified staff members to directly deliver mental health services to inmates.

b. Mental Health services shall include:

1) Initial mental health screening of all inmates entering the CDF;

2) A comprehensive mental health evaluation;

3) Mental health assessments, lab and diagnostic testing;

4) Control, dispensation and administration of all psychotropic and mental health medication;

5) Monitoring medication to ensure inmate compliance and evaluate

effectiveness in alleviation of symptoms;

6) Suicide prevention intervention and treatment of psychiatric emergencies;

7) Treatment of inmates with the most severe forms of mental illness and use of restraints;

8) Basic services for the general population to include behavior management, individual counseling, counseling for sexually vulnerable and sexually assaultive inmates, psychotherapy and discharge treatment plans;

9) All aspects of in-patient and out-patient on-site mental health care to include sick call; and

10) Close collaboration with the Department of Mental Health to ensure continuity of care/discharge planning.

5. **INFORMATION ON HEALTH SERVICES**. Information about the availability of, and access to, health care services is communicated orally and in writing to inmates upon their arrival to CDF in a form and language they understand.

6. **MEDICAL TRANSFER.** The medical contractor shall ensure inmates receive a health screening by health-trained or qualified health care personnel, that all necessary forms and required documentation for intra and inter-institutional transfers are completed on all inmates in a timely fashion.

7. **SICK CALL.** Any inmate who requests to be seen by clinical staff for non-emergency medical care shall be scheduled for sick call within one (1) business day from the time the written request is received.

   a. Their requests are documented and reviewed for immediacy of need and intervention required.

   b. Contract nursing staff shall conduct sick call five days per week in the general population units and daily in the segregated housing units where inmates are locked down (including weekends and holidays).

   c. When an inmate is transferred to segregation, health care personnel are informed immediately and provide assessment and review as indicated by the protocol established by the medical contractor.

   d. Correctional officers shall document the start and completion times of sick call when it is held in the housing unit.

   e. When the responsible physician determines that an inmate needs health care beyond the resources available in the facility, the inmate shall be transferred under appropriate security provisions to a facility where such care is on-call or

available 24 hours a day.

8. **FIRST AID.** In the event that a minor injury occurs, staff shall have available the appropriate supplies to administer care to inmates or staff pending arrival of medical staff or transport to the medical unit. First aid kits shall be available in all housing units, command center, and culinary to provide access to staff assigned to those areas. The health care contractor shall approve, maintain and monitor, on a daily and monthly basis, contents of the first aid kits. The medical contractor shall, each shift, examine all kits to determine if the seal is compromised and if so, refill with appropriate contents. The medical contractor shall, each month, examine all kits for a compromised seal and refill with the appropriate contents. The medical contractor shall place a list of first aid kit contents inside of the kit for quick reference. The medical contractor shall write protocols for use of the first aid kits, for non medical personnel. An automatic external defibrillator is available for use at the facility.

9. **CHRONIC CARE.** The medical contractor shall ensure inmates with chronic illnesses receive written treatment plan, continuous and appropriate medical services to prevent or reduce complications of chronic illnesses and promote health maintenance in accordance to established and approved DOC Performance Improvement measurement tools.

10. **COMMUNICATIONS ABOUT SPECIAL NEEDS PATIENTS.** Communications occur between the facility administrator and treating clinician regarding an inmate's significant health needs that must be considered in the classification decision in order to preserve the health and safety of that inmate, other inmates and staff.

11. **EXERCISE.** DOC and the medical contractor shall provide exercise areas and physical therapy when prescribed.

12. **SPECIALTY SERVICES.** The medical contractor shall manage and/or refer inmates to medically necessary secondary services (i.e., specialty consultations/clinics, and all outside diagnostic services and procedures).

13. **MANAGEMENT OF CHEMICAL DEPENDENCY**

    a. Detoxification. The medical contractor shall ensure that inmates have access to a clinically managed chemical dependency program and the detoxification of inmates is done under medical supervision in accordance with federal and local law(s), The NCCHC Standards for Opioid Treatment Programs in Correctional Facilities, DC Municipal Regulations, Chapter 23 titled "Certification Standards for Substance Abuse Treatment Facilities and Programs", Federal Opioid Treatment Standards as identified in 42 C.F.R. PART 8 regulations, ACA standards at a DOC facility, the D.C. Detoxification Center or an off-site inpatient service facility.

b. Chemical Dependency Program provided by the medical contractor shall include clear and concise DOC approved procedures in its Operation Manual to address the following concerns related to patients in the chemical dependency program and/or undergoing detoxification.

1. Continuous quality improvement

2. Identification of appropriate staff to deliver services

3. Diversion control plan

4. Admission criteria for:

    a) Maintenance and/or short term detoxification.

    b) Process for identifying repeat participants and plan for a patient who presents with two or more unsuccessful detoxification episodes with a 12-month period.

    c) Education and counseling of patient on admission and obtaining of informed consent.

    d) Initial Treatment Plan with short-term goals and tasks which reflect frequency and identification of needs related to education, vocational rehab, employment, medical, psychosocial, legal and/or other supportive services.

    e) Initial urine drug test

    f) During treatment: the patient shall receive:

    g) On-going substance abuse counseling of patient and linkage to services internally and upon release.

    h) Each patient must receive a periodic assessment and update of the treatment plan.

    i) Counseling on preventing HIV exposure.

    j) Drug abuse testing in accordance with regulations

5. Special Populations:

    a) Procedures for handling youth under 18 requiring maintenance or detoxification.

    b) Special Services for Pregnant patients

6. Procedures submitted should also include:

    1) Clear steps related to documentation, reporting, and monitoring of individual patients in the EMR.

    2) Clear steps related to medication administration, dispensing, storage, dosage and documentation of such in logbooks and the EMR.

c. Substance Abuse Programs. DOC may in conjunction with the health care provider, maintain a residential substance abuse treatment program (RSAT) that provides a therapeutic mileu including , treatment, education and/or counseling program that includes individual inmate needs assessments, activities, treatment plans and prerelease relapse prevention education and discharge planning and linkages. Refer to PS 6050.3 Residential Substance Abuse and Treatment program (RSAT).

14. **DENTAL SERVICES.** The medical contractor is responsible for:

    a. Dental screening conducted within seven days of admission, unless completed within the last six months.

    b. Inmate patients shall receive routine dental care for chronic dental and oral pathosis (disease state).

    c. Care is timely and includes immediate access for urgent or painful conditions.

    d. Dental instruments and supplies (including prosthetics).

    e. Maintenance or replacement of dental equipment.

    f. Treatment beyond the scope of services provided at the CDF and CTF Dental Clinic shall be referred to Greater Southeast Hospital or another Oral Surgery Clinic contracted to provide services to the DOC inmate population.

15. **HIV COUNSELING,TESTING, REFERRAL AND DISCHARGE PLANNING.** The medical contractor shall be responsible for the Counseling, Testing, Referral and Discharge Planning (CTRD) program that serves to increase the number of inmates who know their HIV status and are linked into primary medical care and case management, referred to HIV prevention and mental health. The contractor shall develop written procedures for the provision of CTRD services.

    a. Except when there is documentation of refusal on a DOC approved form, the medical contractor shall provide HIV pre and post test counseling and oral HIV rapid testing to all inmates committed to the DOC:

        1) As part of intake medical screening;

2) Request, via sick call. Upon receipt of the request, the medical staff shall schedule the inmate for counseling and testing on the next business day;

3) Prior to release from custody, providing the inmate has been incarcerated within the CDF/CTF for ninety (90) days or more.

b. The following inmates shall not receive HIV oral rapid testing:

1) A documented history of HIV reflected in the electronic medical record (EMR);

2) Weekenders who receive the HIV oral rapid test at their initial intake, unless otherwise ordered by a medical provider;

3) Inmates with a documented test and results in the EMR within the past thirty (30) days prior to their most recent intake;

c. All preliminary positive results from the HIV Rapid test shall be referred to the DOC medical contractor's physician for immediate follow-up:

1) A physician shall conduct an in-person interview, explaining the results, providing additional counseling;

2) Ensuring blood collection for confirmatory testing;

3) Evaluate the inmate for the appropriateness of mental health intervention.

d. If serology results are confirmed positive, the inmate shall be referred to the chronic care clinic (infectious disease) for medical care.

e. The medical contractor shall provide appropriate HIV related education plan to ensure those affected know their status and are aware of the available medical services, case management and other treatment programs within and outside of the DOC.

f. The medical contractor shall ensure that inmates, who test HIV positive, receive at the time of release, a discharge plan that includes an appointment with a medical provider in a neighborhood community health center.

g. The medical contractor shall provide HIV positive inmates who require medications a 30-day-supply at the time of release.

h. The medical contractor shall be responsible for ensuring that all staff conducting the HIV oral rapid tests are appropriately trained and have signed confidentiality statements.

i. The medical contractor shall ensure that their quality assurance plan is in

compliance with the DOC/ medical provider's contract, the Centers for Disease Control and the Department of Health.

j. The medical contractor shall document all results as they relate to the testing, treatment, referral and discharge planning of the inmates in the EMR.

16. **INTRA-SYSTEM TRANSFERS.** The medical contractor shall document in the transfer summary form in the inmates electronic medical record after a transfer between the CDF and CTF. Information shall include, but not limited to; vital signs, diagnosis, medications, reason for transfer (if for medical reasons) etc. The DOC will make every effort to make the proper notification to the medical contractor when inmates are transferred between the two facilities.

17. **INFIRMARY.** At a minimum the operation of the infirmary at the Correctional Treatment Facility shall include:

a. Facility set up to provide medical observation and/ or monitoring for inmates, who do not require hospitalization, but require care for twenty-four hours or more.

b. Health Care staffing twenty-four hours per day. Inpatient care is provided under the supervision of a licensed practitioner (Nurse Practitioner, Physician Assistant, or Physician), managed by a Registered Nurse for an illness or diagnosis requiring observation and monitoring but not admission to a licensed hospital or nursing facility. Sufficient and appropriate contract nursing staff on duty must be available to inmate patients 24 hours a day.

c. A complete inpatient record for each patient admitted to the infirmary, including an admission work-up and discharge summary. A physician shall at admission document the inmates' level of care. The level of care determines the frequency of visits, and documentation. Documentation is to be clearly identified in the Electronic Medical Record (EMR).

d. Quality Improvement Monitoring shall occur on a monthly basis.

e. If intravenous medications are being administered, a registered nurse must be physically present in the infirmary at all times.

f. Provision of a manual of nursing care procedures for infirmary care.

18. **EMERGENCY/URGENT MEDICAL CARE FOR INMATES**

a. 24 hour Urgent/Emergency care is the responsibility of the medical contractor. The medical contractor shall have unimpeded access to providing care and making decisions about the medical care of an inmate(s) whose condition may result in death, organ failure or severe life altering situation without

medical intervention. Actions taken for an emergency situation shall include, but not be limited to:

1) Any employee who determines that a medical emergency exists shall immediately call the Nurses Station on the Medical Unit.

2) The employee placing the emergency call will provide all necessary information to the nurse in the Nurses Station, i.e., location of injured or ill person, type of injury or illness, and whether the injured person is conscious. A physician shall speak with the employee who is reporting the incident when a nurse is unavailable.

3) The nurse receiving the call from the cellblock will instruct the Officer that the MERT (Medical Emergency Response Team) will respond to the scene. Immediately afterwards, the nurse will initiate the MERT response, then notify the Command Center.

4) The Officer in the Command Center will contact the zone or shift supervisor and request that the supervisor immediately report to the site of the emergency.

5) Medical staff shall respond within four (4) minutes.

6) All employees shall assist the MERT as directed by the MERT team leader.

7) All employees shall assist Fire and Emergency Medical Services (FEMS) responders to gain unimpeded access to providing medical care for an individual in need of emergency care.

8) The supervisor shall ensure full cooperation by the correctional staff, to include timely correctional coverage, clearing the emergency area of inmates who are not involved, as well as security and escort requirements.

b. Emergency Plan. All Medical Contracts shall adhere to DOC PS 5031.1 *CDF Emergency Plan*.

19. EMERGENCY TRANSPORTATION TO AN OUTSIDE HOSPITAL

a. If medical determines the patient requires urgent transportation, the nurse call 911 for DC Fire and Emergency Medical Services (DCFEMS) and notify the Command Center.

b. Medical staff shall directly notify DCFEMS during medical emergencies involving a patient housed in the CTF infirmary.

c. Medical staff shall provide the DCFEMS with the appropriate documentation needed to accompany the patient to the hospital, to include the trip ticket.

d. Emergency medical escorts shall be handled in accordance with guidelines set forth in DOC PS 4910.1 *Escorted Trips*.

20. **OFF-SITE PATIENT SERVICES.** The medical contractors responsibilities for Off-Site medical services shall include, but not limited to:

    a. Off-Site Visits. The medical contractor shall make arrangements and prepare medical documents for inmates to receive specialty care at other institutions i.e., United Medical Center, Howard University Hospital, St. Elizabeth's etc.

    b. Returning from Off-Site Visits. The escorting officer shall be responsible for collecting any documentation from the off-site service provider and returning it to the medical contractor. The medical contractor shall be responsible for the management of Medical/Mental Health needs, as a part of the Off-Site recommendations that accompany the patient when they return.

21. **SUICIDE AND SUICIDE PREVENTION.** Shall be governed by the guidelines set forth by DOC PS 6080.2 *Suicide Prevention and Intervention* which is reviewed annually by the Suicide Prevention Intervention and Improvement Team. It includes specific procedures for handling intake, screening, identifying, and supervising of a suicide-prone inmate and is signed and reviewed annually. The medical contractor shall provide assistance, guidance and treatment planning for any inmate determined by a mental health professional to be in imminent danger of committing suicide because of a recent suicide attempt, verbalized threat to commit suicide and/or displays other suicide risk indicators.

22. **MEDICAL RESTRAINTS**. Four/five point restraints are used only in extreme instances and only when other types of restraints have proven ineffective. Only after a physician's assessment and order, shall restraints be used if it is determined that, as a result of a mental or behavioral disorder, an inmate is an imminent danger to self or others. The Clinical Manager for Mental Health, or designee, shall assign a nurse to provide 1:1 constant observations and documentation every 15 minutes.

23. **INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION.** District of Columbia law(s) and applicable regulations shall govern the involuntary administration of psychotropic medication(s) to an inmate.

24. **PSYCHIATRIC EVALUATION AND HOSPITALIZATION.** Inmates whose acute psychiatric symptoms fail to remit due to medication non-compliance, who are assessed to be a danger to themselves, or others, due to mental illness shall upon a face-to-face psychiatric evaluation and due process in accordance with PS 6014.6 *Psychiatric Evaluation and Hospitalization* be transferred to the John Howard Pavilion/St. Elizabeth's Hospital. Inmates returning from St. Elizabeth's shall be evaluated by a physician or psychiatrist before they can be housed in order to manage care and determine housing. Inmates with severe developmental disabilities may be housed on a mental health cellblock.

25. **TREATMENT FOR VICTIMS OF SEXUAL ABUSE/ASSAULT/CONTACT**

    a. The medical contractor shall refer victims of sexual abuse/assault, under appropriate security provisions, to a hospital emergency room for treatment and gathering/preservation of evidence.

    b. The medical contractor shall ensure that the inmate is provided with prophylactic treatment and follow-up for sexually transmitted diseases as is appropriate.

    c. The medical contractor shall ensure that the inmate is provided a mental health evaluation by a mental health professional to assess the need for crises intervention counseling and long-term follow-up.

    d. The medical contractor shall submit a copy of the initial medical referral report to DOC. Subsequent treatment and evaluations shall be provided to DOC and local law enforcement in a manner required by law.

26. **PREGNANCY MANAGEMENT**

    a. Pregnant inmates shall be provided confidential and comprehensive ongoing prenatal and postpartum follow-up medical services and linkages.

    b. Female inmates who suspect pregnancy shall be referred to in-house OB clinic to receive Pregnancy testing and counseling for routine and high-risk prenatal care.

    c. In accordance with Women Offenders v. DC CA 93-2052, DOC shall place no restraints on any woman in labor, during delivery, or in recovery immediately after delivery; and during the last trimester of pregnancy up until labor, the Defendants shall use no restraints when transporting a pregnant woman prisoner unless the woman has demonstrated a history of assaultive behavior or has escaped from a correctional facility, in which case, only handcuffs shall be used.

27. **ABORTION.** It is policy to ensure that the legal right to therapeutic or elective abortions is not mitigated by reason of incarceration. No DOC employee, contract employee or volunteer shall in any manner compel, encourage, discourage, coerce or delay an inmate to either have or not have an abortion. Counseling and assistance to pregnant inmates shall be provided in accordance with District Law (DC Code §22-101).

28. **ELECTIVE PROCEDURES.** The medical contractor, in conjunction with the DOC Health Services Administrator and in accordance with local regulations, shall provide guidelines that govern elective procedures or surgery for inmates. They must include decision-making processes for elective surgery needed to correct a substantial functional deficit or if an existing pathology process threatens the well-being of the inmate over a period of time.

29. **ANCILLARY SERVICES.** The medical contractor is responsible for the provision of all radiology, laboratory, pharmacy and other ancillary services.

30. **PHARMACEUTICALS.** The medical contractor shall comply with all applicable District and Federal regulations regarding dispensing, distribution, storage and disposal of pharmaceuticals. The medical contractor shall maintain a formulary.

31. **NONPRESCRIPTION MEDICATION.** Nonprescription medications are only available to inmates through the medical contractor, ie. sick call, urgent care.

32. **PROSTHESES AND ORTHODONTIC DEVICES.** The medical contractor is responsible for assessment of inmates for adaptive medical and dental devices. These devices shall be provided when the health of the inmate would otherwise be adversely affected, as determined by the physician or dentist.

33. **NUTRITION SERVICES/THERAPEUTIC DIETS.** Inmates housed at CDF and CTF shall be given regular diet trays that a qualified dietitian has ensured meets the nationally recommended allowances for basic nutrition. The exceptions to this are those inmate patients requiring therapeutic medical or dental diets:

    a. The Contract Licensed Independent Practitioner (MD, DO, NP, DDS, DMD, etc.) shall order therapeutic diets as defined by law, rules and regulations of District of Columbia

    b. The Contract Licensed Independent Practitioner (LIP) may also order nutritional supplements.

    c. The DOC licensed Dietician shall be responsibility for providing oversight to ensure that all dietary requirements are met in accordance with the American Dietetic Association. This includes regular and medical diets.

34. **COMMUNICABLE DISEASE AND INFECTION CONTROL PROGRAM.** Under the direction of the Contract Health Services Administrator, the Contract Infection Control Coordinator maintains the Infection Control Program through the performance of the following duties and responsibilities:

    a. Directs the investigation and institutes appropriate control measures of all risk situations related to infection, prevention, surveillance and control which may endanger patients, personnel or visitors.

    b. Formulate Infection Control policies and practices, including those regarding the sterilization and disinfectant practices within all operative locations, and those associated with the storage of sterile supplies and the recall of the same.

    c. The reporting of communicable and infectious diseases shall be in accordance with federal and local law(s).

35. **TUBERCULOSIS.** All persons in the DOC (staff and inmates) shall receive annual screening for tuberculosis (TB). Procedures for management of TB among employees are addressed in PS 6050.1A "Tuberculosis Control Program" and procedures for management of TB among inmates are provided as a routine component of inmate health care.

36. **HEPATITIS A, B, C.** Under the direction of the Contract Health Services Administrator, there is a plan to identify infected inmates, provide treatment (when indicated), follow-up, and isolation (when indicated).

37. **HIV/AIDS MANAGEMENT.** Under the direction of the Contract Health Services Administrator, the medical contractor shall identify, provide surveillance, immunization (when applicable), treatment, follow-up, and isolation (when indicated).

38. **HEALTH EDUCATION.** DOC and the medical contractor shall coordinate health education and wellness programs for inmates that are in the DOC facilities. Topics in the Health Education Program will include, but not limited to:

    a. Anger Management

    b. Conflict Management

    c. Domestic Violence

    d. HIV/STD Education

    e. Life skills

    f. Stress Management

    g. Substance Abuse

    h. Violence Prevention

39. Through Video/ DVD televisions are located on the third floor medical unit. Health education topics range from Living with Diabetes, Cancer awareness, and Communicable Diseases to Nutrition and Stroke information. The television is on from 9am until there are no longer inmates in the medical area.

40. **DISCHARGE PLANNING.** Continuity of care is provided from admission to transfer or discharge from the DOC facilities, including discharge planning and referral to community-based providers, when indicated.

    a. During the intake history and physical the medical contractor's provider will ensure each inmate receives an Initial Discharge Treatment Plan. The physician will provide this to the inmate in a sealed envelope. Information in the plan will support continuity of care in the event an inmate is released within

twenty-four hours of intake. i.e. court.

b. The contractor shall ensure that necessary medical documentation required for an inter-institutional transfer is completed on all patients transferred to other facilities.

c. The contractor shall provide linkages to the community for continuity of care. Upon release, all inmates must receive a discharge treatment plan, and if applicable, an initial appointment to an assigned health care center of their choice in the inmate's neighborhood, ideally with the same health care team that provided services while the inmate was in custody. The contractor shall make every effort to provide an assigned health care provider to inmates who are not District residents.

d. The Mental Health Liaison from the D.C. Department of Mental Health (DMH) assigned to the DOC evaluates patients with mental health problems, who are due to be released into the community. While the patient is still incarcerated, the liaison links them with a community-based Community Services Agency (CSA) and follow-up appointment within forty-eight hours of their release.

e. Upon release the contractor shall provide a thirty (30) day supply of prescription medications to all HIV positive DOC inmates. All others shall receive a seven (7) day supply of prescription drugs.

41. **INMATE DEATH.** If the medical contractor's Physician determines through assessment of the inmate that all of the clinically accepted signs and symptoms of death are present and that the inmate is clinically dead and beyond being revived, the Contractor's Physician may order CPR be ceased and may pronounce death.

a. The procedure for the identification, verification, reporting and documentation of an inmate death shall be governed by guidelines set forth in DOC PS 4352.1 *Inmate/Offender Deaths.*

b. Notification about the death of an inmate shall be governed by guidelines set forth by DOC PS 1280.2 *Reporting and Notification Procedures for Significant Incidents and Extraordinary Occurrences.*

CHAPTER 5
INMATE TREATMENT

1. **FAIR TREATMENT.** DOC, CCA/CTF and the Medical contractor shall ensure that inmates are treated humanely, fairly and in accordance with applicable laws.

2. **NOTIFICATION.** It is DOC policy to notify an individual that the inmate designates in case of serious illness, serious injury or death, unless security restrictions dictate otherwise.

3. **PRIVACY.** The medical contractor shall ensure that medical and mental health interviews, examinations and procedures are conducted in a setting that respects the inmate's privacy. Female inmates are provided a female escort for encounters with a male medical contractor.

4. **CONFIDENTIALITY.** The principle of confidentiality applies to an inmate's health records and information about the inmate's health status. Privacy and confidentiality of health care information shall be governed set forth by DOC PS 1300.3 *Health Information Privacy.*

5. **INFORMED CONSENT.** Health care services shall be rendered according to federal standards and District law(s), ACA standards in a language understood by the inmate. The rights of inmates shall be taken into consideration when providing medical services.

   a. When medical care is rendered against the inmate's will, it is in accordance with federal and local laws and regulations.

   b. Any inmate may refuse (in writing) medical, dental and mental health care services. If the inmate refuses to sign the refusal form, it must be signed by at least two witnesses. A qualified health care professional must review the refusal and conduct a face-to-face evaluation if there is concern about decision-capacity or if the refusal is for critical or acute care.

   c. The individual's treatment with a new medical procedure by their physician is undertaken only after the inmate has received a full explanation of the positive and negative features of the treatment and only with informed consent.

   d. In the case of minors, the informed consent of a parent, guardian or a legal custodian applies when required by law.

6. **HEALTH CARE DECISIONS**

   a. A health care provider who is treating or providing services for an incapacitated inmate at the time of the health care decision, DOC medical

contractors and all other DOC employees are prohibited from authorizing grant, refusal or withdrawal of consent on behalf of the inmate with respect to a decision regarding health care service, treatment or procedure.

b. In the absence of a durable power of attorney and provided that the inmate's incapacity has been certified, the following individuals, in the descending order of priority set forth below, shall be authorized to grant, refuse or withdraw consent on behalf of the inmate with respect to the provision of any health-care service, treatment or procedure. The decision to grant, refuse or withdraw consent shall be based upon the known wishes of the inmate or, if the wishes are unknown and can not be ascertained, a good faith belief as to the best interests of the inmate. At least one witness shall be present when this person makes the decision.

1) A court-appointed guardian or conservator, if the consent is within the scope of the guardianship or conservatorship;

2) The spouse or domestic partner;

3) Parent;

4) Adult sibling;

5) A religious superior if the inmate is a member of a religious order or a diocesan priest;

6) A close friend; or

7) The nearest living relative.

CHAPTER 6

MEDICAL RECORDS

1. **INMATE MEDICAL RECORD**

   a. The medical contractor shall maintain both a paper and electronic medical record for each inmate committed to the DOC.

   b. All inmate medical records shall be the property of DOC.

   c. Health records shall be complete and required information shall be filed in a uniform manner in accordance with ACA and NCCHC standards.

   d. Medical records shall be readily accessible to health care professionals, promptly retrievable, and securely stored.

   e. Non-emergency inmate transfers require transfer of the inmate's medical record that will contain summaries of the inmate's health condition, treatments, allergies, written treatment instructions and other information necessary to maintain continuity of care.

   f. If the inmate is being transferred to another facility, the medical contractor shall secure a copy of the medical record in a sealed plastic envelope and deliver it to DOC or CCA/CTF correctional personnel for transfer.

   g. Only an authorized employee of the medical contractor shall open the sealed envelope.

2. **CONFIDENTIALITY OF MEDICAL RECORDS**

   a. The medical contractor shall maintain confidentiality of information in the medical record, distribute medical records among health care professionals and maintain security of medical records in compliance with the Health Insurance Portability and Accountability Act (HIPAA) security standards.

   b. Medical records shall be maintained in the Medical Records Office. They shall never be out of the control of the medical practitioner's span of control, except for the following:

      1) Patient transfer outside of CDF and CTF;

      2) Office of the Attorney General request for litigation purposes, after a receipt has been secured; and

      3) Review by law enforcement authorities or Court order/Subpoena in accordance with HIPAA standards.

c. Inmate workers assigned to the Medical Unit shall not have access to patient information, medical records, determine or perform any type of health care procedure.

3. **INACTIVE RECORDS.** Inactive health record files are retained as permanent records in compliance with the legal requirements of DOC. Health record information is transmitted to specific and designated physicians or medical facilities in the community upon written request or authorization of the inmate and in accordance with HIPPA guidelines.

4. **RECORDS RETENTION AND DISPOSAL**

d. The method of recording entries in the health records and the format of the health records are approved by the DOC.

e. Inmate records are the sole property of DOC.

f. The medical contractor shall be responsible for maintenance, retention and timely transfer of a complete, standardized problem oriented medical record for all inmates, in accordance with prevailing federal law(s), local law(s), medical regulations, ACA standards.

g. The medical contractor shall maintain inmate medical records in an electronic medical record system and a parallel paper record system.

h. The medical contractor shall be responsible for the storage and retrieval of archival paper medical records off-site.

i. The medical contractor shall retain inactive medical records for six (6) years and in compliance with HIPAA standards.

CHAPTER 7

EMERGENCY MEDICAL TREATMENT FOR EMPLOYEES, CONTRACTORS AND VISITORS

1. **REQUIREMENT.** An injured or ill employee shall have unimpeded access to immediate medical attention from the medical contractor.

2. **PROCEDURES.** Procedures for notification and treatment of an employee injury or illness shall be as follows:

   a. **Notification**

      1) An employee shall immediately call the Nurses Station on the Medical Unit to notify the health care provider about a serious personal injury, major illness while on the job or traumatic medical situation to another employee.

      2) An employee shall also notify the Command Center about a serious personal injury, major illness while on the job or injury to another employee.

      3) An employee incurring an injury or illness that does not require immediate medical attention must make verbal notification to his/her supervisor without delay.

      4) An employee incurring an injury or illness that does not require immediate medical attention shall report their medical condition to the medical contractor directly following notification to their supervisor and relief coverage for their duty station.

   b. **Medical Response**

      1) The medical contractor shall provide first response services to an injured or ill employee for the purpose of assessment, stabilization and referral to an outside provider.

      2) Following notification of an injured or ill employee, the supervisor's first and most important responsibility is to ensure that the employee promptly receives necessary medical attention from the medical contractor, and there is proper medical documentation of an injury or illness to an employee.

   c. **Medical Referral**

      1) The Medical contractor shall not be responsible for the ongoing medical management of an employee.

2) The medical contractor shall arrange for DC Fire and Emergency Medical Services (DCFEMS) to transfer a seriously injured/ill employee by ambulance.

3) The medical contractor shall document an employee's complaint of an injury or illness. The report of the illness or injury shall be forwarded to the employee's supervisor in a sealed envelope.

d. **Crime Scene.** The Supervisor shall ensure that the scene where an injury took place has been secured, collect any evidence from the scene (if appropriate) and obtain statements from witnesses, as soon as reasonably possible, following notification of an injury to an employee.

e. **Supervisory Administrative Follow-up.** The investigation and the reporting of an injury or illness to an employee shall be handled in accordance to DOC PS 2921.2 *Injuries and Illnesses, Work-Related.*

DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS

Program Statement

OPI: HRM
Number: 6050.4B
Date: February 29, 2008
Supersedes: 6050.4A (2/1/00)
Subject: Mandatory Employee Drug and Alcohol Testing Program (MEDAT**)**

1. **PURPOSE AND SCOPE.** To provide procedures for the mandatory drug and alcohol testing program within the DC Department of Corrections (DOC).

2. **POLICY**. It is the policy of the District of Columbia Department of Corrections to provide a drug and alcohol-free workplace.

   a. DOC employees are prohibited from using or being under the influence of alcohol while on duty and using or possessing any drug that is unlawful to possess without a prescription under local or federal law. This prohibition extends to the commission of unlawful drug or alcohol activity outside of the workplace.

   b. This policy continues as written notice to employees that DOC encourages employees to seek assistance via Employee Assistance Program (EAP) opportunities available for DOC incumbents.

   c. Hereafter, any confirmed positive test results or refusal to submit to the test shall be grounds for termination of employment.

   d. DOC supervisors shall notify appropriate law enforcement authorities when employees, contractors, and volunteers are found in possession of illegal drugs or when it has been determined that the individual may be engaging in illegal drug trafficking.

   e. Further, violations of this or any other prohibitions on drug or alcohol use within or outside of the workplace shall result in termination of employment pursuant to District Personnel Manual (DPM) Chapter 16 or any other provision of services to DOC consistent with DC Code § 24-211.21 through § 24-211.24

3. **APPLICABILITY**. Employees are defined as DOC incumbents, employees on detail under a government Inter-Personnel Agreement, contract workers and volunteers. The following DOC employees shall be tested for drug and alcohol use:

   a. Applicants;

   b. Those employees who have had a reasonable suspicion referral;

   c. Post accident employees, as soon as reasonably possible after the accident; and

   d. High Potential Risk Employees (HPR). HPR employee means any DOC employee who has inmate care and custody responsibilities or who works within a correctional institution, including any employees and managers who are carried in a law enforcement retirement status. Law enforcement retirement status means any employee who contributes to the 7.5% retirement status category.

   e. Commercial Driver's License (CDL) Holder. The Omnibus Transportation Employee Testing Act of 1991 established drug and alcohol testing and training regulations for all commercial motor vehicle operators required by law to maintain a CDL.

4. **AUTHORITY**

   a. DC Code § 24, Chapter 2, Subchapter II Part B. Department of Corrections Employee Mandatory Drug and Alcohol Testing

   b. District Personnel Manual Chapter 16 (specifically 1603.3 and 1603.4)

   c. D.C. Code § 24-211.02, Powers; Promulgation of Rules

   d. Procedures for Transportation Workplace Drug and Alcohol Testing Programs, Department of Transportation, Amendment 49 CFR Part 40, dated February 15, 1994

   e. Mayor's Order 96-139, "Testing of District Government Drivers of Commercial Motor Vehicles for Alcohol and Controlled Substance," dated September 17, 1996

   f. D.C. Department of Corrections Mandatory Employee Drug and Alcohol Testing Program (MEDAT) Procedures Manual, dated June 25, 1996 (Rev. November 18, 1999).

g. Collective Bargaining Agreement Between District of Columbia Department of Corrections and Fraternal Order of Police Department of Corrections Labor Committee, Article 31 "Drug and Alcohol Screening"

5. **DIRECTIVES AFFECTED**

a. Rescinded

PS 6050.4A Mandatory Employee Drug and Alcohol Testing (MEDAT) Program (2/1/00)

b. Referenced

1) PS 2830.1B Use of Government Vehicles—Fleet Management

2) PS 3040.6B Personnel Security and Suitability Investigations

3) PS 3310.2 Employee Discipline

4) PS 3410.1A Employee Assistance Program (EAP)

5) PS 5030.5A Canine Unit

6. **STANDARDS REFERENCED**

a. American Correctional Association 4th Edition Standards for Adult Local Detention Facilities: 4-ALDF-7C-01, 4-ALDF-7C-03 and 4-ALDF-7F-05

b. American Correctional Association 2nd Edition Standards for Administration of Correctional Agencies: 2-CO-1C-20

7. **NOTICE OF NONDISCRIMINATION.** In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2.1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

8. **PROGRAM OBJECTIVES.** The expected results of this program are:

   a. Procedures to maintain compliance with District of Columbia law DOC policy for a drug-free work place.

   b. Conditions for drug and alcohol testing are provided.

9. **DRUG TESTING.** DOC conducts the MEDAT program to determine employee use of drugs.

   a. Employees shall be tested for use of Marijuana (THC), Cocaine, Opiates, Amphetamines; and Phencyclidine (PCP). Testing a urine sample using the EMIT method and GC/MS (for confirmation of positive test results) is required. DOC reserves the authority to test employees for additional illegal substances based upon reasonable suspicion that such testing is appropriate.

   b. Employees shall be tested for alcohol use based upon observations of on-duty impairment, after traffic accidents as outlined in this directive. The EBT (breathalyzer) method is used.

   c. Canine Surveillance

      1) DOC employs the use of dogs that have been certified in drug detection to search DOC property.

      2) For the purposes of this program DOC property may include but is not limited to building entrances, employee work spaces, all common areas and locations where inmates are housed, work, receive visits or are involved in programs/care.

10. **TESTING REQUIREMENTS – GENERAL**

   a. On-site specimen collections shall be conducted at designated DOC collection sites. Testing for all other categories are at the laboratory's designated site unless otherwise arranged by the Drug Program Coordinator.

   b. Each employee shall submit to testing on his/her scheduled test date and at the specified time, and place.

   c. Warnings Regarding Over-the-Counter (OTC) and Alternative Medicines, Foods and Herbs. Applicants and employees should read the ingredients and warning labels on all OTC and alternative medicines, foods, and herbs.

d. Hemp Products. Use or consumption of a hemp product (food, drink, or other), which may contain tetrahydrocannabinol (THC), is not a legitimate medical explanation for the confirmed presence of THC in an employee's specimen. A positive urinalysis for THC (marijuana), regardless of the use of the aforementioned products, shall be considered a positive test, resulting in corrective or adverse action pursuant to DPM Chapter 16.

e. Coca-Leaf Products. Use of coca-leaf tea or other coca-leaf products, that may contain cocaine and/or its metabolite(s), is not a legitimate medical explanation for the confirmed presence of cocaine or benzoylecgonine (BZE) in an employee's system. A positive urinalysis regardless of the use of the aforementioned products, shall be considered a positive test, resulting in corrective or adverse action pursuant to DPM Chapter 16.

11. APPLICANT TESTING AND SCREENING

a. Vacancy announcements for all positions within the Department shall clearly state the MEDAT policy at DOC. This includes the information that applicants are tested for the presence of drugs and are subject to further drug/alcohol testing upon acceptance into the position.

b. All persons who have been tentatively selected for employment or placement in any position within DOC, either directly or through an internship or contract shall submit to an initial drug test prior to assuming official duties. Volunteers shall submit to an initial drug test prior to placement.

c. Pending incumbents, interns or contract workers who test positive for drugs; or who willfully tamper with test specimens or otherwise attempt to circumvent the testing; or who refuse to complete required drug/alcohol testing, shall be denied employment consideration or the ability to provide services in DOC facilities for three years from the date of determination of disqualification.

12. NEW HIRES

a. Upon issuing a new employee's DOC identification card, the Human Resource Management Division (HRM) shall give a copy of this directive to the employee. The employee shall read and sign the DOC- MEDAT Employee Notification Form. (Attachment A)

b. In the absence of HRM, the work site official (i.e., the Director, Deputy Director, Warden, Administrator, or Office Chief) shall issue the notification.

c. The issuer and a witness shall document an employee's refusal to sign an acknowledgement of notice of HRP status designation. This action shall constitute official employee notification.

13. **PRE-APPOINTMENT TESTING**

a. All employees applying for another position within the DOC, to include promotion, shall be tested prior to accepting the position.

b. HRM shall issue written notice to a non-HRP employee who is reassigned or promoted into a position that is designated HRP.

14. **RANDOM TESTING.** Random testing means drug or alcohol testing taken by DOC employees at an unspecified time during the employee's tour of duty.

a. Drug or alcohol testing of HPR and CDL Department employees shall be conducted without advance notice to the affected employee.

b. On the day of the scheduled collection;

1) The supervisor or management official shall verbally inform the employee and then provide written notification that he/she is being tested in accordance with the drug/alcohol testing policy and procedures.

2) The supervisor shall inform the employee of the time and location of the test and instruct the employee to take appropriate photograph identification.

3) The supervisor or another designated supervisor shall escort the employee to the test site.

4) The employee shall remain in the testing area as directed until completing testing.

c. Random testing results shall not be released to any law enforcement agency without the employee's written consent except pursuant to a court order.

15. **REASONABLE SUSPICION.** Reasonable Suspicion means a belief by a supervisor that an employee is under the influence of an illegal substance or alcohol to the extent that the employee's ability to perform his or her job is

impaired. Supervisors shall be trained in substance abuse recognition and shall receive a second opinion from another supervisor prior to making a reasonable suspicion referral. Reasonable Suspicion applies to any individual within the DOC that is engaging in illegal drug use or, appears to be impaired while on duty.

a. Reasonable suspicion may be based upon, but not limited to:

1) Direct observations of drug of alcohol use in the workplace;

2) Finding drug paraphernalia in the employee's possession or workspace;

3) Canine alerts;

4) Observation of physical symptoms to the degree a supervisor/appropriate worksite official would conclude drugs/alcohol may be factors such as red, watery eyes; slurred speech, unsteady gait; dilated pupils.

5) Suspicion may result from the observation of behavioral symptoms such as severe mood swings, unexplained personality changes, inattention to personal hygiene, frequent accidents; patterns of leave and absences or patterns of abnormal conduct or erratic behavior;

6) The individual has been recently arrested or convicted for a drug-related offense;

7) The identification of an individual as being the focus of a criminal investigation into illegal drug possession, use, distribution, or trafficking; or

8) Information is provided, either by reliable and credible sources.

b. Employees may report suspected supervisory drug/alcohol use to the next level in their supervisory chain-of-command. That official shall determine if circumstances exist that suggest reasonable suspicion of alcohol or drug use. Should the individual believe the immediate supervisor cannot be impartial in his/her assessment, the individual may report the suspected drug/alcohol use to any higher ranking supervisor/manager in his/her chain of command. If this option is exercised, the employee must justify this breach of the chain-of-command immediately in writing using the Reasonable Suspicion Referral form.

c. When behavior is observed that would lead the supervisor to believe that testing would indicate the presence of drugs or alcohol the supervisor follow instructions for Reasonable Suspicion in Attachments B and C.

1) Notify the next level supervisor. The reporting supervisor shall continue to observe the employee and record the employee's behavior.

2) Notification shall continue to the next level until an official of at least the rank of a Shift Commander has been notified. The Shift Commander or a higher ranking official shall when appropriate have the employee relieved from inmate contact, tower duty, any post that requires possession of a DOC issued weapon and from posts or positions where there is regular public contact.

3) Only an official at the Deputy Warden or a higher level can approve testing based upon reasonable suspicion.

4) If testing is approved, the supervisor shall:

a) Prepare the Notice of Reasonable Suspicion (Attachment D);

b) Contact a representative if the employee is a member of the collective bargaining unit;

c) Escort the employee to a private place and in the union representative's presence, inform the employee of referral for testing based upon reasonable suspicion and issue notice.

5) The employee shall sign receipt of notice and initial each page.

6) The supervisor shall make notification in accordance with PS 1280.2A "Notification of Unusual or Extraordinary Occurrences".

7) The DPC shall make arrangements for testing.

8) The supervisor shall escort the employee and remain with the employee at the testing site.

9) The employee shall be relieved of duties and the supervisor shall be notified that subject to law, they are prohibited from driving home.

a) The supervisor shall attempt to persuade the employee not to drive and to remain at the work site in a supervised area until a relative or friend can be contacted to drive them home or the employee agrees to calling and waiting for a taxi.

b) The supervisor shall inform the employee that local law enforcement shall be contacted if the employee is observed driving away.

c) The supervisor shall ensure that the employee's vehicle tag number is recorded and reported.

d) The supervisor shall document the outcome and any subsequent actions taken.

16. **POST-ACCIDENT EMPLOYEE.** Post accident employee means any DOC employee who, while on duty, is involved in a vehicular or other type of accident or moving violation resulting in personal injury or property damage or both or when the accident subsequently contributes to a security breach or an inmate to escape shall also subject the employee to test.

17. **INCIDENTS AND EXTRAORDINARY OCCURRENCES.** Employees shall be subject to drug/alcohol testing when involved in a incident or extraordinary occurrence while on duty that includes but is not limited to engaging in a physical confrontation with another employee; engaging in a physical confrontation with an inmate that is outside of the scope of practicable correctional supervision.

18. **REPEAT TESTING.** The DPC may order a repeat test when any individual is suspected of having tampered or adulterated his/her specimen/reading, based on information received and documented from the site coordinator, DPC, collection technician laboratory, and/or the MRO.

    a. Suspicion may be based upon but is not limited to:

        1) Erratic behavior during testing;

        2) Insufficient collection; or

        3) Temperature reading does not fall within prescribed guidelines; or

        4) The Medical Review Officer (MRO) reports the specimen as being unsuitable for testing (due to adulterants)

b. The MRO or lab is unable to provide specimen/reading on the scheduled day.

c. There are delays based upon unforeseen emergencies within the collection site or facility, break down in equipment (EBT device)

19. **ALCOHOL TESTING**

a. Specimens/Readings determined to be positive during the initial screening shall undergo confirmation testing.

b. For the initial positive reading from an alcohol screening, the collector shall immediately conduct a confirmation test by having the individual breathe into the EBT again, to acquire a second reading.

c. The duty status of the employee shall not be changed unless a positive confirmation report is received from the collector.

d. When a confirmation test is negative, no further action shall be taken.

20. **SPECIMEN COLLECTION PROCEDURES.** A strict chain-of-custody shall be utilized for maintaining control and accountability from point of collection to final disposition of specimen reading.

a. The employee being tested shall be permitted to provide the urine specimen in a restroom stall or similar enclosure that provides adequate privacy.

b. Precautions shall be taken to ensure that a urine specimen and/or breath screen readings has not been adulterated or diluted during the collection procedure. Collection site personnel of the same gender as the individual being tested may, with prior approval from the Drug Program Coordinator (DPC), observe the individual provide the urine specimen when such personnel have reason to believe the individual may alter or substitute the specimen to be provided.

c. The collector and the individual providing the specimen or breath sample shall always have the specimen or breath reading within sight prior to the sample being sealed and labeled and that all information on the urine bottle and/or breath screen reading and the chain-of-custody form can be identified as belonging to a given individual.

d. The individual being tested shall initial in the appropriate space on the chain-of-custody form, as well as on the split sample labels, that the specimen is his/hers. The individual being tested shall verify that the collector has read and recorded the specimen's temperature and volume, or the alcohol concentration level from breath screening.

e. All specimen containers shall be tightly capped, properly labeled and securely sealed to eliminate the possibility of tampering. The Collector shall sign and date across the tape label sealing the container and ensure that the chain-of-custody documentation is complete and included with each sealed container.

f. The collector shall package the specimen and reading for mailing before leaving the collection site.

21. LABORATORY ANALYSIS PROCEDURES

a. The test for drugs/alcohol shall consist of initial screening to detect the presence of drugs/alcohol and confirmation testing of samples where an initial screen is positive.

b. The laboratory shall ensure the established procedures for chain-of-custody are adhered to from the time of receipt of urine and/or breath screen reading until testing is completed and results reported. The same chain-of-custody procedures shall be adhered to during the storage period.

22. SPECIMEN STORAGE

a. Negative samples shall be immediately discarded by the laboratory.

b. Only samples testing positive, after both the screening and confirmation tests, shall be considered positive for purposes of retaining the specimen.

c. Positive samples shall be retained at the laboratory in a frozen state for at least two (2) years.

d. Within this two (2) year period, the DPC may request the laboratory to retain the specimen for an additional period of time. This ensures that the urine samples shall be available for possible re-test during any administrative or judicial proceeding.

e. If the laboratory does not receive a request to retain the specimen during the initial two (2) year period, the specimen may be discarded.

f. In the case of an alcohol test, the breath screen readings shall be maintained by the laboratory for a period of two (2) years.

23. MEDICAL REVIEW OFFICER (MRO)

a. The MRO is a licensed physician with knowledge of substance abuse disorders. This officer is responsible for the receipt, review, and interpretation of all confirmed positive test results that are submitted to DOC from the drug testing laboratory. His/her review shall be performed prior to the transmission of any positive test results to the Drug Program Coordinator (DPC) or designee.

b. A positive test result or unusual physical symptoms and/or behavior does not automatically identify an individual as an illegal drug user and/or alcohol abuse. The MRO shall undertake a complete evaluation/examination of information provided by the tested individual to determine alternative medical explanations.

c. This action could include a review of the individual's medical history, or the review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested individual.

d. If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO may deem that the result is consistent with legal drug use and take no further action other than reporting the test result as negative due to legitimate medical explanation.

e. Additionally, the MRO, based on review of inspection reports, quality control data, multiple samples, and other pertinent information, may determine that the result is scientifically insufficient for further action and declare the individual's test result as negative.

f. When the laboratory reports a specimen as "unsuitable for testing", due to high levels of nitrite, the MRO shall report the level of nitrite found in the specimen and report it as an "adulterated specimen".

24. DISCIPLINARY ACTION AGAINST EMPLOYEES

a. Positive Test

1) An employee who has a confirmed positive test result shall be placed on no more than 3 days administrative leave pending removal. Removal

shall be in accordance with District Personnel Manual (DPM) Chapter 16 and PS 3310 Employee Discipline.

2) The individual shall be informed that he/she has the right to have his/her specimen tested by an independent laboratory that the employee chooses from the approved list of labs. The employee shall be informed that testing shall be at his/her own expense. The employee shall be notified that a request for an independent confirmation test must be initiated within three work days of this notification.

3) Disciplinary action is held in abeyance until DOC receives the results of the independent laboratory test.

4) A positive confirmation from the independent laboratory test or an employee's failure to request an independent laboratory test shall result in the issuance of a Summary Removal.

b. Altered Samples

1) An individual whose test result is reported as "unsuitable for testing," due to adulteration, shall be summarily removed.

2) The employee shall be informed that he/she does not have a right to an independent test.

3) In such cases, the removal proceedings shall begin as soon as that individual has been notified, by the appropriate official of his/her test results.

c. Refusal to Comply with Procedures During Collection

1) DOC shall initiate action to remove an employee who while on duty has been properly notified and fails to report to the designated collection site without proper cause to include but is not limited to:

a) Existence of verifiable circumstances that prevented reporting,

b) The employee refuses or fails to provide a specimen, or

c) The employee attempts to alter, adulterate, or substitute the specimen provided.

2) When an employee cannot report for testing, at the scheduled date and time, the official designated to escort the employee for testing shall immediately notify the DPC, and on the official scheduling notice; document the extenuating circumstances, sign and date the notice.

3) The designated official shall prepare a report, with recommendations to the appropriate authority (i.e., Director, Deputy Director, Administrator, Office Chief, Warden, Deputy Warden or worksite official as appropriate to worksite), who shall determine the validity of the extenuating circumstances. If this authority determines that there is insufficient reason or no validity to the employee's claim, termination proceedings shall be instituted in accordance with Chapter 16 of the DPM.

d. On Duty Use or Possession of Illegal Drugs

1) DOC shall notify the DOC Office of Internal Affairs and appropriate law enforcement officials when an employee is found in possession of illegal drugs while on duty.

2) DOC shall initiate action to remove an employee in the case of on-duty use or possession of illegal drugs in accordance with Chapter 16 of the DPM.

e. Alcohol Testing for CDL Holders

1) US Department of Transportation Omnibus Transportation Employee Testing Act determines an alcohol concentration of .02 or higher is grounds for a confirmation test. For the purpose of this directive, DOC shall adhere to the Mayor's Order 96-139, "Testing of District Government Drivers of Commercial Motor Vehicles for Alcohol and Controlled Substance," that sets the alcohol concentration at no more than .08 as legally intoxicated.

2) A DOC CDL holder whose alcohol concentration is tested at a level of .02 but, no higher than .08, shall in conjunction with the DPC and the employee's supervisor, be referred to the D.C. Government's Employee Assistance Program (EAP) immediately and placed on administrative leave, pending the initial evaluation and recommendation of the EAP.

3) A DOC CDL holder whose tests results are above the concentration levels of .08 will be subject to discipline action if involved in an accident, triggered event or extraordinary occurrence.

25. EMPLOYEE ASSISTANCE PROGRAM

a. Employees are encouraged to seek necessary alcohol or drug treatment through the Employee Assistance Program on their own. However, treatment does no exempt the employee from mandatory drug/alcohol testing and sanctions.

b. EAP offers confidential intake, counseling, referrals to community resources, crisis intervention, drug and alcohol abuse treatment referrals and follow-up. EAP services are available through self-referral by the employee and referrals by supervisors, union representatives, medical staff, administrative level management, and local judicial authorities. Procedures are outlined in PS 3410.1 EAP.

23. TRAINING

a. Each new DOC employee, contractor, intern, volunteer or any other service provider shall prior to assuming duties receive orientation that includes DOC policy for maintaining a drug-free workplace and compliance requirements contained in this directive.

b. Requirements set forth in this directive shall be reinforced when DOC employees, contractors, interns and volunteers receive annual in-service training.

c. The Training Administrator shall in conjunction with HRM provide new managers and supervisors training on MEDAT procedures and substance abuse recognition prior to the incumbent assuming official duties.

d. Management and supervisory staff shall receive annual refresher training on MEDAT procedures and substance abuse recognition.

24. REPORTING

a. Laboratory Reports

1) The laboratory shall provide the DPC with a monthly statistical summary of urinalysis and breathalyzer testing.

2) The summary shall not include any personal identification information.

3) Initial and confirmation data shall be included from test results reported within that month.

4) Statistical data for the purposes of program evaluation and follow-up shall be transmitted from the laboratory directly to the DPC.

5) The laboratory shall maintain and make available documentation of all aspects of the testing process for two years.

b. DPC Report. The DPC shall generate the data and submit a monthly report to the Offices of the Director and the Deputy Directors to include the number of employees and applicants tested and test results. All personal identifying information shall be deleted in the statistical report.

c. Agency Activity Report

1) The Office of the Director shall include the statistical data in the Agency Activity Report.

2) All statistical data reports and data base files shall be maintained for at least three years.

d. Confidentiality. Files, records, and drug testing data shall be maintained in accordance with the Federal Privacy Act, 5 U.S.C. 552a and Chapter 31 of the District Personnel Manual.

Devon Brown
Director

Attachments

Attachment A	Employee Notification of Mandatory Drug Testing
Attachment B	Reasonable Suspicion – Instructions for Supervisors
Attachment C	Reasonable Suspicion – Instructions for Senior & Executive Staff
Attachment D	Reasonable Suspicion – Notice to Employee
Attachment E	Authorization to Perform Independent Drug Testing

DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS

Program Statement

OPI:	**MEDICAL**
Number:	**6080.2F**
Date:	**March 10, 2010**
Supersedes:	**6080.2F (9/23/09)**
Subject:	**Suicide Prevention and Intervention**

1. **PURPOSE AND SCOPE.** To provide policy and procedures for suicide prevention and management of inmates in the custody of the DC Department of Corrections (DOC) and who are potentially at risk for suicide or self-harm.

2. **POLICY.** It is the policy of DOC to provide a safe and secure environment, to preserve life, to prevent injury and to respond appropriately to special management needs of inmates.

3. **APPLICABILITY.** This directive applies to all inmates committed to DOC and housed in the Central Detention Facility (CDF) and contract facilities to include the Correctional Treatment Facility (CTF) and Community Correctional Centers (CCC); DOC employees and contractors who provide custodial, medical and mental health services to DOC inmates.

4. **PROGRAM OBJECTIVES.** The suicide prevention program shall include but not be limited to:

   a. **Training.** DOC employees and contractors who work with inmates shall prior to a work assignment within CDF, receive Pre-Service orientation to recognize verbal and behavioral clues that indicate a potentially suicidal inmate and how to respond appropriately.

   b. **Identification.** The medical contractor shall administer a mental health screening for each newly admitted inmate to include an interview, medical record review and observation related to the inmate's potential suicide risk. If any staff person identifies someone who is potentially suicidal or self-harming, authorized medical staff shall place the inmate on an appropriate observation status and ensure the inmate receives further mental health intervention as set forth in this directive.

   c. **Monitoring.** Procedures specify monitoring when an inmate is identified as having increased risk for suicidal or self-harming behaviors.

d. **Referral.** Staff shall refer potentially suicidal inmates and inmates who have attempted suicide to mental health care providers in the time frame set forth in this directive.

e. **Evaluation.** Qualified mental health professionals shall evaluate the inmate to determine the inmate's level of suicide risk and the appropriate response.

f. **Housing.** Procedures that address placing an inmate in the mental health unit, Medical Unit or off-site hospitalization.

g. **Communications.** Procedures prescribe the communications process between medical, mental health and correctional staff for implementation of the suicide prevention program.

h. **Intervention.** Procedures are prescribed for handling a suicide attempt or self-harming behavior that is in progress, including appropriate first-aid measures.

i. **Notification.** Procedures are prescribed for notifying DOC administrators, outside authorities and family members regarding potential, attempted and completed suicides.

j. **Reporting.** Procedures require specific documentation upon identification of a potential or attempted suicide, for subsequent monitoring and for reporting a completed suicide.

k. **Review.** Procedures require a clinical and administrative quality management review following a serious suicide attempt, self-injurious behavior or completed suicide.

l. **Critical Incident Debriefing.** Procedures require critical incident debriefing to affected employees and inmates.

5. **Definitions**

a. **Actively Suicidal.** An inmate determined by a medical or mental health professional to be in imminent danger of committing suicide because of a recent suicide attempt, a verbalized threat to commit suicide, or other suicide risk indicator.

b. **Critical Suicide Attempt.** Any incident in which an inmate's suicide attempt results in an emergency medical hospitalization or psychiatric hospitalization.

c. **Clinical Restraints.** A therapeutic intervention initiated by medical or mental health staff to use devices designed to safely limit a patient's mobility in a crisis due to physical or mental illness.

d. **Critical Incident Briefing.** A process whereby individuals are provided an opportunity to express their thoughts and feelings about a critical incident (e.g. suicide, serious injury or death of an inmate or employee), develop an understanding of critical stress symptoms and develop ways of dealing with those symptoms.

e. **Lethality.** The relative probability of an inmate committing suicide, measured in severity on a “low-risk” to “high-risk” continuum.

f. **Medical Staff.** Licensed health professionals who are employed in or contracted by the Department’s Health Services Division and are responsible for providing medical services to inmates (e.g. physicians, physician assistants, nurses).

g. **Mental Health Staff.** Individuals whose primary duty is to provide mental health services to inmates in keeping with their respective levels of education, experience, credentials, and training.

h. **Observation Bed/Cell.** Are designed for medical or mental health observation for specific purposes, such as watching the patient’s response to a change in medication regimen. Patient’s also can be placed in observation beds to prevent them from eating or drinking before a medical test that requires such restriction, to allow patient’s to recover from day surgeries or medical procedures, or to watch the general behavior of inmate’s whose mental stability appears questionable.

i. **Potentially Suicidal.** Inmates are not actively suicidal but express suicidal ideation and/or have a recent history of self-destructive behavior.

j. **Psychological Autopsy (Psychological Reconstruction).** Usually conducted by a psychologist or other qualified mental health professional, is a written reconstruction of an individual’s life with an emphasis on factors that may have contributed to the death.

k. **Qualified Health Care Professional.** Include physicians, physician assistants, nurses, nurse practitioners, dentists, mental health professionals, and others who by virtue of their education, credentials and experience are permitted by law to evaluate and care for patients.

l. **Suicide Attempt.** A non-fatal self-inflicted destructive act with explicit or deferred intent to die.

m. **Suicide Precaution.** A measure utilized for the inmate who, though suicidal, is not thought to require continuous observation. Inmates on close observation may be housed in an observation bed/cell and are observed at staggered intervals that do not exceed (15) minutes.

n. **Suicide Watch.** A measure utilized for the inmate who is actively suicidal. Inmates on constant observation are housed in an observation bed/cell that allows continuous observation without interruption with documentation every (15) minutes.

o. **Suicide Watch Paraphernalia.** Items which may be issued to inmates on suicide watch that are especially designed so as to be relatively indestructible and less likely to be used to harm self. Such items include, paper jumpsuits, safety blankets, and safety mattresses that have been approved by the Mental Health Director.

p. **Suicidal Ideation.** "Thoughts of harming or killing oneself". The severity of a suicidal ideation can be determined by assessing the frequency, intensity, and duration of these thoughts**.**

6. NOTICE OF NON-DISCRIMINATION

a. Staff In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2.1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

b. DOC prohibits discrimination against inmates based on race, religion, national origin, gender, sexual orientation or disability when making administrative decisions in providing access to programs. Discrimination on the basis of disability is prohibited in the provision of services, programs and activities.

7. DIRECTIVES AFFECTED

a. **Directives Rescinded**

None

b. **Directive Referenced**

1) PS 1280.2 Reporting and Notification Procedures for Significant Incidents and Extraordinary Occurrences

2) PS 1300.3 Health Information Privacy (HIPAA)

3) PS 1311.9 After Action Review and Reports

4) PS 4352.1 Inmate Death

5) PS 5010.9 Use of Force and Application of Restraints

6) PM 6000.1 Medical Management

7) PS 6014.6 Psychiatric Evaluation and Hospitalization of DC Department of Corrections Inmates and Detainees

8. **AUTHORITY**

a. D.C. Code § 24-211.02. Powers: Promulgation of Rules

b. DC Code § 7-1231.09 Human Health Care and Safety. Subtitle C. Mental Health. Chapter 12A. Consumer Rights. Freedom from seclusion and restraint.

c. DC Code § 24-306 Psychiatric Services

d. DC Code § 24-502 Insane Defendants – Commitment while serving sentence

e. DC Code § 24-503 Restoration to sanity

f. DC Code 5-1405 Deaths—determinations and investigations; cremations

9. **STANDARDS REFERENCED**

a. American Correctional Association (ACA) 4th Edition Standards for Adult Local Detention Facilities: 4-ALDF-4C-07, 4-ALDF-4C-08, 4-ALDF-4C-22, 4-ALDF-4C-27, 4-ALDF-4C-28, 4-ALDF-4C-29, 4-ALDF-4C-30, 4-ALDF-4C-31, 4-ALDF-4C-32, 4-ALDF-4C-33, 4-ALDF-4C-34, 4-ALDF-4D-02, 4-ALDF-4D-08, 4-ALDF-4D-21, 4-ALDF-7B-08, 4-ALDF-7B-09, 4-ALDF-7B-10, 4-ALDF-7B-12.

b. National Commission on Correctional Health Care (NCCHC) Standards for Health Services in Jails, 2003: J-C-04, J-E-02, J-G-05, Appendix C.

10. **RESPONSIBILITIES**

a. **Health Services Contractor**

1) The Contractor's Mental Health Director shall ensure that all mental health services are provided in accordance with the contract, protocol, and ACA/NCCHC Standards.

2) The Contractor's mental health professionals, Physicians, nurses, and designated clinical staff are responsible for the management, care and supervision of inmates on Suicide Watch.

3) The Contractor's mental health professionals, Physicians, nurses and designated clinical staff shall have experience or specialized training in correctional practices to include risks specifically presented in a correctional environment.

4) Clinical decisions are the sole province of the responsible clinicians and shall not be countermanded by non-clinicians.

5) The Quality Management Performance Indicators shall be developed and implemented on a continuous basis by the Contractor's mental health provider, in concert with DOC approval.

b. **DOC**

1) DOC Health Services Administration shall provide oversight for the suicide prevention program through monitoring compliance with local regulations and procedures as set forth in the contractual agreement.

2) DOC and CCA/CTF Wardens shall provide correctional security, custody and other support services as set forth in this directive.

3) Correctional Supervision

a) To facilitate institution security and discourage suicide attempts, inmates shall be prohibited from obstructing the view of their cells or living quarters. Each inmate shall be visible during routine security checks.

b) Housing unit correctional staff and health care providers shall be advised of the location of the first aid kit, mouth shield(s), rescue tool (wonder knife), Ambu bag and Automated Electronic Defibrillator.

11. **TRAINING.** The Contractor's Mental Health Director shall in conjunction with the Training Administrators at DOC/CDF and CCA/CTF, ensure that employees receive suicide prevention training.

a. Employees, volunteers, and interns shall receive an orientation of the potential for emergencies that may arise, the proper response to life-threatening situations and the role they play in the early detection of illness and prevention of injury. Training shall include suicide prevention training as a module of the forty (40) hour Pre-service training and annual In-service training program.

b. Staff who regularly work with inmates shall be trained to identify the warning signs and symptoms of potentially suicidal behavior; to appropriately respond to inmates who exhibit suicidal behavior; to

effectively coordinate security and treatment procedures between correctional and health care personnel; to define procedures for Suicide Watches and Suicide Precautions; and to monitor inmates who have made a suicide attempt.

c. Correctional employees shall be trained in the application of medical restraints. Medical restraints are made of soft leather or polyurethane and are deliberately applied on an emergency basis to immobilize the limbs of persons who are engaged in injurious behavior.

d. DOC correctional employees and contract employees who have regular contact with inmates shall receive standard First Aid and CPR training during Pre-service and annual In-service instruction.

e. Prior to assignment to a mental health unit or to the female housing unit (noting females with mental illness may also be housed there), each correctional officer shall receive forty (40) hours training in correctional management of inmates who have mental illness. Eight (8) hours of the training shall be dedicated to the suicide prevention program. Each correctional officer assigned to the mental health unit and/or a female mental health tier/cells shall be provided an annual forty (40) hours training session which includes eight (8) hours dedicated to the suicide prevention program.

f. The Wardens, Deputy Wardens, Major and Shift Commanders at each facility shall include and document discussions of the suicide prevention program at staff meetings and roll call.

g. The CDF and CTF Wardens, DOC Health Services Administrator and the Contractor Mental Health Director shall ensure a joint mock exercise simulating a suicide emergency is conducted once per shift every six (6) months. Each mock exercise will be documented and evaluated by the designated HSA for any necessary recommendations for policy and operational improvements.

h. The CDF and CTF Wardens shall ensure that information about recognizing potentially suicidal inmates and procedures to follow shall be included in all Housing Unit Post Orders.

12. **CONFIDENTIALTY**

All correctional employees and health care providers are instructed that health records and medical and mental health information is confidential. Health care providers and employees shall share information regarding an inmate's health status only to the extent for ensuring preservation of the health and safety of the inmate, other inmates and employees. Privacy of health records and information

are addressed in other DOC policy to include but not be limited to Medical Management, FOIA and HIPAA.

13. **QUALITY ASSURANCE**

a. Suicide Prevention and Intervention Improvement Team. DOC shall chair the Suicide Prevention and Intervention Improvement Team.

1) This team shall consist of but may not be limited to representatives from DOC health services administration, security, internal affairs, risk management and the Contractor's managers for administration, mental health and medical services.

2) The Suicide Prevention and Intervention Improvement Team shall meet at least every quarter to identify opportunities for continued improvement; design quality improvement monitoring activities, discuss the results, implement corrective action to include policy and operational changes.

3) DOC shall when deemed appropriate after a suicide or attempted suicide that required emergency medical or emergency correctional response, convene the Suicide Prevention and Intervention Improvement Team to conduct After action Reviews as outlined in Section (30) of this directive.

b. The Contractor for health care services shall in conjunction with the DOC Health Services Administrator and no less than annually, evaluate and document program performance and compliance with this directive, local regulations and established performance based standards.

c. The Contractor for health care services and the DOC Health Services Administrator shall, at least annually, review and make appropriate enhancements to the suicide prevention program and to this directive.

d. The medical contractor shall conduct Morbidity and Mortality Reviews on a monthly basis, which will include review of self-injurious behaviors, suicide attempts, and completed suicides. The reviews will be conducted as part of the peer review committee of the Contractor's medical staff.

14. **HEALTH SCREENING**

a. *Intake*. All inmates committed to the CDF regardless of the date of any prior incarceration, shall receive an initial medical and mental health screening as part of the admissions process.

b. *Intrasystem Transfer*. All inmates when transferred from the CDF to the CTF or the CTF to the CDF or returned from an outside mental health care

facility shall receive a health screening by a qualified health care professional.

c. Priority Screening. Newly committed inmates shall be expeditiously processed through Intake at Receiving and Discharge and taken to the medical unit for a *Mental Health Assessment* as set forth in §15 of this directive when:

1) Court ordered mental health alerts,

2) The inmate is exhibiting obvious signs of potentially self harming behavior during admissions,

3) The inmate has a recorded alert in JACCS or who is known to have a history of suicide or self harming behavior, or

4) The inmate is under the age of eighteen (18).

15. INTAKE MENTAL HEALTH SCREENING

a. A Nurse Practitioner, Physician's Assistant, and/or Physician shall during the health screening, review the inmate's medical record and interview the inmate to determine if the inmate has a history of suicide behavior(s), suicidal gestures or self-destructive activities, the inmate's emotional response to incarceration and intellectual functioning (i.e., mental retardation, developmental disability, learning disability).

b. When an inmate responds affirmatively to any question in the mental health screening, the inmate shall receive further mental health assessment as set forth in §15 of this directive.

c. Mental Health Screening shall include the following inquiries:

1) Currently receiving MH services in the community? (Emergency);

2) Received MH services in the past? If yes, (Urgent)

a. Has a history of inpatient psychiatric treatment?

b. Has a history of outpatient psychiatric treatment?

3) Experiences a significant loss within 6 months (Urgent);

4) Very worried about "major" problems other than legal?(Urgent);

5) Family or significant other attempted suicide? (Urgent);

6) Holds position of respect in the community and/or charged with a crime of notoriety? (Emergency);

7) Thinking about killing him/herself? (Emergency);

8) History of suicide attempt(s), self-injury, or suicidal ideation? If yes, was the previous attempt within the past 6 months? (Emergency if yes, Urgent if no);

9) Lacks close family or friends in the community? (Urgent);

10) First DC Incarceration?(Urgent);

11) Returning from JHP (Emergency);

12) Referred fro court-ordered forensic evaluation? (Urgent);

13) Have you ever been a victim of physical or sexual assault? (Urgent);

14) History of special education placement? (Urgent);

15) History of sex offenses?(Urgent);

16) Apparently under the influence of drugs or alcohol? (Emergency);

17) Is inmate a juvenile (Emergency).

16. **MENTAL HEALTH ASSESSMENT**

a. When the inmate answers “yes” to any of the above screening queries, medical staff shall refer the inmate for further mental health assessment as set forth in ¶ c. of this section.

b. A licensed mental health professional shall evaluate any inmate referred for the more comprehensive assessment.

c. *Emergency Referral*

1) Within four (4) hours of referral, a qualified mental health professional shall retrieve the EMR referral form and conduct the mental health assessment when the inmate has answered “yes” to any question in §14. ¶c. that is designated (Emergency).

2) The inmate shall not be moved from the Medical Unit to any housing unit or intake cell until a qualified mental health professional has completed the mental health assessment and made a housing placement determination as described in ¶e. of this section.

d. *Urgent Referral*. Within twenty-four (24) hours of referral, a qualified mental health professional shall retrieve the EMR referral form and conduct the mental health assessment when the inmate has answered yes to any question in §14. ¶c. that is not designated (Urgent).

e. Based upon the results of the comprehensive mental health assessment, licensed mental health clinicians may take one of the following listed actions. Licensed clinicians shall include a Licensed Independent Clinical Social Worker (LICSW), Licensed Graduate Social Worker (LGSW), Licensed Professional Counselor (LPC), Psychiatric Nurse-Certified, Nurse Practitioner (NP), Physician Assistant (PA), Psychiatrist and Physician (MD).

1) Clear the inmate for general population placement;

2) Notify the DOC Compliance Office in writing to remove a mental health alert from JACCS when the inmate was referred based upon a previous JACCS data entry;

3) Clear the inmate for general population placement with appropriate referral to mental health care services for on-going counseling and treatment;

4) Order the inmate's placement in the mental health unit or in an observation/safe cell for a continuum of mental health care;

5) Order the inmate's placement on Suicide Precautions or Suicide Watch; or

6) Refer the inmate to appropriate mental health care for emergency treatment.

f. Notification to Psychiatrist

1) Suicide Precautions or Suicide Watch

a) The clinician shall consult with the attendant or on-call Psychiatrist within one hour of ordering Suicide Precautions or Suicide Watch.

b) The Psychiatrist shall conduct a face-to-face interview with the affected inmate within twenty-four (24) hours.

2) Mental Health Unit Placement

a) When an inmate is placed in a mental health unit/cell for the clinician shall notify the Psychiatrist or Nurse Practitioner within one hour of placement.

b) The Psychiatrist shall conduct a face-to-face interview with the inmate within twenty-four (24) hours.

3) Psychotropic Medication

Physicians, Nurse Practitioners and Physician Assistants may order psychotropic medications for up to seven (7) days with referral to a Psychiatrist for evaluation within those seven (7) days.

17. **OBSERVED BEHAVIOR - GENERAL POPULATION**

a. There are varying degrees of increased risk potential for suicidal and other deliberate self-injurious behavior. As appropriate, licensed mental health clinicians may recommend a variety of clinical interventions which may include but not be limited to placing the inmate on Suicide Precautions or Suicide Watch to a cell change, increased observation or interaction with the inmate, or referral for psychotropic medication evaluation or both.

b. *Newly Incarcerated Inmates* may be at increased risk of committing suicide and the first few hours and days after admission can be critical.

c. However, a serious suicidal crisis may occur at any time. Housing unit staff are often the first to identify signs of potential suicidal behavior because of their more frequent observations of inmates.

d. Staff shall refer inmates to the Contractor's Mental Health Director, mental health nurse or Medical Unit when observing signs of potential suicide or other unusual behavior such as:

1) Talk of suicide;

2) Leaving suicidal notes;

3) Giving away possessions;

4) The inmate is acting and/or talking in a strange manner (cannot focus attention; hearing or seeing things that are not there);

5) The inmate appears overly anxious, panicked, or afraid;

6) The inmate show signs of depression (crying, emotional flatness);

7) There are sudden changes in behavior to obtain needed attention;

8) The inmate appears unusually calm after a period of agitation (having a flat affect and/or refusing to communicate, often the decision to attempt suicide has now been made);

9) The inmate is expressing unrealistic talk of release or talking about plans to escape;

10) The inmate is engaging in unusual behavior as a cry for help or to obtain needed attention;

11) There are other signs of distress, deterioration in hygiene or sudden changes in behavior.

e. Correctional staff shall complete scheduled and unscheduled rounds in accordance with DOC policy but not less than every 30 minutes in all housing units. Staff shall log accurate information of observations made while making rounds. This is important information to help determine changes in an inmate's behavior. Staff shall also prepare an Unusual Incident Report when observing significant changes or behaviors/ statements reflected in ¶d. above.

f. Employees shall take seriously all threats, self-injury, attempts to self injure and suicide attempts or information from other inmates about an inmate exhibiting potentially suicidal behavior.

g. Correctional staff shall immediately notify a medical or mental health professional and the shift commander if an inmate is observed displaying signs of potential suicidal behavior.

h. Correctional staff shall maintain a constant watch, to ensure the inmate's safety until medical/mental health staff arrive.

i. Upon notification, the medical or mental health professional depending upon the severity of the observation shall respond within four (4) minutes if deemed emergency or (1) hour, if deemed a non-emergency as defined by clinician, to evaluate the inmate.

1) CDF – The medical or mental health professional shall respond by interviewing and assessing the inmate on the housing unit or in CDF Medical Unit.

2) CTF – The medical or mental health professional shall respond by interviewing and assessing the inmate on Medical 68 or on the housing unit.

j. The medical or mental health professional may take appropriate clinical interventions as outlined in §15. ¶f. when determining that the inmate is at risk of harm to self or others, or in need of more intense or acute mental health intervention.

k. The Licensed mental health clinician or designated mental health nurse (RN), who completes the suicide risk assessment (SRA) shall document

prior to the end of his/her shift, the results of the suicide assessment and actions taken. The suicide risk assessment shall document the diagnosis and findings relative to the inmate's suicide risk as high, moderate or low; actions taken to address the suicide concern and safety of the inmate; demographic information and any other relevant information including referrals for care and management.

18. **OBSERVED BEHAVIOR – SEGREGATION HOUSING**

a. All status inmates shall receive a medical clearance prior to placement in segregated housing, and a mental health screening prior to or within 24 hours of segregation placement.

b. Status inmates may be at higher risk for potential suicidal behavior. Any status inmate presenting observed behavior defined in §16. ¶d. of this directive or presenting suicidal gestures or threats may be at increased risk for potential suicide attempts.

c. *Protective Custody (PC)*

1) Inmates, who request PC without a documented reason especially during the first seventy-two (72) hours of admission, may be at increased risk for suicide.

2) Inmates housed in PC for extended periods, including those with long sentences, may also be at increased risk for suicide.

3) Inmates taking psychotropic medication may be at increased risk for suicide depending on their mental illness and their risk factors and may refuse, hoard or not take their medications.

d. If staff observes the inmate displaying signs of distress, deterioration in hygiene, sudden changes in behavior or potential suicidal behavior, the employee shall continuously observe the inmate to ensure the inmate's safety and shall immediately notify a medical or mental health professional and the shift commander. Staff shall document the behavior observed and action taken to include notification made in an Unusual Incident Report.

e. Upon receiving notification of an inmate displaying signs of potential suicidal behavior, the Contractor's medical or mental health professional shall respond to the housing unit within four (4) minutes.

f. The Contractor's medical or mental health professional shall take appropriate clinical interventions as outlined in §15. ¶f., when determining that the inmate is at risk of harm to himself or others, or in need of more intensive or acute mental health intervention.

g. The licensed mental health clinician, or designated mental health nurse (RN), who completes the suicide risk assessment shall document prior to the end of their shift the results of the suicide risk assessment and actions taken as described in §16. ¶k. of this directive.

h. Rounds by mental health staff shall be conducted three times per week to identify inmates expressing or reporting increased risk of harm to self or deterioration in mental status.

19. **USE OF FORCE.** Correctional staff may in accordance with PS 5010.9C *Use of Force and Application of Restraints* physically restrain an inmate to prevent the inmate from self-injury, injury to others, damage or destruction of property and to control violent behavior.

20. **MEDICAL RESTRAINTS.** In compliance with DC Code § 7-1231.09, medical restraints shall only be used in the following manner.

a. Only a Psychiatrist or Physician shall assess and, after determination that less restrictive interventions are ineffective, issue a written order to use restraints necessary to prevent serious injury to the inmate or others.

b. Medical restraints shall never be ordered or otherwise applied as a means of coercion, discipline, convenience, or retaliation.

c. The Psychiatrist's or Physician's order may only be in effect for up to four (4) hours duration for adult inmates and up to two (2) hours for inmates ages seventeen (17) years or younger.

d. Within one (1) hour of the application of restraints, a Physician shall conduct a face-to-face observation of the inmate to evaluate the need for continued restraint.

e. As clinically deemed necessary, the Physician may contact the Psychiatrist who gave the initial order for restraints to request the Psychiatrist to renew the original order for up to another four (4) hours for an adult or up to two (2) hours for a person who is seventeen (17) or younger.

f. Inmates placed in medical restraints shall be placed in designated cells within the Medical Unit. The restraints shall be applied in the less restrictive manner that is possible based upon the Physician's evaluation and order.

g. Inmates placed in medical restraints shall only be placed in a face-up position.

h. The Mental Health Nurse Manager, or designee, shall assign nursing staff to provide constant observation of an inmate in medical restraints.

21. **TERMINATION OF MEDICAL RESTRAINTS.** Except in the event of a medical emergency for the inmate, *only* a Psychiatrist or other Physician shall determine when an inmate shall be released from medical restraints.

22. **NON EMERGENCY TRANSPORT**

a. Health care staff shall coordinate with the Shift Commander and transportation staff about appropriate security precautions to observe when transporting a suicidal inmate to a medical facility outside of CDF or CTF. Health care staff shall advise the Shift Commander and transportation staff about such concerns as:

1) Adding an extra officer to the transport detail to manage security concerns;

2) Using correctional officers with special training in working with mentally ill inmates;

3) Using appropriate restraints; and

4) Identifying medical precautions for staff and the inmate (for example: facemask, gloves, etc.).

b. Transportation staff shall provide custodial security and supervision of a suicidal inmate during transport to a facility outside of the CDF or CTF and while the inmate undergoes treatment.

c. An inmate returning from emergency psychiatric hospitalization and/or emergency medical treatment due to suicidal behavior(s) shall be evaluated by a licensed mental health provider. Mental health staff shall, within one (1) hour of the inmates' arrival, conduct a comprehensive mental health assessment to determine housing.

23. **SUICIDE WATCH AND SUICIDE PRECAUTIONS**

a. A Physician, licensed mental health professional or other clinician may place an inmate on Suicide Watch or Suicide Precautions. The referring provider shall consult with the on-call or attending Psychiatrist within one (1) hour of taking this action, and the Psychiatrist shall conduct a face-to-face interview with the inmate within twenty-four (24) hours.

b. *Observation Beds/Cells*

1) Observation beds/cells are located on the Inpatient Mental Health Unit and in the Medical Unit safe cells.

2) An observation bed/cell shall not contain electrical switches or outlets, bunks with open bottoms, towel racks, desks and sinks, radiator vents or any other fixtures that could be used as an anchoring device for hanging.

3) The bed/cell shall allow a full and clear line of sight and sound of the inmate.

4) The observer and the suicidal inmate shall not be in the same cell and shall have a locked door separating them.

5) The observer shall have a means to summon help immediately if emergency intervention becomes necessary.

c. *Suicide Precautions*

1) The assigned nursing staff shall physically observe each inmate on Suicide Precautions at staggered intervals of no more than every (15) fifteen minutes. The actual physical observation shall be staggered within the (15) fifteen-minute intervals (e.g., 5, 12, 10 minutes).

2) Designated nursing staff shall document each physical observation and the inmate's activities as they occur on the Seclusion and Restraint Form (Attachment A). Nursing staff shall also input documentation notes into the DOC Electronic Medical Record.

3) The Clinical Nurse Manager for Mental Health, or designee, shall ensure that nursing staff assigned to an inmate on suicide precaution has no other duties during the period of observation.

d. *Suicide Watch* is a precautionary measure used when the inmate presents a higher risk of suicide than determined for those placed on Suicide Precautions.

1) The Clinical Nurse Manager for Mental Health, or designee, shall assign designated nursing staff to conduct and document their observation of the inmate and his/her activities.

2) The Clinical Nurse Manager for Mental Health, or designee, shall ensure that nursing staff assigned to an inmate on suicide watch has no other duties during the period of observation.

3) Nursing staff assigned to the suicide watch shall follow required protocol and complete the Seclusion and Restraint Form.

e. *Security Requirements for Suicide Watch and Suicide Precautions*

1) The Shift Commander shall ensure that the inmate is strip-searched and all restricted items are confiscated.

2) The inmate shall be placed in a paper jumpsuit.

3) The clinician may order other precautions such as safety blankets and safety mattresses.

4) The housing unit OIC (or the Shift Commander if a Medical Unit cell is used) shall inspect the designated observation bed/cell to remove any unauthorized items before placing the inmate in the observation bed/cell.

5) The inmate may keep only those items prescribed as deemed safe.

6) In addition to the clinical observations Contractor's clinicians provide, DOC correctional staff shall conduct and document regular security checks every 30 minutes.

f. *Termination of Suicide Watch or Suicide Precautions*

1) Only a Psychiatrist or Psychiatric Nurse Practitioner shall authorize a downgrade from Suicide Watch to Suicide Precautions for a reasonable period prior to the termination of the Suicide Watch. A Psychiatrist or Nurse Practitioner's approval to terminate Suicide Watch shall be provided in person or through a documented verbal order.

2) Only a Psychiatrist shall approve termination of Suicide Watch status for an inmate. A Psychiatrist's approval to terminate Suicide Watch shall be provided in person or through a documented verbal order. The Psychiatrist's order shall include clinical recommendations for appropriate housing as well as an order for follow up care within seventy-two (72) hours.

3) The Clinical Nurse Manager for Mental Health, or designee, shall ensure that the termination of an inmate's Suicide Watch status is documented in the inmate's medical record and/or in the inmate's electronic medical record. Documentation shall also include name, date, time, and specific instructional remarks.

24. **SUICIDE ATTEMPTS**

a. The DOC health services contractor shall respond to all medical emergencies, including those involving inmates, DOC and contract staff.

b. Any employee, who discovers a possible suicide attempt, an individual who is unresponsive or an inmate who appears ready to inflict self harm, shall immediately sound the alarm for emergency medical and correctional response.

c. Staff shall also take reasonable care as the inmate may act unpredictably and may become violent. The employee shall take necessary and appropriate action to preserve the affected inmate's life including emergency CPR when needed.

d. As practical, correctional staff shall lock down all inmates or ensure they are moved away from the area and are well supervised before attempting intervention.

e. Contractor's health services staff and additional correctional staff are expected to respond to the emergency within four (4) minutes or less.

f. Upon arrival, medical staff shall assess the inmate's condition to determine if the inmate requires emergency transportation to an outside hospital

g. If medical staff determines the inmate requires urgent transportation, the nurse shall notify Command Center to call 911.

h. If the inmate is already in the Medical Unit, medical staff shall directly notify 911 when the inmate-patient requires emergency medical care and transport.

25. **HANGING.** An employee who discovers an inmate hanging shall:

a. After surveying the scene and calling for help and for medical assistance, the employee who discovers the hanging inmate shall attempt to reduce tension on the inmate's neck by supporting the inmate by the legs while the inmate is facing the employee.

b. Upon arrival of additional staff, the first employee on the scene shall continue to support the inmate's body while a second officer shall use the rescue tool (wonder knife) to cut the inmate down. The employee shall immediately remove the noose from around the inmate's neck.

c. DOC correctional employees are trained in Cardiopulmonary Resuscitation (CPR)/First Aid. As such, a correctional employee shall immediately initiate CPR and/or First Aid, as appropriate, until medical staff relieves the

employee. An *employee shall immediately start CPR/First Aid and never wait for medical staff to arrive before initiating life saving measures*.

d. Upon arrival, the Contractor's health services providers shall assume medical care and decisions, and shall continue CPR and other life saving measures while instructing that the 911 DCFEMS team be called.

e. The Contractor's Physician, Nurse Practitioner or Physician Assistant remains the authorized medical authority as it relates to any patient emergency care or decisions until DCFEMS arrives.

26. **EMERGENCY MEDICAL TRANSPORT**

a. DCFEMS shall always be escorted to the site of the suicide attempt to administer emergency measures and confer with the Contractor's Physician.

b. The DCFEMS responders will transport the inmate to the nearest emergency facility for continued assessment and treatment, if CPR is still in progress.

c. DOC correctional staff shall facilitate security according to PS 4910.1F Escorted Trips.

27. **INMATE DEATH**

a. If the Contractor's Physician determines through assessment of the victim that all of the clinically accepted signs and symptoms of death are present and that the victim is clinically dead and beyond being revived, the Contractor's Physician may order that CPR be ceased and may pronounce death.

b. Upon pronouncement of death, the site shall then be treated as a crime scene and evidence preserved pursuant to §26. below.

28. **EVIDENCE PRESERVATION.** Sites where an inmate has attempted or successfully committed suicide shall be treated as a crime scene in the following manner.

a. The initial response pursuant to guidelines set forth in the directive in order shall be to preserve life and control witnesses.

b. Integrity of Physical Site. A DOC correctional supervisor shall ensure:

1) The area is partitioned with a barrier in order to control access and to avoid contamination of evidence;

2) Staff and other inmates do not touch or move items;

3) Staff and other inmates do not touch or move the deceased inmate; and

4) Correctional staff shall wait for MPD crime scene technicians to process the crime scene.

29. **NOTIFICATION FOLLOWING A SUICIDE OR SUICIDE ATTEMPT.** The Shift Commander shall ensure that notification is made in accordance with PS 1280.2 *Reporting and Notification Procedures for Significant Incidents and Extraordinary Occurrences*.

a. Verbal Notification

1) When an inmate suicide or suicide attempt occurs, the senior supervisor on duty shall ensure that notification is made, through the chain-of-command to the Deputy Warden of Operations, Warden, Contractor's Director of Mental Health, DOC Health Services Administrator and the DOC Director's Office.

2) The Deputy Warden of Operations or designee shall notify the Employee Assistance Program following a suicide or suicide attempt. DOC shall offer employee assistance services to staff that witnessed or were involved in handling the suicide/suicide attempt.

b. Written Notification

1) The Shift Commander shall ensure that each employee who has relevant knowledge of the circumstances relating to an inmate suicide/suicide attempt or personal matters affecting a suicide victim, shall be required to submit a written report on DCDC Notification

2) Form 1. The Shift Commander shall obtain and secure the employee's written reports related to a suicide/suicide attempt.

3) Each Contractor's health services employee who is aware of facts pertinent to a suicide/suicide attempt shall submit a written incident report to their supervisor prior to completion of his/her shift and prior to leaving the facility. A copy of each written incident report shall be submitted to the shift commander.

4) The Contractor's Physician shall within twenty-four (24) hours of the incident, submit to the Shift Commander or designee, a preliminary medical evaluation report of relevant details concerning the inmate suicide/suicide attempt.

5) The Shift Commander, or designee, shall interview inmates who have knowledge of the suicide/suicide attempt and collect inmate witness accounts of this incident.

6) The Shift Commander shall forward the significant incident report package through the chain-of-command to the Warden. The incident report package shall include written reports from staff, inmate witness accounts of the incident, the inmate's official institutional record, and the medical evaluation report from the Contractor's Medical Director.

7) The CDF or CTF Warden, or designee, shall complete a preliminary report within three (3) business days. The Warden shall forward the report to the DOC Director, Health Services Administrator and Office of Internal Affairs. The report shall include employee incident reports, the preliminary medical evaluation report and other pertinent facts relative to the suicide/suicide attempt.

8) OIA shall conduct its investigation and submit its findings to the DOC Director.

30. **AFTER ACTION REVIEW.** Following a suicide or suicide attempt that resulted in an emergency medical/correctional response, the Suicide Prevention and Intervention Improvement Team (SPITT) shall meet within seven (7) days. The team shall be comprised of the following:

DOC Representatives:

1. Health Services Administrator

2. Medical Director

3. Warden

4. Chief OIA

5. Risk Manager

CTF Representatives:

1. Warden

2. Quality Assurance Manager

Medical Contractor Representatives:

1. Health Services Administrator

2. Mental Health Director

3. Medical Director

The Team shall meet and prepare a written report to the DOC Director that shall include but not be limited to:

a. A summary of significant information resulting from the team review and OIA investigation findings;

b. A report of events as they occurred;

c. The team's analysis and conclusions of the events; and

d. Recommendations for policy and operational improvements.

A preliminary report of the Team's findings based on the criteria listed above shall be submitted to the DOC Director no later than seventy-two (72) hours after the initial SPITT meeting.

31. **MORBIDITY & MORTALITY AND PSYCHOLOGICAL POSTMORTEM REVIEW**. A review committee shall conduct and prepare the Morbidity & Mortality and Psychological Postmortem Review within thirty (30) days after an event in which a death occurs by suicide.

a. The Morbidity and Mortality Review Committee shall include the DOC Health Services Administrator and Medical Director, the Contractor's Medical Director, Deputy Medical Director, Health Services Administrator, Director of Nursing, Mental Health Director, and Quality Assurance Director.

b. The review shall include:

1) A clinical mortality review which is an assessment of the clinical care provided and the circumstances leading up to death;

2) A psychologist or other qualified mental health professional's report of psychological autopsy (sometimes called a psychological reconstruction). The purpose is to provide written reconstruction of an individual's life with emphasis on factors that may have contributed to the individual's death; and

3) An evaluation that ascertains whether policy, procedures or practices are appropriate or require revision and identifies trends that require further study. The DOC Multi-level Mortality Review Form shall be utilized to conduct the review (Attachment B).

c. A summary report, including a copy of the completed DOC Multi-level Mortality Form shall be prepared and presented with in three (3) days of the review committee meeting to the DOC Director and DOC General Counsel.

d. The DOC Director shall ensure the Office of Internal Affairs (OIA) conducts an investigation and presents findings of whether policy and procedures were adhered to.

e. In addition to the M&M Review and the OIA investigation, the Health Services Administrator designated DOC executive staff along with the Contractor's Chief Executive Officer and senior medical staff shall within one (1) week conduct a comprehensive administrative assessment that DOC and related contractor policy and procedures in place at the time of the suicide met regulations, standards and best practices.

32. **CRITICAL INCIDENT DEBRIEFING**

a. Following a suicide or suicide attempt, trained Contractor's mental health staff as authorized by the Contractor's Director of Mental Health shall conduct critical stress debriefing and crisis intervention for staff and inmates who witnessed or were involved in a suicide incident.

b. Each inmate or employee who witnessed or was involved in a suicide incident shall be provided access to mental health counseling via the mental health clinician. The Deputy Warden for Operations shall ensure that employees and inmates are aware of the availability of this service.

c. DOC Employee Assistance Program staff shall also assist DOC employees who need additional counseling beyond the sessions provided by the critical stress debriefing team

Devon Brown
Director

Attachment A Suicide Precautions Observations Report
Attachment B Multi-level Mortality Review