

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Contracting and Procurement
Human Care Services



February 21, 2008

Dear Prospective Providers:

Re: District of Columbia Human Care Agreements: Dental Services for Youth

The Human Care Agreement procurement method provides a streamlined and enabling process to develop a pool of pre-qualified human care service providers that can be mobilized within shorter time frames to meet the needs of the various District Agencies, pursuant to 27 DCMR, Chapter 19, Section 1905.6, as amended.

Dental services for youth are being solicited through this Request for Qualifications (RFQ) for the purpose of meeting the dental service requirements of the District's Department of Health (DOH).

Prospective Providers are required to complete and submit the following to the Office of Contracting and Procurement (OCP) by the closing date indicated in the solicitation:

1. Human Care Agreement Contractor Qualification Record (CQR), OCP Form 1900" (Attachment # 2) with all the necessary supporting documents indicated which would be reviewed by a technical evaluation panel and the OCP, to determine the provider's qualification to meet the District's requirement, including the Provider's professional and financial responsibilities.
2. Section B of the Human Care Agreement, pages 3, 4, and 5 to document its proposed service rates for the dental services for youth, as indicated in the attached solicitation;
3. All compliance documents in Attachments 5, 6, and 7, listed in Section F of the Human Care Agreement.

The prospective provider must adhere to the general instructions provided in the OCP Form 100. The criteria for selection of providers are clearly delineated on the form. Please complete the checklist prior to submitting the CQR to OCP. Prospective providers must include its currently existing program description that is consistent with the service deliverables indicated in Section C of the solicitation.

This solicitation is being advertised both in the Washington Times and on the OCP website www.ocp.gov in addition to those on the bid list of the District for the type of service. The initial closing date for the solicitation is at **2:00** p.m. local time, on March 21, 2008. However, the District may accept CQRs submitted after the closing date, on an on-going basis through March 21, 2009, provided there are additional District needs for the services, which would be reviewed and evaluated on a quarterly basis only.

The solicitation package is available for pick-up from the bid counter of the Office of Contracting and Procurement, 441 4th Street, NW, Suite 703 South, Washington, DC 20001.

An original and three (3) copies of the CQR must be submitted in a sealed envelope, conspicuously marked "Response to Solicitation No. DCHC-2008-H-0001: "Dental Services for Youth" Submission at the location indicated above, no later than 2:00 p.m. local time, on March 21, 2008 to be considered for the initial evaluation and award of a human care agreement.

Please note that faxed copies will not be accepted in lieu of a hard copy.

Thank you in advance for your interest in serving the District of Columbia and we look forward to doing business with you. Should you have any questions, please do not hesitate to contact Mr. Dwight Hayes, Contract Specialist at (202) 724-5278.

Sincerely,


Rotimi Osunsan, CPPB, CPM
Contracting Officer

SOLICITATION, OFFER, AND AWARD			1. Caption Dental Services for Youth		Page of Pages 1 37		
2. Contract Number		3. Solicitation Number DCHC-2008-H-0001		4. Type of Solicitation <input type="checkbox"/> Sealed Bid (IFB) <input type="checkbox"/> Sealed Proposals (RFP) <input type="checkbox"/> Sole Source <input checked="" type="checkbox"/> Human Care Agreement		5. Date Issued 2/21/2008	
7. Issued By: Office of Contracting and Procurement 441 4th Street, NW, Suite 700 South Washington, DC 20001				8. Address Offer to: Office of Contracting and Procurement 441-4th Street, NW , Suite 703 South, Bid Room Washington, DC 20001			
NOTE: In sealed bid solicitations "offer" and offeror" means "bid" and "bidder"							
SOLICITATION							
9. Sealed offers in original and <u>3</u> copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand carried to the bid counter located at <u>441 4th Street, NW, Suite 703S, Bid Room, Washington, DC</u> until <u>2:00 P.M.</u> local time <u>Initial 3/21/2008/ Final 3/21/09</u> Human Care Agreement Contractor Qualification Record must be completed (Hour) (Date)							
CAUTION: Late Submissions, Modifications and Withdrawals: See 27 DCMR chapters 15 & 16 as applicable. All offers are subject to all terms & conditions contained in this solicitation.							
10. For Information Contact		A. Name Dwight Hayes		B. Telephone (Area Code) 202 (Number) 724-5278 (Ext)		C. E-mail Address dwight.hayes@dc.gov	
11. Table of Contents							
(X)	Section	Description	Page No.	(X)	Section	Description	Page No.
		PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES	
X	A	Solicitation/Contract Form	1				
X	B	Supplies or Services and Price/Cost	3 to 5			PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS	
X	C	Specifications/Work Statement	5 to 16		F	List of Attachments	36 to 37
x	D	Human Care Service Delivery and Performance	17 to 18			PART IV - REPRESENTATIONS AND INSTRUCTIONS	
X	E	Human Care Service Administration	18 to 20			Representations, certifications and other statements of offerors	
X	F	Agreement Clauses	20 to 37			Instructions, conditions & notices to offerors	
						Evaluation factors for award	
OFFER							
12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified herein.							
13. Discount for Prompt Payment <input checked="" type="checkbox"/>		10 Calendar days %	20 Calendar days %	30 Calendar days %	____ Calendar days %		
14. Acknowledgement of Amendments (The offeror acknowledges receipt of amendments to the SOLICITATION):			Amendment Number	Date	Amendment Number	Date	
15A. Name and Address of Offeror			16. Name and Title of Person Authorized to Sign Offer/Contract				
15B. Telephone		15 C. Check if remittance address is different from above - Refer to Section G		17. Signature		18. Offer Date	
(Area Code)	(Number)	(Ext)					
AWARD (TO BE COMPLETED BY GOVERNMENT)							
19. Accepted as to Items Numbered			20. Amount		21. Accounting and Appropriation		



Government of the District of Columbia

HUMAN CARE AGREEMENT

PAGE	OF	PAGES
2		37

1. HUMAN CARE AGREEMENT NUMBER	2. REQUISITION/PURCHASE REQUEST NO.	3. DATE OF AWARD
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4. ISSUED BY Office of Contracting and Procurement	5. ADMINISTERED BY (If other than Item No. 4): Department of Health 825 North Capitol Street, NE, 3rd Floor Washington, DC 20002 Telephone: 202-724-7667 Fax: E-Mail:
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6. NAME AND ADDRESS OF PROVIDER/PROVIDER (No. street, county, state and ZIP Code) POINT OF CONTACT: Telephone: Fax: E-Mail:

7. PROVIDER/PROVIDER SHALL SUBMIT ALL INVOICES TO: Office of the Controller/Agency CFO 825 North Capitol Street, NE Washington, D.C. 20002	8. DISTRICT SHALL SEND ALL PAYMENTS TO:
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9. DESCRIPTION OF HUMAN CARE SERVICE AND RATE COST

ITEM/LINE NO.	NIGP CODE	BRIEF DESCRIPTION OF HUMAN CARE SERVICE	QUANTITY OF SERVICE REQUIRED	TOTAL SERVICE UNITS	SERVICE RATE	TOTAL AMOUNT
0001	952-95	Dentist			\$	
0002	952-95	Dental Assistant			\$	
0003	952-95	Oral Health Educator			\$	
<i>Total</i>						\$
<i>Total From Any Continuation Pages</i>						
GRAND TOTAL						\$

10. APPROPRIATION DATA AND FINANCIAL CERTIFICATION

LINW	AGY	YEAR	INDEX	PCA	OBJ	AOBJ	GRANT/PH	PROJ/PH	AG1	AG2	AG3	PERCENT	FUND SOURCE	AMOUNT
														\$

A. SOAR SYSTEM OBLIGATION CODE:	B. Name of Financial Officer (Typed): Title:	C. Signature:	D. Date:
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11. PERIOD OF HUMAN CARE AGREEMENT

Starting Date:	Ending Date:
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HUMAN CARE AGREEMENT SIGNATURES

Pursuant to the authority provided in D.C. Law 13-155, this HUMAN CARE AGREEMENT is being entered into between the Provider/Provider specified in Item No. 7 of this document. *The Provider/Provider is required to sign and return two (2) originals of this document to the Contracting Officer of the Issuing Office stated in Item No. 5 of page 1 of this document. The Provider further agrees to furnish and deliver all items or perform all the services set forth or otherwise identified within this Human Care Agreement and on any continuation sheets or appendices for the consideration stated above, and as ordered under task orders issued pursuant to this Agreement. The rights and obligations of the parties to this Human Care Agreement shall be subject to and governed by the following documents: (a) this Human Care Agreement; (b) the STANDARD CONTRACT PROVISIONS FOR USE WITH DISTRICT OF COLUMBIA GOVERNMENT SUPPLY AND SERVICES CONTRACTS, dated March 2007; (c) Any other provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. This Human Care Agreement between the signatories to this document consummates the final agreement of the parties.*

12. FOR THE PROVIDER/PROVIDER

13. FOR THE DISTRICT OF COLUMBIA

A. Name and Title of Signer (Type or print) Name: Title:		A. Name of Contracting Officer (Type or print) Name: Title: Contracting Officer	
B. Signature of PROVIDER/PROVIDER, or representative:	C. Date:	B. Signature of CONTRACTING OFFICER:	C. Date:

SECTION B – HUMAN CARE SERVICES AND SERVICE RATES

B.1 The Government of the District of Columbia, Office of Contracting and Procurement, Department

of Health, hereafter referred to as the “**District**,” is Contracting through this Human Care Agreement with _____, hereafter referred to as the “**Provider**,” for the purchase of human care services pursuant to the Human Care Agreement Amendment Act of 2000, effective (D.C. Law 13-155, D.C. Code, §§ 2-301.07, 2-303.02, 2-303.04, and 2-303.06).

B.1.1 The District is not committed to purchase under this Human Care Agreement any quantity of a particular service covered under this Agreement. The District is obligated only to the extent that authorized purchases are made pursuant to the human care agreement.

B.1.2 Delivery or performance shall be made only as authorized by Task Orders issued in accordance with the Ordering Clause. The Provider shall furnish to the District Government, when and if Ordered, the services specified in B.2 Schedule.

B.1.3 There is no limit on the number of Task Orders that may be issued. The District Government may issue Task Orders requiring delivery to multiple destinations or performance at multiple locations, as specified in such Task Orders as may be issued.

B.1.4 This Human Care Agreement is based on fixed-unit rates. The Provider shall deliver services in accordance with Section C.

B.2 SCHEDULE — SERVICE / DESCRIPTION / RATE

B.2.1 Base Year Period of Performance

Agreement Line Item Number	Services Description	Service Unit	Fixed Unit Rate
0001	Dentist, as described in Section C.6.2.1	Hourly	\$ _____
0002	Dental Assistant, as described in Section C.6.2.2	Hourly	\$ _____
0003	Oral Health Educator, as described in Section C.6.2.3	Hourly	\$ _____

B.2.2 Option Year One

Agreement Line Item Number	Services Description	Unit	Fixed Unit Rate
0101	Dentist, as described in Section C.6.2.1	Hourly	\$ _____
0102	Dental Assistant, as described in Section C.6.2.2	Hourly	\$ _____
0103	Oral Health Educator, as described in Section C.6.2.3	Hourly	\$ _____

B.2.3 Option Year Two

Agreement Line Item Number	Services Description	Unit	Fixed Unit Price
0201	Dentist, as described in Section C.6.2.1	Hourly	\$ _____
0202	Dental Assistant, as described in Section C.6.2.2	Hourly	\$ _____
0203	Oral Health Educator, as described in Section C.6.2.3	Hourly	\$ _____

B.2.4 Option Year Three

Agreement Line Item Number	Services Description	Unit	Fixed Unit Price
0301	Dentist, as described in Section C.6.2.1	Hourly	\$ _____
0302	Dental Assistant, as described in Section C.6.2.2	Hourly	\$ _____
0303	Oral Health Educator, as described in Section C.6.2.3	Hourly	\$ _____

Agreement Line Item Number	Services Description	Unit	Fixed Unit Price
0401	Dentist, as described in Section C.6.2.1	Hourly	\$ _____
0402	Dental Assistant, as described in Section C.6.2.2	Hourly	\$ _____
0403	Oral Health Educator, as described in Section C.6.2.3	Hourly	\$ _____

SECTION C – HUMAN CARE SERVICE DESCRIPTION AND SCOPE OF SERVICE

C.1 Scope of Human Care Service:

- C.1.1 Subject to the continuing availability of funds, the District may purchase and the provider shall provide the human care services in the manner specified in Section C.
- C.1.2 District of Columbia (DC) Department of Health (DOH), Community Health Administration (CHA), Child Adolescent and School Health (CASH) Bureau, seeks the services of qualified vendors to provide dental services for students enrolled in DC Public Schools (DCPS), DC Head Start Programs and DC Chartered Schools.

C.2 Background

- C.2.1 In the 2000 *Oral Health in America: A Report of the Surgeon General*, former Surgeon General David Satcher classified dental and oral diseases as a “silent epidemic”. Unfortunately, the oral health of individuals in the lower socio-economic status has suffered, particularly for African Americans and Hispanics. Low-income residents oftentimes do not have dental insurance, sufficient funds to pay for expensive dental treatment, the ability to access dental providers, and is often the population most in need of increased oral health services.
- C.2.2 Many of the District’s residents experience dental diseases and conditions that cause unnecessary pain and suffering; difficulty in speaking, chewing, and swallowing; increased costs of care; loss of self-esteem; decreased economic productivity as a result of missed work and school days; and in extreme cases death may occur. Dental caries also continues to be the single most common chronic childhood disease. Dental caries occurs five to eight times more often than asthma and seven times more often than hay fever. In fact, low-income children are two times more likely than children from more affluent backgrounds to be affected by dental diseases and are more likely to remain untreated, and unless caught in its early stages, dental caries are irreversible. Children afflicted with oral health problems may also be affected by a

lack of self-esteem which oftentimes results in poor school performance. Sadly, these disparities and indications of poor oral health often continue into adolescence and adulthood since the importance of good oral health was never implanted at an early age.

C.2.3 In order to begin to address this issue, the DC DOH – CHA, Oral Health Division (Division) implemented a School-Based Dental Program (Program) that aims to reduce the incidence and prevalence of oral disease that affect vulnerable, low-income students. The Program targets students enrolled in DC Public Schools (DCPS), DC Head Start Programs and DC Chartered Schools. Since its inception, the Program captured oral health data indicating that an alarming number of children within these educational institutions are in need of a continued source of preventive dental care. This oral health data showed that a large percentage of students had preventable dental conditions. The Program utilizes portable dental equipment which is transported to different school sites where clinical dental services are offered. All city and federal infection control rules and recommendations will be strictly followed.

C.3 **Applicable Documents**

The following documents are incorporated in this solicitation and resulting Human Care Agreement by this reference:

Item Number	Document Type	Title	Date
1	State Law DC Law 6-66	“Student Health Care Act of 1985”. Available at http://dccode.westgroup.com	1985
2	D.C. Municipal Regulations DC Law 17-9	D.C. Official Code, Section 44-552 Criminal Background Checks Available at http://dccode.westgroup.com	2007
3	D.C. Municipal Regulations DC Title 17 Chapter 42	District of Columbia Municipal Regulations for Dentistry Available at http://hpla.doh.dc.gov/hpla/frames.asp?doc=/hpla/lib/hpla/updated_chapter-42_a_.pdf	2007
4	Federal Laws OSHA Communication Standard (1987) OSHA Instruction CPL 2-2.38C (1990) OSHA	American Dental Association Regulatory Compliance Manual Available at 825 North Capitol Street, NE; CHA; Oral Health Division	2000

	Instruction CPL 2-2.44B (1990)		
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C.4 **Definitions**

- C.4.1 *Age Appropriate* – Activities that are designed to be suitable for the intellectual-activity level of a particular age group.
- C.4.2 *Clinical Dental Services* – The evaluation, diagnosis, prevention and/or treatment of diseases, disorders and/or conditions of the oral cavity provided by a dentist, within the scope of his/her education, training and experience, in accordance with the ethics of the profession and applicable law.
- C.4.3 *Consent Form* – A form signed by a parent or guardian of the student acknowledging they understand what the School-Based Dental Program entails and gives authorization for their child/ward to receive preventive dental services.
- C.4.4 *Cultural Sensitivity* – The ability to adjust one’s perceptions, behaviors, and practice styles to effectively meet the needs of different ethnic or racial groups
- C.4.5 *Data Collection* – The gathering of information pertaining to the oral health status of children within the District of Columbia.
- C.4.6 *Dental Screenings* – Helps to build a positive attitude in the student towards dental health, encourage parents to schedule dental examinations for their child, and be used to enhance the health education program.
- C.4.7 *Fluoride Treatment* – Fluoride treatment is used as a preventive measure. It is absorbed into the enamel of the teeth making them more resistant to acid producing bacteria.
- C.4.8 *Oral Health Education & Promotion* – Process of informing students, parents/guardians and teachers of the importance of good oral health and advice them on techniques to prevent oral diseases.
- C.4.9 *Portable Dental Equipment* – Dental equipment (dental chair, dental assistant stool, patient chair, light and dental unit) which can be easily transported to different sites
- C.4.10 *Sealant Application* – Sealants are thin plastic materials that are applied to the chewing surfaces of permanent molars; they are most effective in reducing cavities in children with newly formed permanent teeth as usually found in 2nd and 3rd graders (6 - 8 years).

- C.4.11 *Contracting Officer's Technical Representative (COTR)* - The representative responsible for the general administration of this Human Care Agreement and advising the Contracting Officer as to the compliance or noncompliance of the Provider with this Human Care Agreement. In addition, the COTR is responsible for the day-to-day monitoring and supervision of this Human Care Agreement. The COTR is not authorized or empowered to make amendments, changes, or revisions to this agreement.
- C.4.12 *Human Care Agreement* – A written agreement for the procurement of education or special education, health, human or social services pursuant to the D.C. Official Code, Section 2-303.06a, to be provided directly to individuals who are disabled, disadvantaged, displaced, elderly, indigent, mentally, ill, physically ill, unemployed, or minors in the custody of the District of Columbia.
- C.4.13 *Provider* – A consultant, vendor, Provider of goods or services, who can be an individual, a partnership, non-profit entity, or a corporation that enters into a contractual agreement with the District of Columbia.
- C.4.14 *Qualified Personnel* – Persons holding official credentials, accreditation registration, certification, or licenses issued by their jurisdiction. The term shall include administrators, dentists, dietitians, occupational therapists, professional nurses, physicians, podiatrists, speech pathologists, audiologists, pharmacists, patient activity specialists, psychologists, professional counselors, and social workers.
- C. 4.15 *Task Order* – An order for services placed against an established human care agreement, using OCP Form 1902, Human Care Agreement Task Order.
- C.4.16 *Dental Caries* – Is also known as tooth decay, and is an infectious disease which damages the structures of teeth.
- C.14.17 *Occupational Safety & Health Administration (OSHA)* – It is a federal agency created by Congress in 1970 to protect workers from hazards in the workplace.

C.5 **Compliance With Service Rates**

- C.5.1 All human care services shall be provided and the District will only pay, in accordance with the service rates shown in Part 1, Section B, Human Care Services and Service Rates. If any overpayment occurs, the provider shall repay the District the full amount of the overpayment.
- C.5.2 If the Provider's in-State rate is regulated by its State jurisdiction, the Provider shall submit documentation of in-State rates.

C.5.3 If the Provider's in-State rate is not regulated by its State jurisdiction, the Provider shall submit a detailed budget with documentation to justify its costs. The Provider's unregulated costs may be subject to negotiation.

C.6 **Staffing Requirements**

C.6.1 The Provider shall provide the requested personnel within 24-48 hours after notification of services required.

C.6.2 The Provider shall provide qualified staff with the knowledge and skills to perform duties which include, but not limited to the following:

C.6.2.1 **Dentist**

C.6.2.1.1 The Dentist shall perform the following services:

C.6.2.1.1.1 Apply team approach in providing patient care;

C.6.2.1.1.2 Administer, provide, and prescribe routine and special drugs with normal dosage, action, interaction and adverse reactions. When required, the dentist shall seek the appropriate consultation from medical specialists regarding routine and special drugs;

C.6.2.1.1.3 Responsible for accurate and complete record keeping for all patient related activities by completing all relevant forms approved and provided by the CHA;

C.6.2.1.1.4 Promote age appropriate and culturally sensitive oral health education as indicated by the CHA in the community, schools and Head Start centers through direct patient care and community events;

C.6.2.1.1.5 The dentist shall provide the following services for CASH Bureau's School-Based Dental Program at sites within the District of Columbia identified by the Administration:

C.6.2.1.1.5.1 Sealant Application

C.6.2.1.1.5.2 Fluoride Treatment

C.6.2.1.1.5.3 Dental Screenings

C.6.2.1.1.5.4 Oral Health Education & Promotion

C.6.2.1.1.5.5 Data Collection

C.6.2.1.1.5.6 Verification of the parent/legal guardian consent form

C.6.2.1.1.5.7 Refer student to hospital/dental office when clinically required

C.6.2.1.1.5.8 Meet with CHA staff on a monthly basis

C.6.2.2 **Dental Assistant**

C.6.2.2.1 The Dental Assistant shall provide the following services:

- C.6.2.2.1.1 Assist the dentists in chairside procedures routinely done in a general dental practice by performing a variety of patient care, administrative and clinical duties to assist in day-to-day operations;
- C.6.2.2.1.2 Provide age appropriate, culturally sensitive, oral health education as indicated by the CHA to students, teachers, and caregivers;
- C.6.2.2.1.3 Responsible for preparation and setting up of instruments, materials, and equipment necessary for each procedure;
- C.6.2.2.1.4 Responsible for the sterilization of instruments, and the cleaning and routine maintenance of equipment and work areas while under the supervision of the dentist;
- C.6.2.2.1.5 Schedules patients, accurately records information on patient records;
- C.6.2.2.1.6 Helps to implement the processing of encounters;
- C.6.2.2.1.7 Helps to identify related medical and/or social problems;
- C.6.2.2.1.8 Places requests for additional supplies and materials;
- C.6.2.2.1.9 Report any damaged or malfunctioning dental equipment promptly to responsible staff;
- C.6.2.2.1.10 Maintains inventory of supplies, materials and equipment, as well as maintaining thorough and accurate documentation of inventory and reports any needed items promptly to the responsible staff.

C.6.2.3 Oral Educator

C.6.2.3.1 The Oral Educator shall provide the following services:

- C.6.2.3.1.1 Provide age appropriate, culturally sensitive education as indicated by the CHA to students, teachers, caregivers and guardians about all aspects involved with proper oral hygiene;
- C.6.2.3.1.2 Act as an Oral Health Liaison between schools and Head Start caregivers, enrollees and their parents/guardians;
- C.6.2.3.1.3 Visit schools and Head Start sites to provide oral health education, classroom presentations and proper brushing/flossing demonstrations;
- C.6.2.3.1.4 Distribute oral health literature and supplies to schools and Head Start sites;

C.7 Staff Knowledge, Skills, and Qualifications Requirements.

- C.7.1 The Provider shall verify and document all licenses, education, continual dental educational requirements, and employment eligibility of the dental professionals dedicated to provide dental services for CHA.
- C.7.2 The Provider shall ensure and document that all employees have passed relevant background and drug tests.
- C.7.3 The Provider shall also ensure and maintain documentation that staff possess adequate training and competence to perform the duties they have been assigned including information relevant to education, experience, and/or licensing/certification criteria. CHA retains the right to request such documentation at any given time.
- C.7.4 Upon request, the Provider shall submit resumes, for CHA approval, of each staff member providing services under this Human Care Agreement. Resumes shall be available for review to ensure provider's staff meet the minimum knowledge, skills, and qualifications requirements.
- C.7.5 The Provider shall recruit and employ staff meeting the following minimum requirements:
- C.7.5.1 Dentist
- C.7.5.1.1 The Dentist shall possess, practice, or have knowledge of the following:
- C.7.5.1.1.1 Have a current valid license issued by the DC Board of Dental Examiners.
- C.7.5.1.1.2 Practice dentistry in accordance with OSHA guidelines regarding infection control and universal precautions;
- C.7.5.1.1.3 Possess Dental Practice Liability Insurance;
- C.7.5.1.1.4 Knowledgeable of current dental management and the ability to interpret treatment regime to patients, families and significant others;
- C.7.5.1.1.5 Knowledgeable of Federal and State specific legislation and court orders that apply to mandated programs, which are provided in a clinical setting.
- C.7.5.1.1.6 Maintain current CPR certification and possess skills in life support techniques.

C.7.5.2 Dental Assistant

C.7.5.2.1 The Dental Assistant shall:

C.7.5.2.1.1 Have a high school diploma or GED certificate;

C.7.5.2.1.2 Possess good writing and speaking skills in the English language.

C.7.6.3 Oral Health Educator

C.7.6.3.1 The Oral Health Educator shall:

C.7.6.3.1.1 Possess a high school diploma or GED certificate;

C.7.6.3.1.2 Possess good writing and speaking skills in the English language;

C.7.6.3.1.3 Have experience and training in oral health promotion.

C.8 **Staff Development and Training**

C.8.1 The Provider shall maintain staff development, train to provide the Provider's staff with the ability, opportunities to demonstrate an on-going commitment to refining skills through instructional and educational training as well as training resulting from clinical supervision.

C.9 **Staff Orientation**

C.9.1 The Provider shall provide an orientation prior to delivering services under this Agreement to all current and future staff performing services under this Agreement. The staff orientation shall, among other things, establish, promote a staff philosophy that discourages defensiveness, minimizes aggression from staff, focusing instead on the identification of and meeting of the needs of the youth.

C.10 **In-Service Training**

C.10.1 The Provider shall provide at a minimum 40 hours of in-service training each year throughout the term of the Human Care Agreement for the staff performing services.

C.11 **Staff Policies**

C.11.1 The Provider shall develop and maintain policies and procedures that address the recruitment, selection, and retention of qualified staff.

C.11.2 The Provider's staff policies shall include at a minimum, the following:

- C.11.2.1 Statement of staff policies regarding vacations, sick leave, holidays, employee benefits, and performance evaluations
- C.11.2.2 Maintenance of staff records including job applications, licenses, certifications, security, medical clearances, and in-service training completed;
- C.11.2.3 Maintenance of documentation verifying, confirming satisfactory criminal background, child protection registers check, medical examination, drug, and alcohol screening;
- C.11.2.4 Maintenance of documentation verifying, confirming professional, and personal references for current and new staff members;
- C. 11.2.5 Develop and provide position specific position descriptions describing at a minimum the minimum qualifications, functional responsibilities, expected contributions to the delivery of services, performance expectations, and the in-service training requirements for each position;
- C.11.2.6 Maintenance of daily staff time sheets that include date, shift, staff member's name, sign-in and sign-out times.

C.12 **Staff Security**

C.12.1 The Provider shall adhere to the following staff security requirements:

- C.12.1.1 In accordance with DC Official Code 44-552 et seq., (Applicable Document #2) the Provider shall conduct routine pre-employment criminal record background checks of the Provider' dentists, dentist assistants, and oral health educators, and future staff that will provide services under this Human Care Agreement. The Provider shall not employ any staff in the fulfillment of the work under this Human Care Agreement unless said person has undergone and obtained a clean/clear background check, to include a National Criminal Information Center Report. Staff shall not have any convictions relative to abuse or harming children, elders, animals, or any of the other offenses enumerated in DC Official Code 44-551 et. seq. (Applicable Document # 2).
- C.12.1.2 The Provider shall provide an electronic, faxed or hard copies of the certified criminal history records of Provider staff assigned to perform services under this Human Care Agreement to the COTR upon request. Any conviction or arrest of the Provider's employees shall be reported to CHA prior to the hiring of the employee. CHA shall then determine the employee's suitability for performance under this Human Care Agreement and notify the Provider.
- C.12.1.3 The Provider shall conduct criminal record background checks on an annual basis for all Provider staff. The Provider shall disclose to CASH staff through the COTR, any arrests or convictions that may occur subsequent to employment. The COTR will report any convictions or arrests of the Provider's employees to the risk manager, who will determine the employee's suitability for continued performance under this Human Care Agreement.

C.12.1.4 The Provider shall certify receipt of medical clearance that each employee working under this human care agreement is free of communicable diseases. A physician holding a valid license issued by the jurisdiction in which the employee is licensed shall sign the medical clearance. The Provider shall not employ any staff to perform work under this Human Care Agreement unless the said employee has received a medical clearance.

C.13 Quality Assurance System

C.13.1 The Provider shall develop and implement a quality assurance system to ensure the delivery of quality, comprehensive, services by qualified well-trained staff.

C.13.2 The Provider's quality assurance system shall recognize successful, effective areas of the Provider's service delivery, approach, identify areas of concern or possible deficiencies, potential improvements to the Provider's service delivery methodology, and approach.

C.14 Reports/Supporting Documentation

C.14.1 The dentist shall return the following records and other supporting documentation obtained while providing services to designated staff within CHA:

C.14.1.1 Parental Consent Form

C.14.1.2 Pupil Health History Form

C.14.1.3 Dental Screening Form – Individual

C.14.1.4 Dental Screening Form – Class Summary

C.14.1.5 Synopsis of the data obtained

C.14.1.6 Evaluations

C.15 District Responsibilities

The District of Columbia's Community Health Administration (CHA) will:

C.15.1 Provide the employees with all dental supplies, dental equipment and any other relevant material required for the successful administration of the School-Based Dental Program;

C.15.2 Provide employees with all infection control supplies including barrier and environmental protection equipment;

C.15.3 Oversee all quality assurance monitoring related to this Agreement. Employees' time sheets shall be verified and signed by individuals within the Administration prior to being processed;

C.15.4 Ensure that the Dentists, Dental Assistants and Oral Health Educators comply with all noted rules and regulations of the DC Board of Dental Examiners (Applicable Document # 3) and all DC and Federal guidelines including Occupational Safety & Health Administration (OSHA) regulations (Applicable Document # 4) and Universal Infection Control Guidelines

C.16 **Deliverables**

C.16.1 The Provider shall provide the deliverables to the COTR in accordance with the deliverable schedule that follows. All soft copy deliverables shall be provided on compact disc formatted in Microsoft Word and Excel as applicable.

Deliverable Number	Deliverable	Format and Method of Delivery	Due Date
1	Employee Resumes, as described in Section C.7.3.2	1 Hard Copy	Upon Request
2	Certification of pre-employee criminal background check, National Criminal Information Center Report, as described in Section C.12.1.1	1 Hard Copy clearly labeled with the following: Deliverable Name Employee's Name Date Completed Date Submitted	Before employee reports to work at any CHA facility
3	Certification of medical clearance, as described in Section C.12.1.4	1 Hard Copy clearly labeled with the following: Deliverable Name Employee's Name Date Completed Date Submitted	Before employee reports to work at any CHA facility
4	Records and other supporting documentation generated/obtained while providing clinical services, as described	1 Hard Copy clearly labeled with the following: Deliverable Name Client's Name	One week after completing site where services were provided

	in Section C.14.1	Date Completed Date Submitted	
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C.17 Eligibility

Eligibility for services under this Human Care Agreement shall be determined and re-determined by the District, as applicable, in accordance with prescribed procedures. The Provider shall be subject to a written determination that it is qualified to provide the services and shall continue the same level of qualifications, subject to a review by the District, according to the criteria delineated in 27 DCMR, Chapter 19, Section 1905.6, as amended which is incorporated into this Agreement as Attachment 3.

C.18 Compliance with Laws

As a condition of the Provider’s obligation to perform for the District’s under this Agreement, the Provider shall comply with all applicable District, federal and other state and local governmental laws, regulations, standards, or ordinances and, where applicable, any other applicable licensing and permit laws, regulations, standards, or ordinances as necessary for the lawful provision of the services required of the Provider under the terms of this Human Care Agreement.

SECTION D – HUMAN CARE SERVICE DELIVERY AND PERFORMANCE

D.1 Term of Agreement

- D.1.1 The term of this Human Care Agreement shall be for a period of one (1) base year and four (4) additional option years as set forth in Section D.3.
- D.1.2 If the Provider fails to perform its obligations under this Human Care Agreement in accordance with the Agreement and in a timely manner, or otherwise violates any provision of this Human Care Agreement, the District may terminate this Human Care Agreement for default or convenience of the District upon serving written notice of termination to the Provider in accordance with sections 7, 9 or 20 of the Government of the District of Columbia Standard Contract Provisions For Use With District of Columbia Government Supply and Services, dated March 2007, hereafter referred to as “Standard Contract Provisions”, which is incorporated into this Agreement as Attachment 1.
- D.1.3 To the extent that any performance evaluation identifies non-performance or false performance on the part of the employee CHA shall have the right to immediately request a new employee. The Provider shall be responsible for any financial penalty incurred by CHA to the extent related to such non-performance or faulty performance.
- D.1.4 The District reserves the right to cancel a task order issued pursuant to this Human Care Agreement upon thirty (30) days written notice to the Provider.
- D.1.5 CHA may directly hire any employee at any time after the employee has been assigned to CHA for at least 90 days without liability for payment to the Provider of any fee or liquidated damages.

D.2 Agreement Not A Commitment of Funds or Commitment To Purchase

This Agreement is not a commitment by the District to purchase any quantity of a particular good or service covered under this Human Care Agreement from the Provider. The District shall be obligated only to the extent that authorized purchases are actually made by purchase order or task order pursuant to this Human Care Agreement.

D.3 Option to Extend Term of the Agreement

- D.3.1 The District Government may extend the term of this Human Care Agreement for a period of four (4) one (1) year option periods, or fractions thereof, by written notice to the Provider prior to the expiration of the Agreement; provided that the District gives the Provider written notice of its intent to extend at least thirty (30) days before the Human Care Agreement expires. The preliminary notice does not commit the District to an extension. The exercise of an option is subject to the availability of funds at the time of the exercise of the option. The Provider may waive the thirty (30) day notice requirements by providing a written notice to the Contracting Officer.

- D.3.2 The service rates for the option periods shall be as specified in Part I, Section B, Human Care Services and Service Rates.
- D.3.3 If the District exercises an option, the extended Human Care Agreement shall be considered to include this option provision.
- D.3.4 The total duration of this Human Care Agreement including the exercise of any options under this clause shall not exceed five (5) years.

SECTION E – HUMAN CARE SERVICE ADMINISTRATION

E.1 Contracting Officer

The Contracting Officer (CO) is the only District official authorized to bind the District contractually through signing a human care agreement or contract, and all other documents relating to the human care agreement or contract. All correspondence to the Contracting Officer shall be forwarded to:

Rotimi Osunsan, CPPB, CPM
Contracting Officer
Office of Contracting and Procurement
Human Care Supplies and Services Group VI
441-4th Street, N.W., Suite 700S
Washington, D.C. 20001
Telephone Number: 202-724-5248 Facsimile Number: 202-727-0245

E.2 Contracting Officer's Technical Representative

The Contracting Officer's Technical Representative (COTR) is the representative responsible for the general administration of this Human Care Agreement and advising the Contracting Officer as to the compliance or noncompliance of the Provider with this Human Care Agreement. In addition, the COTR is responsible for the day-to-day monitoring and supervision of this Human Care Agreement. The COTR is not authorized or empowered to make amendments, changes, or revisions to this agreement. The Contracting Officer's Technical Representative shall be:

Twana Dinnall
Public Health Analyst
Department of Health
825 North Capitol Street, NE
Washington, DC 20002
Telephone: (202) 724-7667 Fax (202) 535-1710

E.3 **Contact Person**

For information concerning this Human Care Agreement, contact:

Dwight Hayes
Contract Specialist
Office of Contracting and Procurement
441-4th Street, N.W. Suite 700 South
Washington, D. C. 20001
Telephone Number: (202) 724-5278
Facsimile Number: (202) 727-0245
E-Mail: dwight.hayes@dc.gov

E.4 **Ordering and Payment**

E.4.1 The Provider **shall not** provide services or treatment under this Human Care Agreement unless the Provider is in actual receipt of a purchase order or task order for the period of the service or treatment that is signed by a Contracting Officer.

E.4.2 The Provider shall not provide any human care services until the District makes an official youth referral and issues a task order/purchase orders to the Provider.

E.4.3 All purchase orders or task orders issued in accordance with this Human Care Agreement shall be subject to the terms and conditions of this Agreement. In the event of a conflict between a purchase order or a task order and this Human Care Agreement, the Human Care Agreement shall take precedence.

E.4.4 If mailed, a purchase order or task order shall be considered “issued” by the District when deposited in the mail. Orders may be transmitted electronically.

E.4.5 Invoices shall be prepared in duplicate and be submitted to the agency Chief Financial Officer (CFO).

E.4.5.1 The address of the CFO is:

Department of Health
825 North Capitol Street, NE
5th Floor
Washington, D.C. 20002

E.4.6 To ensure proper and prompt payment, each invoice for payment shall provide the following minimum information:

- (1) Provider name and address;
- (2) Invoice date, number and the total amount due;
- (3) Period or date of service;
- (4) Description of service;
- (5) Quantity of services provided or performed;
- (6) Contract line item number (CLIN), as applicable to each purchase order or task order;
- (7) Purchase order or task order number;
- (8) Human Care Agreement number;
- (9) Federal tax identification number (TIN)
- (10) Any other supporting documentation or information, as required; and
- (11) Name, title and telephone number of the preparer.

E.4.7 Payment shall be made only after the COTR has certified as satisfactory the performance by the Provider under the Human Care Agreement as a result of a valid purchase order or task order of the Agreement in accordance with all provisions thereof.

SECTION F – AGREEMENT CLAUSES

F.1 Standard Contract Provisions Incorporated By Reference

The Government of the District of Columbia Standard Contract Provisions For Use With District of Columbia Government Supply and Services, dated March 2007, hereafter referred to as the “Standard Contract Provisions” are incorporated into this Human Care Agreement as Attachment 1, and shall govern the relationship of the parties as contained in this Human Care Agreement. By signing this Human Care Agreement, the Provider agrees, and acknowledges its obligation to be bound by the Standard Contract Provisions, and its requirements.

F.2 Confidentiality

All services or treatment provided by the Provider through referrals by the District to the Provider shall be provided in a confidential manner and the Provider shall not release any information relating to a recipient of the services or otherwise as to the provision of those services or treatment to any individual other than an official of the District connected with the provision of services under this Human Care Agreement, except upon the written consent of the individual referral, or in the case of a minor, the custodial parent or legal guardian of the individual referral.

F.3 **Access to Records**

- F.3.1 The Provider shall retain all case records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the human care agreement for a period of five (5) years after termination of the human care agreement, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) 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.
- F.3.2 The Provider 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.
- F.3.3 Persons duly authorized by the Contracting Officer shall have full access to and the right to examine any of the Provider's human care agreement and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.

F.4 **Amendments**

This Human Care Agreement, applicable documents and attachments incorporated by reference constitutes the entire Agreement between the parties and all other communications prior to its execution, whether written or oral, with reference to the subject matter of this Agreement are superceded by this Human Care Agreement. The Contracting Officer may, at any time, by written order and without notice to a surety, if any, make amendments, or changes in the agreement within the general scope, services, or service rates of the Agreement. No amendment to this Agreement shall be valid unless approved in writing by the Contracting Officer, subject to any other approvals required in accordance with the District regulations at 27 DCMR. Except that the Contracting Officer may make purely clerical or administrative revisions to the Agreement with written notice to the Provider.

F.5 **Tax Compliance Certification**

In signing and submitting this Human Care Agreement, the Provider certifies, attests, agrees, and acknowledges that the Provider is in compliance with all applicable tax requirements of the District of Columbia and shall maintain that compliance for the duration of the Agreement.

F.6 **Subcontracts**

The Provider shall not subcontract any of the work or services provided in accordance with this Agreement to any subcontractor without the prior written consent of the Contracting Officer. Any work or service that may be subcontracted shall be performed pursuant to a written subcontract agreement, which the District shall have the right to review and approve prior to its

execution. Any such subcontract shall specify that the Provider and the subcontractor shall be subject to every provision of this Human Care Agreement. Notwithstanding any subcontract approved by the District, the Provider shall remain solely liable to the District for all services required under this Human Care Agreement.

F.7 **Provider Responsibility**

F.7.1 The Provider bears responsibility for ensuring that the Provider fulfills all its Human Care Agreement requirements under any task order or purchase order that is issued to the Provider pursuant to this Human Care Agreement.

F.7.2 The Provider shall notify the District immediately whenever the Provider does not have adequate staff, financial resources, or facilities to comply with the provision of services under this Human Care Agreement.

F.8 **INSURANCE**

F.8.1 Upon receipt of a Task Order under this HCA, the Provider shall procure and maintain, during the entire period of performance under the Task Order, the types of insurance specified below. The Provider shall submit a certificate of insurance giving evidence of the required coverages prior to commencing work. All insurance shall be written with responsible companies licensed by the District of Columbia's Department of Insurance, Securities and Banking. The Provider shall require all subcontractors to carry the insurance required herein, or Provider may, at its option, provide the coverage for any or all subcontractors, and if so, the evidence of insurance submitted shall so stipulate. All insurance provided by the Provider as required by this section, except comprehensive automobile liability insurance, shall set forth the District as an additional named insured. In no event shall work be performed until the required certificates of insurance have been furnished. The insurance shall provide for 30 day's prior written notice to be given to the District in the event coverage is substantially changed, canceled or non-renewed. If the insurance provided is not in compliance with all the requirements herein, the District maintains the right to stop work until proper evidence is provided.

F.8.1.1 **Commercial General Liability Insurance**, \$1,000,000 limits per occurrence, District added as an additional insured.

F.8.1.2 **Automobile Liability Insurance**, \$1,000,000 per occurrence combined single limit.

F.8.1.3 **Worker's Compensation Insurance** according to the statutes of the District of Columbia, including Employer's Liability, \$100,000 per accident for injury, \$100,000 per employee for disease, \$500,000 policy limit disease.

F.8.1.4 **Umbrella/ Excess Liability Insurance**, \$5,000,000 limits per occurrence.

F.8.1.5 **Professional Liability Insurance**, \$1,000,000 limits per claim (note: such insurance is typically called medical malpractice insurance for doctors, professional liability insurance for lawyers and nurses, and errors and omissions liability insurance for all other “professions” with a professional liability exposure).

F.9 **Department Of Labor Wage Determinations**

F.9.1 The Provider is bound by the U.S. Department of Labor Wage Determination No. 2005-2103, Revision 4, dated July 5, 2007 issued by the U.S. Department of Labor in accordance with the Service Agreement Act of 1965, as amended (41 U.S.C. 351-58), and incorporated into this Agreement as Attachment 4. The applicable U.S. Department of Labor Wage Determinations for the regions in which the Agreement services are provided shall bind Providers located in regions not bound by the above stated Wage Determination.

F.10 **HIPAA PRIVACY COMPLIANCE**

[*insert agency name abbreviation*] is a “Covered Entity” as that term is defined in the Privacy Rule and [*insert business associate name*], as a recipient of Protected Health Information from [*insert agency name abbreviation*], is a “Business Associate” as that term is defined in the Privacy Rule.

1. **Definitions**

- a. *Business Associate* means a person or entity, who performs, or assists in the performance of a function or activity on behalf of a covered entity or an organized health care organization in which the covered entity participates, involving the use or disclosure of individually identifiable health information, other than in the capacity of a workforce member of such covered entity or organization. A business associate is also any person or organization that provides, other than in the capacity of a workforce member of such covered entity, legal, actuarial, accounting, consulting, data aggregation, management, administration, accreditation, or financial services to or for the covered entity and receives individually identifiable health information from a covered entity or another business associate on behalf of a covered entity. In some instances, a covered entity may be a business associate of another covered entity.
- b. *Covered Entity* means a health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form in connection with a transaction covered by 45 C.F.R. Parts 160 and 164 of the Privacy Rule. With respect to this HIPAA Compliance Clause, *Covered Entity* shall also include the designated health care components-of a hybrid entity.
- c. *Data Aggregation* means, with respect to Protected Health Information created or received by a business associate in its capacity as the business associate of a covered entity, the combining of such Protected Health Information by the business associate with the Protected Health Information received by the business associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.
- d. *Designated Record Set* means a group of records maintained by or for the Covered Entity that is:

- i. The medical records and billing records about individuals maintained by or for a covered health care provider;
 - ii. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
 - iii. Used, in whole or in part, by or for the Covered Entity to make decisions about individuals.
- e. *Health Care* means care services, or services, or supplies related to the health of an individual. Health care includes, but is not limited to, the following:
- i. 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
 - ii. Sale or dispensing of a drug, device, equipment, or other item in accordance with the prescription.
- f. *Health Care Components* means a component or a combination of components of a hybrid entity designated by a hybrid entity in accordance with 45 C.F.R. § 164.105(a)(2)(iii)(C). *Health Care Components* must include non-covered functions that provide services to the covered functions for the purpose of facilitating the sharing of Protected Health Information with such functions of the hybrid entity without business associate agreements or individual authorizations.
- g. *Health Care Operations* shall have the same meaning as the term “health care operations” in 45 C.F.R. § 164.501.
- h. *Hybrid Entity* means a single legal entity that is a covered entity and whose business activities include both covered and non-covered functions, and that designates health care components in accordance with 45 C.F.R. § 164.105(a)(2)(iii)(C). A *Hybrid Entity* is required to designate as a health care component, any other components of the entity that provide services to the covered functions for the purpose of facilitating the sharing of Protected Health Information with such functions of the hybrid entity without business associate agreements or individual authorizations.
- i. *Record* shall mean any item, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for the Covered Entity.
- j. *Individual* shall have the same meaning as the term "individual" in 45 C.F.R. § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- k. *Individually Identifiable Health Information* is information that is a subset of health information, including demographic information collected from an individual, and;
- i. Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and

- ii. Relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - iii. That identifies the individual; or
 - iv. With respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- l. *Privacy Official.* The person designated by the District of Columbia, a *Hybrid Entity*, who is responsible for developing, maintaining, implementing and enforcing the District-wide Privacy Policies and Procedures, and for overseeing full compliance with this Manual, the Privacy Rules, and other applicable federal and state privacy law.
 - m. *Privacy Officer.* The person designated by the Privacy Official or one of the District of Columbia's designated health care components, who is responsible for enforcing the provisions of this Manual as well as overseeing full compliance with the Covered Agency's Privacy Policies and Procedures, the Privacy Rules, and other applicable federal and state privacy law(s). The Covered Agency's privacy officer will follow the guidance of the District's Privacy Official, and shall be responsive to and report to the District's Privacy Official.
 - n. *Privacy Rule.* "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
 - o. *Protected Health Information.* "Protected Health Information" means individually identifiable health information that is:
 - i. Transmitted by electronic media;
 - ii. Maintained in electronic media; or
 - iii. Transmitted or maintained in any other form or medium;
 - iv. Limited to the information created or received by the Business Associate from or on behalf of the Covered Entity; and
 - v. Excluding information in the records listed in subsection (2) of the definition in 45 C.F.R. §160.103.
 - p. *Required By Law.* "Required By Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
 - q. *Secretary.* "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
 - r. *Workforce.* "Workforce" shall mean employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity or business associate, is under the direct control of such entity, whether or not they are paid by the covered entity or business associate.

2. Obligations and Activities of Business Associate

- a. The Business Associate agrees not to use or disclose Protected Health Information other than as permitted or required by this HIPAA Compliance Clause or as Required By Law.
- b. The Business Associate agrees to use commercially reasonable efforts and appropriate safeguards to maintain the security of the Protected Health Information and to prevent use or disclosure of such Protected Health Information other than as provided for by this Clause.
- c. The Business Associate agrees to establish procedures for mitigating, and to mitigate to the extent practicable, any deleterious effect that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate in violation of the requirements of this Clause.
- d. The Business Associate agrees to report to Covered Entity, in writing, any use or disclosure of the Protected Health Information not permitted or required by this HIPAA Compliance Clause to the District Privacy Official or agency Privacy Officer within ten (10) days from the time the Business Associate becomes aware of such unauthorized use or disclosure.
- e. The Business Associate agrees to ensure that any workforce member or any agent, including a subcontractor, agrees to the same restrictions and conditions that apply through this Clause with respect to Protected Health Information received from the Business Associate, Protected Health Information created by the Business Associate, or Protected Health Information received by the Business Associate on behalf of the Covered Entity.
- f. The Business Associate agrees to provide access, at the request of the Covered Entity or an Individual, **at a mutually agreed upon location, during normal business hours, and in a format** [*delete bolded material and insert negotiated terms if applicable*] as directed by the District Privacy Official or agency Privacy Officer, or as otherwise mandated by the Privacy Rule or applicable District of Columbia laws, rules and regulations, to Protected Health Information in a Designated Record Set, to the Covered Entity or an Individual, in compliance with applicable portions of [*Insert Applicable Agency Access Policy*], attached hereto as Exhibit A and incorporated by reference, and within five (5) business days of the request to facilitate the District's compliance with the requirements under 45 C.F.R. §164.524.
- g. The Business Associate agrees to make any amendment(s) to the Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 **in a format** [*agency should insert appropriate terms for amendment if applicable*] or as directed by the District Privacy Official or agency Privacy Officer, or as otherwise mandated by the Privacy Rule or applicable District of Columbia laws, in compliance with applicable portions of [*Insert Applicable Agency Amendment Policy*], attached hereto as Exhibit B and incorporated by reference, and within five (5) business days of the directive in order to facilitate the District's compliance with the requirements under 45 C.F.R. §164.526.
- h. The Business Associate agrees to use the standard practices of the Covered Entity to verify the identification and authority of an Individual who requests the Protected Health Information in a Designated Record Set of a recipient of services from or through the Covered Entity. The Business Associate agrees to comply with the applicable portions of the [*Insert Applicable Agency Identity And Procedure Verification Policy*], attached hereto as Exhibit C and incorporated by reference.
- i. The Business Associate agrees to record authorizations and log such disclosures of Protected Health Information and information related to such disclosures as would be required for the Covered Entity

to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528 and applicable District of Columbia laws, rules and regulations. The Business Associate agrees to comply with the applicable portions of the [*Insert Applicable Agency Logging Disclosures for Accounting Policy*] attached hereto as Exhibit D and incorporated by reference.

- j. The Business Associate agrees to provide to the Covered Entity or an Individual, within five (5) business days of a request **at a mutually agreed upon location, during normal business hours, and in a format designated** [*delete bolded material and insert agency appropriate terms if applicable*] by the District Privacy Official or agency Privacy Officer and the duly authorized Business Associate workforce member, information collected in accordance with Paragraph (i) of this Section above, to permit the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528, and applicable District of Columbia laws, rules and regulations. The Business Associate agrees to comply with the applicable portions of the [*Insert Applicable Agency Disclosure Accounting Policy*] attached hereto as Exhibit E and incorporated by reference.
- k. The Business Associate agrees to make internal practices, books, and records, including policies and procedures, and Protected Health Information, relating to the use and disclosure of Protected Health Information received from the Business Associate, or created, or received by the Business Associate on behalf of the Covered Entity, available to the Covered Entity, or to the Secretary, within five (5) business days of their request and **at a mutually agreed upon location, during normal business hours, and in a format designated** [*delete bolded material and insert negotiated terms if applicable*] by the District Privacy Official or agency Privacy Officer and the duly authorized Business Associate workforce member, or in a time and manner designated by the Secretary, for purposes of the Secretary in determining compliance of the Covered Entity with the Privacy Rule.
- l. The Business Associate may aggregate Protected Health Information in its possession with the Protected Health Information of other Covered Entities that Business Associate has in its possession through its capacity as a Business Associate to said other Covered Entities provided that the purpose of such aggregation is to provide the Covered Entity with data analyses to the Health Care Operations of the Covered Entity. Under no circumstances may the Business Associate disclose Protected Health Information of one Covered Entity to another Covered Entity absent the explicit written authorization and consent of the Privacy Officer or a duly authorized workforce member of the Covered Entity.
- m. Business Associate may de-identify any and all Protected Health Information provided that the de-identification conforms to the requirements of 45 C.F.R. § 164.514(b). Pursuant to 45 C.F.R. § 164.502(d)(2), de-identified information does not constitute Protected Health Information and is not subject to the terms of this HIPAA Compliance Clause.

3. Permitted Uses and Disclosures by the Business Associate

- a. Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in the Contract, provided that such use or disclosure would not violate the Privacy Rule if same activity were performed by the Covered Entity or would not violate the minimum necessary policies and procedures of the Covered Entity.
- b. Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

- c. Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that the disclosures are Required By Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used, or further disclosed, only as Required By Law, or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it has knowledge that the confidentiality of the information has been breached.
- d. Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may use Protected Health Information to provide Data Aggregation services to the Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- e. Business Associate may use Protected Health Information to report violations of the Law to the appropriate federal and District of Columbia authorities, consistent with 45 C.F.R. § 164.502(j)(1).

4. Additional Obligations of the Business Associate

- a. Business Associate shall submit a written report to the Covered Entity that identifies the files and reports that constitute the Designated Record Set of the Covered Entity. Business Associate shall submit said written report to the Privacy Officer no later than thirty (30) days after the commencement of the HIPAA Compliance Clause. In the event that Business Associate utilizes new files or reports which constitute the Designated Record Set, Business Associate shall notify the Covered Entity of said event within thirty (30) days of the commencement of the file's or report's usage. The Designated Record Set file shall include, but not be limited to the identity of the following:
 - i. Name of the Business Associate of the Covered Entity;
 - ii. Title of the Report/File;
 - iii. Confirmation that the Report/File contains Protected Health Information (Yes or No);
 - iv. Description of the basic content of the Report/File;
 - v. Format of the Report/File (Electronic or Paper);
 - vi. Physical location of Report/File;
 - vii. Name and telephone number of current member(s) of the workforce of the Covered Entity or other District of Columbia Government agency responsible for receiving and processing requests for Protected Health Information; and
 - viii. Supporting documents if the recipient/personal representative has access to the Report/File.

5. Sanctions

Business Associate agrees that its workforce members, agents and subcontractors who violate the provisions of the Privacy Rules or other applicable federal or state privacy law will be subject to discipline in accordance with Business Associate's District Personnel Manual and applicable collective bargaining agreements. Business Associate agrees to impose sanctions consistent with Business Associate's personnel policies and procedures and applicable collective bargaining agreements with respect to persons employed by it. Members of the Business Associate Workforce who are not employed by Business Associate are subject to the policies and applicable sanctions for violation of this Manual as set forth in business associate agreements. In the event Business Associate imposes sanctions against any member of its workforce, agents and subcontractors for violation of the provisions of the Privacy Rules or other applicable federal or state privacy laws, the

Business Associate shall inform the District Privacy Official or the agency Privacy Officer of the imposition of sanctions.

6. Obligations of the Covered Entity

- a. The Covered Entity shall notify the Business Associate of any limitation(s) in its Notice of Privacy Practices of the Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect the use or disclosure of Protected Health Information by the Business Associate.
- b. The Covered Entity shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to the use or disclosure of Protected Health Information, to the extent that such changes may affect the use or disclosure of Protected Health Information by the Business Associate.
- c. The Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect the use or disclosure of Protected Health Information by the Business Associate.

7. Permissible Requests by Covered Entity

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

8. Representations and Warranties.

The Business Associate represents and warrants to the Covered Entity:

- a. That it is duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is organized or licensed, it has the full power to enter into this HIPAA Compliance Clause and it, its employees, agents, subcontractors, representatives and members of its workforce are licensed and in good standing with the applicable agency, board, or governing body to perform its obligations hereunder, and that the performance by it of its obligations under this HIPAA Compliance Clause has been duly authorized by all necessary corporate or other actions and will not violate any provision of any license, corporate charter or bylaws;
- b. That it, its employees, agents, subcontractors, representatives and members of its workforce are in good standing with the District of Columbia, that it, its employees, agents, subcontractors, representatives and members of its workforce will submit a letter of good standing from the District of Columbia, and that it, its employees, agents, subcontractors, representatives and members of its workforce have not been de-barred from being employed as a Provider by the federal government or District of Columbia;
- c. That neither the execution of this HIPAA Compliance Clause, nor its performance hereunder, will directly or indirectly violate or interfere with the terms of another agreement to which it is a party, or give any governmental entity the right to suspend, terminate, or modify any of its governmental authorizations or assets required for its performance hereunder. The Business Associate represents and warrants to the Covered Entity that it will not enter into any agreement the execution or performance of which would violate or interfere with this HIPAA Compliance Clause;

- d. That it is not currently the subject of a voluntary or involuntary petition in bankruptcy, does not currently contemplate filing any such voluntary petition, and is not aware of any claim for the filing of an involuntary petition;
- e. That all of its employees, agents, subcontractors, representatives and members of its workforce, whose services may be used to fulfill obligations under this HIPAA Compliance Clause are or shall be appropriately informed of the terms of this HIPAA Compliance Clause and are under legal obligation to the Business Associate, by contract or otherwise, sufficient to enable the Business Associate to fully comply with all provisions of this HIPAA Compliance Clause; provided that modifications or limitations that the Covered Entity has agreed to adhere to with regard to the use and disclosure of Protected Health Information of any individual that materially affects or limits the uses and disclosures that are otherwise permitted under the Privacy Rule will be communicated to the Business Associate, in writing, and in a timely fashion;
- f. That it will reasonably cooperate with the Covered Entity in the performance of the mutual obligations under this Agreement;
- g. That neither the Business Associate, nor its shareholders, members, directors, officers, agents, subcontractors, employees or members of its workforce have been excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have committed any acts which are cause for exclusion, from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or District healthcare program, including but not limited to Medicare or Medicaid, or have been convicted, under federal or District law (including without limitation following a plea of *nolo contendere* or participation in a first offender deferred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (a) the neglect or abuse of a patient, (b) the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under a federal or District healthcare program, (c) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program operated by or financed in whole or in part by any federal, District or local government agency, (d) the unlawful, manufacture, distribution, prescription or dispensing of a controlled substance, or (e) interference with or obstruction of any investigation into any criminal offense described in (a) through (d) above. The Business Associate further agrees to notify the Covered Entity immediately after the Business Associate becomes aware that any of the foregoing representations and warranties may be inaccurate or may become incorrect.

9. Term and Termination

- a. *Term.* The requirements of this HIPAA Compliance Clause shall be effective as of the date of the contract award, and shall terminate when all of the Protected Health Information provided by the Covered Entity to the Business Associate, or created or received by the Business Associate on behalf of the Covered Entity, is confidentially destroyed or returned to the Covered Entity within five (5) business days of its request, with the Protected Health Information returned in a format mutually agreed upon by and between the Privacy Official and/or Privacy Officer or his or her designee and the appropriate and duly authorized workforce member of the Business Associate; or, if it is infeasible to return or confidentially destroy the Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section and communicated to the Privacy Official or Privacy Officer or his or her designee.

- b. *Termination for Cause.* Upon the Covered Entity's knowledge of a material breach of this HIPAA Compliance Clause by the Business Associate, the Covered Entity shall either:
 - i. Provide an opportunity for the Business Associate to cure the breach or end the violation and terminate the Contract if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity;
 - ii. Immediately terminate the Contract if the Business Associate breaches a material term of this HIPAA Compliance Clause and a cure is not possible; or
 - iii. If neither termination nor cure is feasible, the Covered Entity shall report the violation to the Secretary.

- c. *Effect of Termination.*
 - i. Except as provided in paragraph (ii) of this section, upon termination of the Contract, for any reason, the Business Associate shall return in **a mutually agreed upon format or confidentially destroy** *[delete bolded material and insert negotiated terms and conditions if applicable]* all Protected Health Information received from the Covered Entity, or created or received by the Business Associate on behalf of the Covered Entity within five (5) business days of termination. This provision shall apply to Protected Health Information that is in the possession of ALL subcontractors, agents or workforce members of the Business Associate. The Business Associate shall retain no copies of Protected Health Information in any media form.
 - ii. In the event that the Business Associate determines that returning or destroying the Protected Health Information is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make the return or confidential destruction infeasible. Upon determination by the agency Privacy Officer that the return or confidential destruction of the Protected Health Information is infeasible, the Business Associate shall extend the protections of this HIPAA Compliance Clause to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or confidential destruction infeasible, for so long as the Business Associate maintains such Protected Health Information. The obligations outlined in Section 2. Obligations and Activities of Business Associate will remain in force to the extent applicable.

10. Miscellaneous

- a. *Regulatory References.* A reference in this HIPAA Compliance Clause to a section in the Privacy Rule means the section as in effect or as amended.
- b. *Amendment.* The Parties agree to take such action as is necessary to amend this HIPAA Compliance Clause from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule and HIPAA. Except for provisions required by law as defined herein, no provision hereof shall be deemed waived unless in writing and signed by duly authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any other right or remedy under this HIPAA Compliance Clause.
- c. *Survival.* The respective rights and obligations of the Business Associate under Section 9. Term and Termination of this HIPAA Compliance Clause and Sections 8 and 16 of the Standard Contract Provisions for use with the District of Columbia Government Supply and Services Contracts, effective November 2004, shall survive termination of the Contract.

- d. *Interpretation.* Any ambiguity in this HIPAA Compliance Clause shall be resolved to permit the Covered Entity to comply with applicable federal and District of Columbia laws, rules and regulations, and the Privacy Rule, and any requirements, rulings, interpretations, procedures, or other actions related thereto that are promulgated, issued or taken by or on behalf of the Secretary; provided that applicable federal and District of Columbia laws, rules and regulations shall supersede the Privacy Rule if, and to the extent that they impose additional requirements, have requirements that are more stringent than or provide greater protection of patient privacy or the security or safeguarding of Protected Health Information than those of HIPAA and its Privacy Rule.

The terms of this HIPAA Compliance Clause amend and supplement the terms of the Contract, and whenever possible, all terms and conditions in this HIPAA Compliance Clause are to be harmonized. In the event of a conflict between the terms of the HIPAA Compliance Clause and the terms of the Contract, the terms of this HIPAA Compliance Clause shall control; provided, however, that this HIPAA Compliance Clause shall not supersede any other federal or District of Columbia law or regulation governing the legal relationship of the Parties, or the confidentiality of records or information, except to the extent that the Privacy Rule preempts those laws or regulations. In the event of any conflict between the provisions of the Contract (as amended by this HIPAA Compliance Clause) and the Privacy Rule, the Privacy Rule shall control.

- e. *No Third-Party Beneficiaries.* The Covered Entity and the Business Associate are the only parties to this HIPAA Compliance Clause and are the only parties entitled to enforce its terms. Except for the rights of Individuals, as defined herein, to access to and amendment of their Protected Health Information, and to an accounting of the uses and disclosures thereof, in accordance with Paragraphs (2)(f), (g) and (j), nothing in the HIPAA Compliance Clause gives, is intended to give, or shall be construed to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this HIPAA Compliance Clause.
- f. *Compliance with Applicable Law.* The Business Associate shall comply with all federal, District of Columbia laws, regulations, executive orders and ordinances, as they may be amended from time to time during the term of this HIPAA Compliance Clause and the Contract, to the extent they are applicable to this HIPAA Compliance Clause and the Contract.
- g. *Governing Law and Forum Selection.* This Contract shall be construed broadly to implement and comply with the requirements relating to the Privacy Rule, and other applicable laws and regulations. All other aspects of this Contract shall be governed under the laws of the District of Columbia. The Covered Entity and the Business Associate agree that all disputes which cannot be amicably resolved by the Covered Entity and the Business Associate regarding this HIPAA Compliance Clause shall be litigated by and before the District of Columbia Contract Appeals Board, the District of Columbia Court of Appeals, or the United States District Court for the District of Columbia having jurisdiction, as the case may be. The Covered Entity and the Business Associate expressly waive any and all rights to initiate litigation, arbitration, mediation, negotiations and/or similar proceedings outside the physical boundaries of the District of Columbia and expressly consent to the jurisdiction of the above tribunals.
- h. *Indemnification.* The Business Associate shall indemnify, hold harmless and defend the Covered Entity from and against any and all claims, losses, liabilities, costs, and other expenses incurred as a result or arising directly or indirectly out of or in connection with (a) any misrepresentation, breach of warranty or non-fulfillment of any undertaking of the Business Associate under this HIPAA Compliance Clause; and (b) any claims, demands, awards, judgments, actions and proceedings made

by any person or organization, arising out of or in any way connected with the performance of the Business Associate under this HIPAA Compliance Clause.

- i. *Injunctive Relief.* Notwithstanding any rights or remedies under this HIPAA Compliance Clause or provided by law, the Covered Entity retains all rights to seek injunctive relief to prevent or stop the unauthorized use or disclosure of Protected Health Information by the Business Associate, its workforce, any of its subcontractors, agents, or any third party who has received Protected Health Information from the Business Associate.
- j. *Assistance in litigation or administrative proceedings.* The Business Associate shall make itself and any agents, affiliates, subsidiaries, subcontractors or its workforce assisting the Business Associate in the fulfillment of its obligations under this HIPAA Compliance Clause and the Contract, available to the Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Covered Entity, its directors, officers or employees based upon claimed violation of HIPAA, the Privacy Rule or other laws relating to security and privacy, except where the Business Associate or its agents, affiliates, subsidiaries, subcontractors or its workforce are a named adverse party.
- k. *Notices.* Any notices between the Parties or notices to be given under this HIPAA Compliance Clause shall be given in writing and delivered by personal courier delivery or overnight courier delivery, or by certified mail with return receipt requested, to the Business Associate or to the Covered Entity, to the addresses given for each Party below or to the address either Party hereafter gives to the other Party. Any notice, being addressed and mailed in the foregoing manner, shall be deemed given five (5) business days after mailing. Any notice delivered by personal courier delivery or overnight courier delivery shall be deemed given upon notice upon receipt.

If to the Business Associate, to

If to the Covered Entity, to

Attention: _____

Attention: _____

Fax: _____

Fax: _____

- l. *Headings.* Headings are for convenience only and form no part of this HIPAA Compliance Clause and shall not affect its interpretation.
- m. *Counterparts; Facsimiles.* This HIPAA Compliance Clause may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.
- n. *Successors and Assigns.* The provisions of this HIPAA Compliance Clause shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns, if any.
- o. *Severance.* In the event that any provision of this HIPAA Compliance Clause is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this HIPAA Compliance Clause will remain in full force and effect. In addition, in the event a Party believes in good faith that any provision of this HIPAA Compliance Clause fails to comply with the then-current requirements of the Privacy Rule, such party shall notify the other Party in writing, in the

manner set forth in Section 10. Miscellaneous, Paragraph k. Notices. Within ten (10) business days from receipt of notice, the Parties shall address in good faith such concern and amend the terms of this HIPAA Compliance Clause, if necessary to bring it into compliance. If, after thirty (30) days, the HIPAA Compliance Clause fails to comply with the Privacy Rule, then either Party has the right to terminate this HIPAA Compliance Clause upon written notice to the other Party.

- p. *Independent Provider.* The Business Associate will function as an independent Provider and shall not be considered an employee of the Covered Entity for any purpose. Nothing in this HIPAA Compliance Clause shall be interpreted as authorizing the Business Associate workforce, its subcontractor(s) or its agent(s) or employee(s) to act as an agent or representative for or on behalf of the Covered Entity.
- q. *Entire Agreement.* This HIPAA Compliance Clause, as may be amended from time to time pursuant to Section 10. Miscellaneous, Paragraph b. Amendment, which incorporates by reference the Contract, and specific procedures from the District of Columbia Department of Health Privacy Policy Operations Manual, constitutes the entire agreement and understanding between the Parties and supersedes all prior oral and written agreements and understandings between them with respect to applicable District of Columbia and federal laws, rules and regulations, HIPAA and the Privacy Rule, and any rules, regulations, requirements, rulings, interpretations, procedures, or other actions related thereto that are promulgated, issued or taken by or on behalf of the Secretary.

Attachments:

- Exhibit A [Insert Applicable Agency Access Policy]
- Exhibit B [Insert Applicable Agency Amendment Policy]
- Exhibit C [Insert Applicable Agency Identity and Procedure Verification Policy]
- Exhibit D [Insert Applicable Agency Logging Disclosures for Accounting Policy]
- Exhibit E [Insert Applicable Agency Disclosure Accounting Policy]

F.11 WAY TO WORK AMENDMENT ACT OF 2006

- F.11.1 Except as described in F.16.8 below, the Provider shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“Living Wage Act of 2006”), for contracts for services in the amount of \$100,000 or more in a 12-month period.
- F.11.2 The Provider shall pay its employees and subcontractors who perform services under the contract no less than the current living wage published on the OCP website at www.ocp.dc.gov.
- F.11.3 The Provider shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate.
- F.11.4 The Department of Employment Services may adjust the living wage annually and the OCP will publish the current living wage rate on its website at www.ocp.dc.gov.
- F.11.5 The Provider shall provide a copy of the Fact Sheet to each employee and subcontractor who performs services under the contract. The Provider shall also post the Notice in a conspicuous place in its place of business. The Provider shall include in any subcontract for \$15,000 or

more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.

F.11.6 The Provider shall maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the contract.

F.11.7 The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*

F.11.8 The requirements of the Living Wage Act of 2006 do not apply to:

- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
- (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
- (3) Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
- (4) Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;
- (5) Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
- (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;
- (7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;
- (8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));
- (9) Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and
- (10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

F.11.9 The Mayor may exempt a Provider from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

F.12 **Order of Precedence Clause**

Any inconsistency in this solicitation shall be resolved by giving precedence in the following order:

1. Supplies or Services and Price/Cost (Section B)
2. Specifications/Work Statement (Section C)
3. Standard Contract Provision, dated March 2007
4. The Human Care Agreement
5. Provider's Program Description
6. Provider Qualifications Record completed by the Provider
7. The Attachments as specified and listed in Section F.13
8. Task Order or Purchase Order

F.13 **Attachments**

The following are attachments to this Human Care Agreement.

- 1) Government of the District of Columbia Standard Contract Provisions for use with the District of Columbia Government Supply and Services Contracts dated March 2007, which is incorporated into this Human Care Agreement as Attachment 1.
- 2) OCP Form 1900, Human Care Agreement Provider's Qualifications Record (completed and executed), which is incorporated into this Human Care Agreement as Attachment 2.
- 3) Notice of Final Rulemaking, 27 DCMR, Chapter 19, Section 1905.6, providing the criteria for a determination of responsibility of potential Providers, which is incorporated into this Human Care Agreement as Attachment 3.
- 4) U.S. Department of Labor Wage Determination No. 2005-2103, Revision No. 4, dated July 5, 2007 issued by the U.S. Department of Labor in accordance with the Service Contract Act of 1965, as amended (41 U.S.C. 351), which is incorporated into this Human Care Agreement as Attachment 4.
- 5) Office of Tax and Revenue, Office of the Chief Financial Officer, Tax Certification and FR500 Combined Business Tax Registration Application, which is incorporated into this Human Care Agreement as Attachment 5.
- 6) Equal Employment Opportunity Compliance documents, including Mayor's Order 85-85, dated June 10, 1985, which is incorporated into this Human Care Agreement as Attachment 6.

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7) First Source Employment Agreement, which is incorporated into this Human Care Agreement as Attachment 7.
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