

<b>SOLICITATION, OFFER, AND AWARD</b>			1. Caption			Page of Pages		
 Government of the District of Columbia			DDS Clinicians/Therapists			1	67	
2. Contract Number		3. Solicitation Number		4. Type of Solicitation		5. Date Issued		6. Type of Market
		<b>DCJM-2013-R-0017</b>		<input type="checkbox"/> Sealed Bid (IFB) <input checked="" type="checkbox"/> Sealed Proposals (RFP) <input type="checkbox"/> Other		5/1/2013		<input type="checkbox"/> Open <input type="checkbox"/> Set Aside <input checked="" type="checkbox"/> Open with Sub-Contracting Set Aside
7. Issued by: Department on Disability Services Office of Contracts and Procurement 1125 15 <sup>th</sup> Street NW, 4 <sup>th</sup> Floor Washington, DC 20005-2717				8. Address Offer to:  Same as block 7				
NOTE: In sealed bid solicitations "offer" and "offeror" means "bid" and "bidder"								
<b>SOLICITATION</b>								
9. Sealed offers in <u>original and five (5) copies</u> 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>1125 15<sup>th</sup> Street NW, 2<sup>nd</sup> Floor</u> until <u>2:00 p.m.</u> local time <u>May 31, 2013.</u>								
CAUTION: Late Submissions, Modifications and Withdrawals: See 27 DCMR chapters 15 & 16 as applicable. All offers are subject to all terms & conditions contained in this solicitation.								
10. For Information Contact	A. Name			B. Telephone Number			C. E-mail Address	
	Maureen Hill			202 730-1522 Fax 202-730-1514			Maureen.Hill@dc.gov	
11. Table of Contents								
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<b>OFFER</b>								
12. The undersigned agrees, if this offer is accepted within <u>120</u> calendar days from the date for receipt of offers specified above to furnish any and all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified herein.								
13. Discount for Prompt Payment	10 Calendar days %		20 Calendar days %		30 Calendar days %		___ Calendar days %	
14. Acknowledgement of Amendments (The offeror acknowledges receipt of amendments to the SOLICITATION):	Amendment Number		Date		Amendment Number		Date	
15A. Name and Address of Offeror					16. Name and Title of Person Authorized to Sign Offer/Contract			
15B. Telephone			<input type="checkbox"/> 15 C. Check if remittance address is different from above - Refer to Section G			17. Signature		18. Offer Date
(Area Code)	(Number)	(Ext)						
<b>AWARD (TO BE COMPLETED BY GOVERNMENT)</b>								
19 Accepted as to Items numbered			20. Amount			21 Accounting and Appropriation Data		
22. Name of Contracting Officer (Type or Print)			23. Signature of Contracting Officer (District of Columbia)			24. Award Date		

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

**B.1** The Government of the District of Columbia (District), Department on Disability Services (DDS), is seeking a contractor to provide the services of the following clinicians and therapists as described in Section C: Ph.D. Clinical Psychologist who holds certification as a Certified Behavior Analyst, Physical Therapist, Occupational Therapist, Advanced Practice Registered Nurse or Family Nurse Practitioner, Speech Language Pathologist and Nutritionist.

**B.2** The District contemplates award of a single requirements contract based on fixed hourly rates.

### **B.3 REQUIREMENTS CONTRACT CLAUSES**

**B.3.1** The District will purchase its requirements of the services included herein from the Contractor. The estimated quantities stated herein reflect the best estimates available. The estimate shall not be construed as a representation that the estimated quantity will be required or ordered, or that conditions affecting requirements will be stable. They shall not be construed to limit the quantities that may be ordered from the Contractor by the District or to relieve the Contractor of its obligation to fill all such orders.

**B.3.2** Delivery or performance shall be made only as authorized in accordance with the Ordering Clause, Section G.10. If the District urgently requires delivery before the earliest date that delivery may be specified under this contract, and if the Contractor shall not accept an order providing for the accelerated delivery, the District may acquire the urgently required services from another source.

**B.3.3** There is no limit on the number of orders that may be issued. The District may issue orders requiring delivery to multiple destinations or performance at multiple locations.

**B.3.4** Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and District's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided that the Contractor shall not be required to make any deliveries under this contract after the expiration date of the contract.

**B.4 PRICE SCHEDULE – REQUIREMENTS**

**B.4.1 BASE YEAR**

<b>Contract Line Item No. (CLIN)</b>	<b>Item Description</b>	<b>Price Per Unit (hourly rate)</b>	<b>Estimated Quantity (hours)</b>	<b>Total Estimated Price</b>
<b>0001</b>	<b>DDS Clinicians and Therapists</b>			
<b>0001A</b>	Ph.D. Clinical Psychologist who holds certification as a Certified Behavior Analyst as described in Section C.3.1.2	\$ _____	<b>1840</b>	\$ _____
<b>0001B</b>	Physical Therapist as described in Section C.3.1.3	\$ _____	<b>1840</b>	\$ _____
<b>0001C</b>	Occupational Therapist as described in Section C.3.1.4	\$ _____	<b>1840</b>	\$ _____
<b>0001D</b>	Advanced Practice Registered Nurse or Family Nurse Practitioner as described in Section C.3.1.5	\$ _____	<b>1840</b>	\$ _____
<b>0001E</b>	Speech Language Pathologist as described in Section C.3.1.6	\$ _____	<b>1840</b>	\$ _____
<b>0001F</b>	Nutritionist as described in Section C.3.1.7	\$ _____	<b>1840</b>	\$ _____
<b>0002</b>	<b>Contract Deliverables as set forth in Section F.3.</b>	<b>Not Separately Priced</b>		
<b>0003</b>	Cost Reimbursement Ceiling for in and around travel needed to perform duties of this contract. Contractor shall comply with current DDS Travel Policy available under “Policies” at <a href="http://www.dds.dc.gov">www.dds.dc.gov</a> , using the most economical means of transportation.	<b>Not to Exceed Cost</b> \$ _____		

**Estimated Total Base Year Price** \$ \_\_\_\_\_

**B.4.2 OPTION YEAR ONE**

<b>Contract Line Item No. (CLIN)</b>	<b>Item Description</b>	<b>Price Per Unit (hourly rate)</b>	<b>Estimated Quantity (hours)</b>	<b>Total Estimated Price</b>
<b>1001</b>	<b>DDS Clinicians and Therapists</b>			
<b>1001A</b>	Ph.D. Clinical Psychologist who holds certification as a Certified Behavior Analyst as described in Section C.3.1.2	\$ _____	<b>1840</b>	\$ _____
<b>1001B</b>	Physical Therapist as described in Section C.3.1.3	\$ _____	<b>1840</b>	\$ _____
<b>1001C</b>	Occupational Therapist as described in Section C.3.1.4	\$ _____	<b>1840</b>	\$ _____
<b>1001D</b>	Advanced Practice Registered Nurse or Family Nurse Practitioner as described in Section C.3.1.5	\$ _____	<b>1840</b>	\$ _____
<b>1001E</b>	Speech Language Pathologist as described in Section C.3.1.6	\$ _____	<b>1840</b>	\$ _____
<b>1001F</b>	Nutritionist as described in Section C.3.1.7	\$ _____	<b>1840</b>	\$ _____
<b>1002</b>	<b>Contract Deliverables as set forth in Section F.3.</b>	<b>Not Separately Priced</b>		
<b>1003</b>	Cost Reimbursement Ceiling for in and around travel needed to perform duties of this contract. Contractor shall comply with current DDS Travel Policy available under "Policies" at <a href="http://www.dds.dc.gov">www.dds.dc.gov</a> , using the most economical means of transportation.	<b>Not to Exceed Cost</b> \$ _____		

**Estimated Total Option Year One (1) Price \$ \_\_\_\_\_**

**B.4.3 OPTION YEAR TWO**

<b>Contract Line Item No. (CLIN)</b>	<b>Item Description</b>	<b>Price Per Unit (hourly rate)</b>	<b>Estimated Quantity (hours)</b>	<b>Total Estimated Price</b>
<b>2001</b>	<b>DDS Clinicians and Therapists</b>			
<b>2001A</b>	Ph.D. Clinical Psychologist who holds certification as a Certified Behavior Analyst as described in Section C.3.1.2	\$ _____	<b>1840</b>	\$ _____
<b>2001B</b>	Physical Therapist as described in Section C.3.1.3	\$ _____	<b>1840</b>	\$ _____
<b>2001C</b>	Occupational Therapist as described in Section C.3.1.4	\$ _____	<b>1840</b>	\$ _____
<b>2001D</b>	Advanced Practice Registered Nurse or Family Nurse Practitioner as described in Section C.3.1.5	\$ _____	<b>1840</b>	\$ _____
<b>2001E</b>	Speech Language Pathologist as described in Section C.3.1.6	\$ _____	<b>1840</b>	\$ _____
<b>2001F</b>	Nutritionist as described in Section C.3.1.7	\$ _____	<b>1840</b>	\$ _____
<b>2002</b>	<b>Contract Deliverables as set forth in Section F.3.</b>	<b>Not Separately Priced</b>		
<b>2003</b>	Cost Reimbursement Ceiling for in and around travel needed to perform duties of this contract. Contractor shall comply with current DDS Travel Policy available under "Policies" at <a href="http://www.dds.dc.gov">www.dds.dc.gov</a> , using the most economical means of transportation.	<b>Not to Exceed Cost</b> \$ _____		

**Estimated Total Option Year Two (2) Price \$ \_\_\_\_\_**

**B.4.4 OPTION YEAR THREE**

<b>Contract Line Item No. (CLIN)</b>	<b>Item Description</b>	<b>Price Per Unit (hourly rate)</b>	<b>Estimated Quantity (hours)</b>	<b>Total Estimated Price</b>
<b>3001</b>	<b>DDS Clinicians and Therapists</b>			
<b>3001A</b>	Ph.D. Clinical Psychologist who holds certification as a Certified Behavior Analyst as described in Section C.3.1.2	\$ _____	<b>1840</b>	\$ _____
<b>3001B</b>	Physical Therapist as described in Section C.3.1.3	\$ _____	<b>1840</b>	\$ _____
<b>3001C</b>	Occupational Therapist as described in Section C.3.1.4	\$ _____	<b>1840</b>	\$ _____
<b>3001D</b>	Advanced Practice Registered Nurse or Family Nurse Practitioner as described in Section C.3.1.5	\$ _____	<b>1840</b>	\$ _____
<b>3001E</b>	Speech Language Pathologist as described in Section C.3.1.6	\$ _____	<b>1840</b>	\$ _____
<b>3001F</b>	Nutritionist as described in Section C.3.1.7	\$ _____	<b>1840</b>	\$ _____
<b>3002</b>	<b>Contract Deliverables as set forth in Section F.3.</b>	<b>Not Separately Priced</b>		
<b>3003</b>	Cost Reimbursement Ceiling for in and around travel needed to perform duties of this contract. Contractor shall comply with current DDS Travel Policy available under "Policies" at <a href="http://www.dds.dc.gov">www.dds.dc.gov</a> , using the most economical means of transportation.	<b>Not to Exceed Cost</b> \$ _____		

**Estimated Total Option Year Three (3) Price \$ \_\_\_\_\_**

**B.4.5 OPTION YEAR FOUR**

<b>Contract Line Item No. (CLIN)</b>	<b>Item Description</b>	<b>Price Per Unit (hourly rate)</b>	<b>Estimated Quantity (hours)</b>	<b>Total Estimated Price</b>
<b>4001</b>	<b>DDS Clinicians and Therapists</b>			
<b>4001A</b>	Ph.D. Clinical Psychologist who holds certification as a Certified Behavior Analyst as described in Section C.3.1.2	\$_____	<b>1840</b>	\$_____
<b>4001B</b>	Physical Therapist as described in Section C.3.1.3	\$_____	<b>1840</b>	\$_____
<b>4001C</b>	Occupational Therapist as described in Section C.3.1.4	\$_____	<b>1840</b>	\$_____
<b>4001D</b>	Advanced Practice Registered Nurse or Family Nurse Practitioner as described in Section C.3.1.5	\$_____	<b>1840</b>	\$_____
<b>4001E</b>	Speech Language Pathologist as described in Section C.3.1.6	\$_____	<b>1840</b>	\$_____
<b>4001F</b>	Nutritionist as described in Section C.3.1.7	\$_____	<b>1840</b>	\$_____
<b>4002</b>	<b>Contract Deliverables as set forth in Section F.3.</b>	<b>Not Separately Priced</b>		
<b>4003</b>	Cost Reimbursement Ceiling for in and around travel needed to perform duties of this contract. Contractor shall comply with current DDS Travel Policy available under "Policies" at <a href="http://www.dds.dc.gov">www.dds.dc.gov</a> , using the most economical means of transportation.	<b>Not to Exceed Cost</b> \$_____		

**Estimated Total Option Year Four (4) Price** \$\_\_\_\_\_

**B.4.6** The attached Department of Labor Service Contract Act Wage Determination No. 2005-2104, Revision No. 14, dated June 13, 2012, is incorporated.

**B.4.7** An offeror responding to this solicitation must submit with its proposal, a notarized statement detailing any subcontracting plan required by law. Proposals responding to this RFP shall be deemed nonresponsive and shall be rejected if the offeror fails to submit a subcontracting plan that is required by law. For contracts in excess of \$250,000, at least 35% of the dollar volume of the contract shall be subcontracted in accordance with section H.13.1.

## **SECTION C: SPECIFICATIONS/WORK STATEMENT**

### **C.1 SCOPE:**

- C.1.1** The Department on Disability Services (DDS), Developmental Disabilities Administration (DDA) is seeking a contractor to provide clinicians to continue the agency's commitment to providing improved health care services and quality of life for individuals with intellectual and developmental disabilities in the District of Columbia (District). The Department on Disability Service is the public agency responsible for oversight and coordination of all services and support provided to qualified persons with intellectual and developmental disabilities in the District. DDS/DDA coordinates home and community services for more than 2,000 individuals with intellectual and developmental disabilities so each person can live and work in the neighborhood of his or her choosing through increased service coordination, clinical support, provider capacity and monitoring.
- C.1.2** The Contractor shall act as an agent of the District by carrying out all aspects of DDS health care services; provide on-going clinical quality assessment and oversight, intervention, technical assistance and training to DDS providers; and, consultation and participation in interdisciplinary treatment teams for the purpose of effective person-centered planning, and assisting in the successful transfers between and among providers, hospitals, long-term care and rehabilitation facilities. Any discrepancies or failure to perform the required responsibilities and functions related to providing quality health services or outcomes detailed in DDS/DDA policies and procedures or inconsistencies with District regulations shall be immediately reported to DDS/DDA, Contract Officer Technical Representative (COTR), Cathy R. Anderson, Deputy Director.
- C.1.3** The Contractor shall work directly with DDS/DDA to ensure discrepancies or other problems are corrected by the provider within specified timelines instituted by DDS/DDA or District regulations.
- C.1.4** The Contractor's professional staff (Clinicians) shall report directly to the contractor's designated Team Leader who will coordinate with the COTR the clinicians' daily assignments, clinical services and functions. The contractor's professional staff (Clinicians) will be housed at DDS, 1125 15<sup>th</sup> Street NW, Washington, DC 20005.
- C.1.5** The Contractor shall provide the following clinicians: Ph.D. Clinical Psychologist who holds certification as a Certified Behavior Analyst, Physical Therapist, Occupational Therapist, Advanced Practice Registered Nurse or Family Nurse Practitioner, Speech Language Pathologist and Nutritionist.

**C.1.1.1 APPLICABLE DOCUMENTS**

The following documents are applicable to this procurement and are hereby incorporated by this reference:

<b>Item No.</b>	<b>Document Type</b>	<b>Title</b>	<b>Date</b>
<b>1</b>	<b>Civil Action No: 1:76-CV-00293-ESH (Attachment J.1.2)</b>	<b>2010 Revision of 2001 Plan for Compliance and Conclusion of Evans v. Gray</b>	<b>July 2010</b>
<b>2</b>	<b>DDA Policy/Procedure (Attachment J.1.3)</b>	<b>DDA Health &amp; Wellness Standards</b>	<b>March 2013</b>

**C.1.1.2 DEFINITIONS**

- C.1.1** DC Health Resources Partnership (DC HRP) – the initiative charged with expanding physical and mental health services that are accessible to individuals with developmental disabilities and implementing strategies to promote quality health outcomes for this population.
- C.1.2** Clinicians – Ph.D. Clinical Psychologist who holds certification as a Certified Behavior Analyst, Physical Therapist, Occupational Therapist, Advanced Practice Registered Nurse or Family Nurse Practitioner, Speech Language Pathologist and Nutritionist.
- C.1.3** Clinical Assessment – the collection of data to determine an individual’s current health status and to evaluate present and past coping patterns.
- C.1.4** Plan of Care (POC) – a written plan that includes the Individual Service Plan (ISP), waiver services, State plan and/or local funding.
- C.1.5** Individual Service Plan (ISP) – a written plan that details the services provided by DDS and the community.
- C.1.6** Health Care Management Plan (HCMP) – a written plan that details the individual’s medical history and treatment for each medical diagnosis.
- C.1.7** Behavioral Support Plan (BSP) – a written plan for individuals prescribed psychotropic medication to decrease maladaptive behaviors.
- C.1.8** Health Risk Management Plan (HRMP) – a written plan that outlines preventative health care screenings for the individual throughout his/her life span.
- C.1.9** Service Coordinator – ensures and advocates that the services and supports identified in the ISP are provided to the client.

- C.1.10** Interdisciplinary Team – includes and may not be limited to: DDS Service Coordinator, DDS provider, guardian, family member, attorney, friends, clinicians’ and other medical professionals.
- C.1.11** ICF/IDD – Intermediate Care Facility for individuals with Intellectual and Developmental Disabilities. A Medicaid State Plan service regulated by the DC Health Regulatory and Licensing Administration.
- C.1.12** Watch List – An administrative designation by DDS or the Evans Court Monitor identifying specific residential program locations where significant concerns have been raised regarding quality of care and support, resulting in enhanced oversight enforcement by DDS.

## **C.2 BACKGROUND**

- C.2.1** The Department on Disability Services (DDS), Developmental Disabilities Administration (DDA) coordinates services for more than 2,000 individuals with intellectual and developmental disabilities in an effort to maximize the quality of life for the individuals and allow the individuals to succeed in the least restrictive environment. *The Evans v. Gray et al* case includes substantial requirements to ensure the health and welfare of all class members. Since 2005, Georgetown University, through its Center for Child and Human Development has led the DC Health Resources Partnership (DC HRP) and assists the District in complying with the civil action requirements.

The goal of the DC HRP is to expand the community health care capacity to provide accessible health and mental health services to individuals with intellectual and other developmental disabilities, and to implement strategies to promote quality health outcomes for this population. In 2008, the District entered into a Health Care Agreement with the U.S. Department of Justice to establish a Health Care Quality Enhancement Unit (Unit) dedicated to quality assurance and improvement in health care services for individuals supported by DDS in order to advance its efforts to meet the terms of the 2001 Plan for Compliance and Conclusion of this case.

Unfortunately, the District failed to meet the requirements in the 2001 Plan for Compliance and Conclusion and in 2010, the District entered into the 2010 Revision of 2001 Plan for Compliance and Conclusion of *Evans v. Gray*. The work described herein will augment services provided by the Unit and assist the Department on Disability Service in achieving the outcomes required in the 2010 Revision of 2001 Plan for Compliance and Conclusion of *Evans v. Gray*.

- C.2.2** The DC HRP is led by a Director with a Master’s Degree in Nursing with an unrestricted nursing license in the District of Columbia and 20 years of experience working with persons with intellectual and developmental disabilities. The DC HRP also includes a part-time Medical Director who is a physician with an unrestricted license to practice medicine in the District of Columbia.

### **C.3 REQUIREMENTS**

#### **C.3.1 Staffing Requirement**

- C.3.1.1** The Contractor shall provide one (1) full-time clinician in each of the following disciplines who have unrestricted licenses to work in the District of Columbia and Maryland and possess the required qualifications for the position: Ph.D. Clinical Psychologist who holds certification as a Certified Behavior Analyst, Physical Therapist, Occupational Therapist, Advanced Practice Registered Nurse or Family Nurse Practitioner, Speech Language Therapist and Nutritionist.
- C.3.1.2** The Ph.D. Clinical Psychologist shall hold certification as a Certified Behavior Analyst; have two (2) years of experience working with individuals who have intellectual and developmental disabilities and possess current clinical knowledge serving underserved populations who are culturally, linguistically and racially diverse with developmental and other disabilities.
- C.3.1.3** The Physical Therapist shall have two (2) years of experience working with individuals who have intellectual and developmental disabilities or other specialized graduate training and experience relevant to the unique needs of people with developmental disabilities and possess current clinical knowledge serving underserved populations who are culturally, linguistically and racially diverse with developmental and other disabilities.
- C.3.1.4** The Occupational Therapist shall have two (2) years of experience working with individuals who have intellectual and developmental disabilities or other specialized graduate training and experience relevant to the unique needs of people with developmental disabilities and possess current clinical knowledge serving underserved populations who are culturally, linguistically and racially diverse with developmental and other disabilities.
- C.3.1.5** The Advanced Practice Nurse or Family Nurse Practitioner or equivalent credential shall have two (2) years of experience working with individuals who have intellectual and developmental disabilities or other specialized graduate training and experience relevant to the unique needs of people with developmental disabilities and possess current clinical knowledge serving underserved populations who are culturally, linguistically and racially diverse with developmental and other disabilities.
- C.3.1.6** The Speech Language Pathologist shall have two (2) years of experience working with individuals who have intellectual and developmental disabilities or specialized graduate training and experience relevant to the unique needs of people with developmental disabilities and possess current clinical knowledge serving underserved populations who are culturally, linguistically and racially diverse with developmental and other disabilities.
- C.3.1.7** The Nutritionist shall have two (2) years of experience working with individuals who have intellectual and developmental disabilities or specialized graduate training and experience relevant to the unique needs of people with developmental disabilities and possess current

clinical knowledge serving underserved populations who are culturally, linguistically and racially diverse with developmental and other disabilities.

**C.3.2 Roles and Relationship of the Contractor to the DDS/DDA:**

- C.3.2.1** The Contractor shall provide resumes, licenses and any required certifications of all clinicians employed under the contract. The Contracting Officer's Technical Representative (COTR) will approve all staff to ensure compliance with the contract.
- C.3.2.2** The Contractor shall designate an on-site Team Leader (Lead Clinician) to coordinate with the COTR the clinicians' day-to-day assignments, clinical services and contract functions.
- C.3.2.3** The Contractor shall notify the COTR within 15 days of any planned or proposed changes of the Contractor's professional staff/Clinicians during the life of the contract.
- C.3.2.4** The Contractor shall provide the COTR a Project Plan within 15 days after award for implementation of the contract requirements.
- C.3.2.5** The COTR will hold a kick-off meeting with the Contractor within 45 days after award to ensure contract compliance based on the Contractor's Project Plan.
- C.3.2.6** The Contractor shall provide the COTR, DDS Deputy Director and his/her designee(s) monthly reports. The monthly report shall include the number of referrals received, who and where the referrals were from, name(s) of the provider agencies supporting the individual referred, where (place/location) the services were provided, when the services were provided; and any reviews, findings, analysis and recommendations for improvements related to the services provided or problems with the services provided.
- C.3.2.7** The Contractor shall provide the COTR certified payroll (bi-weekly/monthly) of clinicians billed to the contract. The Contractor and COTR will establish the actual date for receipt of the document.
- C.3.2.8** The Contractor and the COTR will establish a schedule for regular meetings regarding the contract requirements.
- C.3.2.9** The Contractor shall be responsible for the performance of all contract requirements to individuals serviced by DDS.
- C.3.2.10 Performance Requirements:**
- C.3.2.11** The Clinicians shall perform the functions as described in **C.3.2** and **C.3.3**.
- C.3.2.12** The Contractor/Team Leader shall report directly to the COTR for coordination of clinicians' day-to-day assignments, clinical services and functions for the performance of the contract.
- C.3.2.13** The Clinicians' shall attend DDS required training which includes and is not limited to DDS orientation, DC/DDS policies, procedures and regulations for District services provided to individuals with development disabilities in the District. Individual Rights and Protections,

Guardianship and specialized training regarding best practices in working with and for individuals with developmental disabilities in the District of Columbia.

- C.3.2.14** The Clinicians shall work directly with assigned DDS Service Coordinators on the coordination of health care services to DDS individuals to ensure timely authorizations are completed for Home and Community Based Services (HCBS) waiver recipients for therapy, dental and any other services as needed.
- C.3.2.15** The Clinicians' duties shall include and may not be limited to providing; individual evaluations, clinical assessment, intervention, recommendations, reports; and technical assistance and training to DDS/DDA staff, provider agencies and consultation with other health professionals serving DDS/DDA individuals.
- C.3.2.16** The Clinician shall provide the support required to meet the needs defined in the Individual Service Plan (ISP), Health Management Care Plan (HMCP), Behavior Support Plan (BSP) and any other assessment designed for the individual.
- C.3.2.17** The Clinicians shall meet with DDS/DDA staff weekly and/or as requested to review findings, analysis and recommendations for improvement related to services provided to DDS/DDA individuals.
- C.3.2.18** The Clinicians shall provide DDS/DDA timely and consistent information regarding health care services provided to DDS/DDA clients.
- C.3.2.19** The Clinicians shall actively participate in the determination/decision regarding the need for health care services for DDS/DDA clients.
- C.3.2.20** The Clinicians shall utilize the specific processes and forms prescribed by DDS/DDA to be utilized by the provider community.
- C.3.2.21** The Clinicians shall work with DDS/DDA to establish standardized formats for provider record keeping and communication with physicians and providers.
- C.3.2.22** The Clinicians shall participate in the delivery of DDS/DDA training opportunities to the provider community and DDS staff in health related topics such as pain management, health conditions, dual diagnosis, psychotropic medications, substance abuse, and other topics as determined by the District/Director, DDS.
- C.3.2.23** The Clinician (s) assigned to the Health Care Quality Enhancement Unit, at Georgetown University shall provide DDS/DDA information regarding the status of health care services, direct health and therapy interventions, and follow-up services provided to DDS clients immediately upon agency's request.
- C.3.2.24** The Nurse, for each Intermediate Care Facility/DDA program on the Watch List, shall meet with ICF/DDA Medical Director, the Provider's Supervising Nurse and a representative of DDS/DDA monthly to manage any necessary health care coordination needs and review any concerns.

**C.3.3 Contractor's Responsibility for People Supported by DDS/DDA:**

- C.3.3.1** The Clinicians shall work directly with the DDS/DDA residential and day services provider to complete the following, as requested:
- C.3.3.2** Evaluate the Health Care Management Plan and/or Health Risk Management Plan and other health information in the record for individuals supported by DDS/DDA within the first 60 days;
- C.3.3.3** Visit the individual in all support settings to evaluate, recommend or provide additional services required by the individual's Health Risk Management Plan (in the clinician's area of specialty) within the first 60 days;
- C.3.3.4** Assist DDS interdisciplinary team which includes the Service Coordinator to address any direct support and/or clinical support needs for the individual(s) to facilitate the interventions outlined in the Health Care Management Plan;
- C.3.3.5** Provide on-going clinical assessment, follow-up and intervention in collaboration with DDS staff (as needed) for individuals identified with high medical or behavioral health needs and/or risks each month, and of all individuals supported /assigned by the agency every three (3) months;
- C.3.3.6** Immediately report to DDS/DDA any clinically significant concerns identified in the course of the on-going oversight process;
- C.3.3.7** Meet with DDS/DDA staff, individual family members, guardians, attorneys, advocates or other natural support persons as needed to facilitate effective health care outcomes and/resolve outstanding issues; and
- C.3.3.8** Participate in individual risk assessments, utilizing tools identified or approved by DDA annually for assigned individuals.

**C.3.4 Contractor's Responsibility in working with the DDS/DDA Provider Community**

- C.3.4.1** Provide training and technical assistance to health care and direct support professionals in DDS/DDA provider agencies as directed by the needs of the individuals supported by the agency, and/or those findings, issues and concerns identified by DDS/DDA;
- C.3.4.2** Review health risk management practices and documentation as requested in specific clinical areas of specialty;
- C.3.4.3** Make recommendations to the Provider and DDS/DDA regarding recommended changes and improvements to the Provider operating protocols as indicated;
- C.3.4.4** The Contractor's Clinical staff shall be responsible for performing their duties as specified in this contract. The contractor shall be directly responsible to the District for performance of the contract and provide the clinical professionals.

**SECTION D: PACKAGING AND MARKING**

N/A

\*\*\*\*\*NOTHING FOLLOWS ON THIS PAGE\*\*\*\*\*

**SECTION E: INSPECTION AND ACCEPTANCE**

- E.1** The inspection and acceptance requirements shall be governed by Clause Number Six (6), Inspection of Services, of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March 2007.
- E.2** Inspection and acceptance shall be performed at destination by the Contracting Officer's Technical Representative.

\*\*\*\*\*NOTHING FOLLOWS ON THIS PAGE\*\*\*\*\*

**SECTION F: DELIVERIES OR PERFORMANCE**

**F.1 TERM OF CONTRACT**

The term of the contract shall be for the period from date of award through one year thereafter.

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

**F.2.1** The District may extend the term of this contract for a period of four (1) one-year option periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the District will give the Contractor a preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the contract.

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

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

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

**F.3 DELIVERABLES**

CLIN	Deliverable	Quantity	Format/Method of Delivery	Due Date	To Whom
0002	Staff/Clinician Resumes	1	Hard Copy & Electronic	Include w/RFP response	CO
0003	Certifications/ Licenses for Staff/ Clinicians'	1	Hard Copy & Electronic	Upon contract award	COTR
0004	Project Plan	1	Hard Copy & Electronic	15 days after award	COTR
0005	Contractor's Time Sheets /Certified Payroll for employees'	1	Hard Copy on Contractor's Form/Payroll Contractor Form	Based on Contractor's Scheduled pay period	COTR
0006	Activity Reports	1	Electronic Copy	Monthly; date determined by COTR	COTR

<b>CLIN</b>	<b>Deliverable</b>	<b>Quantity</b>	<b>Format/Method of Delivery</b>	<b>Due Date</b>	<b>To Whom</b>
0007	Clinical Assessments and reports	1	Hard Copy & Electronic	TBD	COTR

**F.3.1** The Contractor shall submit to the District, as a deliverable, the report as described in section H.5.5 of this contract that is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement. If the Contractor does not submit the report as part of the deliverables, final payment to the Contractor may not be paid.

## **SECTION G: CONTRACT ADMINISTRATION DATA**

### **G.1 INVOICE PAYMENT**

- G.1.1** The District will make payments to the Contractor, upon the submission of proper invoices, at the prices stipulated in this contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.
- G.1.2** The District will pay the Contractor on or before the 30<sup>th</sup> day after receiving a proper invoice from the Contractor.

### **G.2 INVOICE SUBMITTAL**

- G.2.1** The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in Section G.4. Invoices shall be prepared in duplicate and submitted to the agency Chief Financial Officer (CFO) with concurrent copies to the Contracting Officer's Technical Representative (COTR) specified in Section G.9 below. The address of the CFO is:

**Office of the Chief Financial Officer  
Department on Disability Services  
Attn: Accounts Payable  
P.O. Box 54047  
Washington, DC 20032**

- G.2.2** To constitute a proper invoice, the Contractor shall submit the following information on the invoice:
- G.2.2.1** Contractor's name, federal tax ID and invoice date (Contractors shall date invoices as of the date of mailing or transmittal);
- G.2.2.2** Contract number and invoice number;
- G.2.2.3** Description, price, quantity and the date(s) that the supplies or services were delivered or performed;
- G.2.2.4** Other supporting documentation or information, as required by the Contracting Officer;
- G.2.2.5** Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;
- G.2.2.6** Name, title, phone number of person preparing the invoice;
- G.2.2.7** Name, title, phone number and mailing address of person (if different from the person identified in G.2.2.6 above) to be notified in the event of a defective invoice; and
- G.2.2.8** Authorized signature.

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

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

**G.3.2** No final payment shall be made to the Contractor until the CFO has received the Contracting Officer's final determination or approval of waiver of the Contractor's compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement requirements.

### **G.4 PAYMENT/PARTIAL PAYMENTS**

Unless otherwise specified in this contract, payment will be made on partial deliveries of goods and services accepted by the District if:

- a) The amount due on the deliveries warrants it; or
- b) The Contractor requests it and the amount due on the deliveries are in accordance with the following:

"Payment will be made on completion and acceptance of each item in accordance with the agreed upon delivery schedule".

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

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

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

**G.5.3** Notwithstanding an assignment of contract payments, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

Pursuant to the instrument of assignment dated \_\_\_\_\_,  
make payment of this invoice to \_\_\_\_\_.  
(Name and address of assignee)

## **G.6 THE QUICK PAYMENT CLAUSE**

### **G.6.1 Interest Penalties to Contractors**

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

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

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

### **G.6.2 Payments to Subcontractors**

**G.6.2.1** The Contractor must take one of the following actions within 7 days of receipt of any amount paid to the Contractor by the District for work performed by any subcontractor under a contract:

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

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

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

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

**G.6.2.4** A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does

not constitute a dispute to which the District of Columbia is a party. The District of Columbia may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

## **G.7 CONTRACTING OFFICER (CO)**

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

Ms. Janice Parker Watson  
Chief Contracting Officer  
1125 – 15<sup>th</sup> Street NW, 4<sup>th</sup> Floor  
Washington, DC 20005  
Telephone Number: (202) 730-1716  
Facsimile Number: (202) 730-1514  
E-Mail: [Janice.Watson@dc.gov](mailto:Janice.Watson@dc.gov)

## **G.8 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER**

- G.8.1** The Contracting Officer is the only person authorized to approve changes in any of the requirements of this contract.
- G.8.2** The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the Contracting Officer.
- G.8.3** In the event the Contractor effects any change at the instruction or request of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

## **G.9 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)**

- G.9.1** The COTR is responsible for general administration of the contract and advising the Contracting Officer as to the Contractor's compliance or noncompliance with the contract. In addition, the COTR is responsible for the day-to-day monitoring and supervision of the contract, of ensuring that the work conforms to the requirements of this contract and such other responsibilities and authorities as may be specified in the contract. The COTR for this contract is:

Cathy R. Anderson  
Deputy Director  
DC Department on Disability Services  
Developmental Disabilities Administration  
1125 15th Street, NW 9th floor  
Washington, DC 20005  
(202) 730-1757 (phone)  
(202) 730-1844 (fax)  
[cathy.anderson@dc.gov](mailto:cathy.anderson@dc.gov)

**G.9.2** The COTR shall not have authority to make any changes in the specifications or scope of work or terms and conditions of the contract.

**G.9.3** The Contractor may be held fully responsible for any changes not authorized in advance, in writing, by the Contracting Officer; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

## **G.10 ORDERING CLAUSE**

**G.10.1** Any supplies and services to be furnished under this contract must be ordered by issuance of delivery orders or task orders by the Contracting Officer. Such orders may be issued during the term of this contract.

**G.10.2** All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of a conflict between a delivery order or task order and this contract, the contract shall control.

**G.10.3** If mailed, a delivery order or task order is considered "issued" when the District deposits the order in the mail. Orders may be issued by facsimile or by electronic commerce methods.

## **G.11 LIMITATION OF FUNDS**

**G.11.1** The parties estimate that performance of this contract will not cost the District more than the estimated cost specified in the Task Order(s). The Contractor agrees to use its best efforts to perform the work specified in the Task Order(s) and all obligations under this contract within the estimated cost.

**G.11.2** Task Orders issued by the Contracting Officer shall specify the amount presently available for payment by the District and encumbered under this contract, the items covered and the period of performance it is estimated the encumbered amount will cover. The parties contemplate that the District will encumber additional funds in subsequent fiscal year(s). The Contractor agrees to perform, or have performed, work on the contract up to the point at which the total amount paid and payable by the District under the contract approximates but does not exceed the total amount actually encumbered by the District under the contract.

**G.11.3** The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the total amount so far encumbered by the District. The notice shall state the estimated amount of additional funds required to continue performance for the period specified in the Task Order.

**G.11.4** Sixty days before the end of the period specified in the Task Order, the Contractor shall notify the Contracting Officer in writing of the estimated amount of additional funds, if any, required to continue timely performance under the contract or for any further period specified in the Task Order or otherwise agreed upon, and when the funds will be required.

**G.11.5** If, after notification, additional funds are not encumbered by the end of the period specified in the Task Order or another agreed-upon date, upon the Contractor's written request the

Contracting Officer will terminate this contract on that date in accordance with the provisions of the Termination clause of this contract. If the Contractor estimates that the funds available will allow it to continue to discharge its obligations beyond that date, it may specify a later date in its request, and the Contracting Officer may terminate this contract on that later date.

- G.11.6** Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause—
- G.11.7** The District is not obligated to reimburse the Contractor for costs incurred in excess of the total amount encumbered by the District under this contract; and
- G.11.8** The Contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of the amount then encumbered under the contract by the District until the Contracting Officer notifies the Contractor in writing that the amount encumbered by the District has been increased and specifies an increased amount, which shall then constitute the total amount encumbered by the District under this contract.
- G.11.9** The estimated cost shall be increased to the extent that the amount encumbered by the District exceeds the estimated cost specified in the Task Order.
- G.11.10** No notice, communication, or representation in any form other than that specified in paragraph (f)(2) of this clause, or from any person other than the Contracting Officer, shall affect the amount encumbered by the District to this contract. In the absence of the specified notice, the District is not obligated to reimburse the Contractor for any costs in excess of the total amount encumbered by the District to this contract, whether incurred during the course of the contract or as a result of termination.
- G.11.11** When and to the extent that the amount encumbered by the District to the contract is increased, any costs the Contractor incurs before the increase that are in excess of the amount previously encumbered by the District shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or other notice and directs that the increase is solely to cover termination or other specified expenses.
- G.11.12** Change orders shall not be considered an authorization to exceed the amount encumbered by the District specified in the Task Order, unless they contain a statement increasing the amount encumbered.
- G.11.13** Nothing in this clause shall affect the right of the District to terminate this contract. If this contract is terminated, the District and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.

## **SECTION H: SPECIAL CONTRACT REQUIREMENTS**

### **H.1 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES**

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

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

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

### **H.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS**

The Provider is bound by the U.S. Department of Labor Wage Determination No. 2005-2104, Revision No. 14, dated June 13, 2012 and subsequent revisions issued by the U.S. Department of Labor in accordance with the Service Contract Act of 1965, as amended (41 U.S.C. 351-58), and incorporated into this contract as an Attachment J.1.1. The applicable U.S. Department of Labor Wage Determination for the regions in which the contract services are provided shall bind contractors located in regions not bound by the above stated Wage Determination.

### **H.3 PUBLICITY**

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

### **H.4 FREEDOM OF INFORMATION ACT**

The District of Columbia Freedom of Information Act, at D.C. Official Code § 2-532 (a-3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the COTR designated in subsection G.9 who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the COTR will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the COTR within the timeframe designated by the COTR. The FOIA Officer for the agency with programmatic responsibility will determine the releasability of the records. The

District will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code §2-532 and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

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

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

**H.5.2** The Contractor shall enter into and maintain, during the term of the contract, a First Source Employment Agreement, (Section J.2.4) in which the Contractor shall agree that:

- (1) The first source for finding employees to fill all jobs created in order to perform this contract shall be the Department of Employment Services (“DOES”); and
- (2) The first source for finding employees to fill any vacancy occurring in all jobs covered by the First Source Employment Agreement shall be the First Source Register.

**H.5.3** The Contractor shall submit to DOES, no later than the 10<sup>th</sup> each month following execution of the contract, a First Source Agreement Contract Compliance Report (“contract compliance report”) verifying its compliance with the First Source Agreement for the preceding month. The contract compliance report for the contract shall include the:

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

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

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

- (1) Document in a report to the Contracting Officer its compliance with the section H.5.4 of this clause; or
- (2) Submit a request to the Contracting Officer for a waiver of compliance with section H.5.4 and include the following documentation:
  - (a) Material supporting a good faith effort to comply;

- (b) Referrals provided by DOES and other referral sources;
- (c) Advertisement of job openings listed with DOES and other referral sources; and
- (d) Any documentation supporting the waiver request pursuant to section H.5.6.

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

- (1) A good faith effort to comply is demonstrated by the Contractor;
- (2) The Contractor is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area which includes the District of Columbia; the Virginia Cities of Alexandria, Falls Church, Manassas, Manassas Park, Fairfax, and Fredericksburg, the Virginia Counties of Fairfax, Arlington, Prince William, Loudoun, Stafford, Clarke, Warren, Fauquier, Culpeper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.
- (3) The Contractor enters into a special workforce development training or placement arrangement with DOES; or
- (4) DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the positions created as a result of the contract.

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

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

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

## **H.6 PROTECTION OF PROPERTY:**

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

## **H.7 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)**

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

## **H.8 SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended.**

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

## **H.9 DISTRICT RESPONSIBILITIES**

- H.9.1** District is the contracting agent with the Contractor in this solicitation.
- H.9.2** The District will meet with the Contactor/Clinicians weekly or more often as needed, to review findings, analysis and recommendations for improvement of DDS/DDA services.
- H.9.3** The District will prescribe specific processes and forms to be utilized by the DDS/DDA provider community.
- H.9.4** The District shall provide office space, land line phones, computers, and general office supplies. Any further agreement will be subject to negotiations and contract modification.

## **H.10 CONTRACTOR RESPONSIBILITIES**

- H.10.1** The Contractor shall verify credentials and qualifications of all staff recommended for this contract and provide copies of all resumes, required licenses and certifications upon contract award.
- H.10.2** The Contractor shall, at no additional cost to the District, allow unlimited use of educational and training CDs as described in its proposal for dissemination to community providers and agencies serving persons with intellectual and developmental disabilities.
- H.10.3** The Contractor shall, at no additional cost to the District, authorize DDS to adapt its “Health Profile Summary” methodology for individuals with medical risk in the community as needed.

## **H.11 HIPAA PRIVACY COMPLIANCE**

### **H.11.1 Definitions**

- H.11.1.1.** *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.

- H.11.1.2.** *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.
- H.11.1.3.** *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.
- H.11.1.4.** *Designated Record Set* means a group of records maintained by or for the Covered Entity that is:
- H.11.1.4.1.** In whole or in part, by or for the Covered Entity to make decisions about individuals.
  - H.11.1.4.2.** The medical records and billing records about individuals maintained by or for a covered health care provider;
  - H.11.1.4.3.** The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
- H.11.1.5.** Used *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:
- H.11.1. 5.1.** 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
  - H.11.1. 5.2.** Sale or dispensing of a drug, device, equipment, or other item in accordance with the prescription.
- H.11.1.6.** *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.
- H.11.1.7.** *Health Care Operations* shall have the same meaning as the term “health care operations” in 45 C.F.R. § 164.501.
- H.11.1.8.** *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.

- H.11.1.9.** *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.
- H.11.1.10.** *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).
- H.11.1.11.** *Individually Identifiable Health Information* is information that is a subset of health information, including demographic information collected from an individual, and;
- H.11.1.11.1.** Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
- H.11.1.11.2.** 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
- H.11.1.11.3.** That identifies the individual; or
- H.11.1.11.4.** With respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- H.11.1.12.** *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.
- H.11.1.13.** *Privacy Officer.* The person designated by the Privacy Official or one of the District of Columbia's designated health care components, which 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.
- H.11.1.14.** *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.
- H.11.1.15.** *Protected Health Information.* "Protected Health Information" means individually identifiable health information that is: Transmitted by electronic media;
- H.11.1. 5.3.** Maintained in electronic media; or
- H.11.1. 5.4.** Transmitted or maintained in any other form or medium;
- H.11.1. 5.5.** Limited to the information created or received by the Business Associate from or on behalf of the Covered Entity; and

- H.11.1.5.6.** Excluding information in the records listed in subsection (2) of the definition in 45 C.F.R. §160.103.
- H.11.1.16.** ***Required By Law.*** "Required By Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
- H.11.1.17.** ***Secretary.*** "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- H.11.1.18.** ***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.

## **H.11.2 Obligations and Activities of Business Associate**

- H.11.2.1.** 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.
- H.11.2.2.** 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.
- H.11.2.3.** 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.
- H.11.2.4.** 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.
- H.11.2.5.** 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.
- H.11.2.6.** 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** 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 *Department on Disability Services 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.

- H.11.2.7.** 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 *Department on Disability Services 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.11.2.8.** 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 *Department on Disability Services Identity and Procedure Verification Policy*, attached hereto as Exhibit C and incorporated by reference.
- H.11.2.9.** 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 *Department on Disability Services Logging Disclosures for Accounting Policy* attached hereto as Exhibit D and incorporated by reference.
- H.11.2.10.** 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** 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 *Department on Disability Services Disclosure Accounting Policy* attached hereto as Exhibit E and incorporated by reference.
- H.11.2.11.** 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** 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.

**H.11.2.12.** 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.

**H.11.2.13.** 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.

**H.11.3 Permitted Uses and Disclosures by the Business Associate**

**H.11.3.1.** 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.

**H.11.3.2.** 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.

**H.11.3.3.** 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.

**H.11.3.4.** 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).

**H.11.3.5.** 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).

#### **H.11.4 Additional Obligations of the Business Associate**

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:

- H.11.4.1.** Name of the Business Associate of the Covered Entity;
- H.11.4.2.** Title of the Report/File;
- H.11.4.3.** Confirmation that the Report/File contains Protected Health Information (Yes or No);
- H.11.4.4.** Description of the basic content of the Report/File;
- H.11.4.5.** Format of the Report/File (Electronic or Paper);
- H.11.4.6.** Physical location of Report/File;
- H.11.4.7.** 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
- H.11.4.8.** Supporting documents if the recipient/personal representative has access to the Report/File.

#### **H.11.5. 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 Officer or the agency Privacy Officer of the imposition of sanctions.

#### **H.11.6. Obligations of the Covered Entity**

- H.11.6.1.** 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.

- H.11.6.2.** 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.
- H.11.6.3.** 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.
- H.11.7.** **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.
- H.11.8.** **Representations and Warranties**
- The Business Associate represents and warrants to the Covered Entity:
- H.11.8.1.** 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;
- H.11.8.2.** 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 contractor by the federal government or District of Columbia;
- H.11.8.3.** 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;
- H.11.8.4.** 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;

**H.11.8.5.** 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;

**H.11.8.6.** That it will reasonably cooperate with the Covered Entity in the performance of the mutual obligations under this Agreement 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 as 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.

**H.11.9. Term and Termination**

**H.11.9.1.** *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.

**H.11.9.2.** *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:

**H.11.9.2.1.** Provide an opportunity for the Business Associate to cure the breach or end the violation and terminate the Contract if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity;

**H.11.9.2.2.** Immediately terminate the Contract if the Business Associate breaches a material term of this HIPAA Compliance Clause and a cure is not possible; or

**H.11.9.2.3.** If neither termination nor cure is feasible, the Covered Entity shall report the violation to the Secretary.

**H.11.9.3.** *Effect of Termination.*

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** 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.

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.

**H.11.10** **Miscellaneous**

**F.10.10.1.** *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.

**H.11.10.1.** *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.

**H.11.10.2.** *Survival.* The respective rights and obligations of the Business Associate under Section 9. Term and Termination of this HIPAA Compliance Clause and Sections 9 and 20 of the

Standard Contract Provisions for use with the District of Columbia Government Supply and Services Contracts, effective April 2003, shall survive termination of the Contract.

- H.11.10.3.** *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.
- H.11.10.4.** 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.
- H.11.10.5.** *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.
- H.11.10.6.** *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.
- H.11.10.7.** *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.11.10.8.** *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.
- H.11.10.9.** *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.
- H.11.10.10.** *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.
- H.11.10.11.** *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.
- H.11.10.12.** *Headings.* Headings are for convenience only and form no part of this HIPAA Compliance Clause and shall not affect its interpretation.
- H.11.10.13.** *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.
- H.11.10.14.** *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.

- H.11.10.15.** *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.
- H.11.10.16.** *Independent Contractor.* The Business Associate will function as an independent contractor 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.
- H.11.10.17.** *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

## **H.12 WAY TO WORK AMENDMENT ACT OF 2006**

- H.12.1** Except as described in F.12.8 below, the Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“Living Wage Act of 2006”), for contracts for services in the amount of \$100,000 or more in a 12-month period.
- H.12.2** The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the current living wage published on the OCP website at [www.ocp.dc.gov](http://www.ocp.dc.gov).
- H.12.3** The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate.
- H.12.4** 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](http://www.ocp.dc.gov).
- H.12.5** The Contractor shall provide a copy of the Fact Sheet available at [www.dds.dc.gov](http://www.dds.dc.gov) to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice also available at [www.dds.dc.gov](http://www.dds.dc.gov) in a conspicuous place in its place of

business. The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.

**H.12.6** The Contractor shall maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the contract.

**H.12.7** The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*

**H.12.8** 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 Department of Health Care Finance to provide health services.

**H.12.9** The Mayor may exempt a contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

## **H.13 SUBCONTRACTING REQUIREMENTS**

### **H.13.1 Mandatory Subcontracting Requirements**

**H.13.1.1** For contracts in excess of \$250,000, at least 35% of the dollar volume shall be subcontracted to certified small business enterprises; provided, however, that the costs of materials, goods, and supplies shall not be counted towards the 35% subcontracting requirement unless such materials, goods and supplies are purchased from certified small business enterprises.

**H.13.1.2** If there are insufficient qualified small business enterprises to completely fulfill the requirement of paragraph H.9.1.1, then the subcontracting may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, however, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

**H.13.1.3** A prime contractor which is certified as a small, local or disadvantaged business enterprise shall not be required to comply with the provisions of sections H.9.1.1 and H.9.1.2.

### **H.13.2 Subcontracting Plan**

If the prime contractor is required by law to subcontract under this contract, it must subcontract at least 35% of the dollar volume of this contract in accordance with the provisions of section H.9.1. The prime contractor responding to this solicitation which is required to subcontract shall be required to submit with its proposal, a notarized statement detailing its subcontracting plan. Proposals responding to this RFP shall be deemed nonresponsive and shall be rejected if the offeror is required to subcontract, but fails to submit a subcontracting plan with its proposal. Once the plan is approved by the CO, changes to the plan will only occur with the prior written approval of the CO and the Director of DSLBD. Each subcontracting plan shall include the following:

**H.13.2.1** A description of the goods and services to be provided by SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;

**H.13.2.2** A statement of the dollar value of the bid that pertains to the subcontracts to be performed by the SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;

**H.13.2.3** The names and addresses of all proposed subcontractors who are SBEs or, if insufficient SBEs are available, who are certified business enterprises;

**H.13.2.4** The name of the individual employed by the prime contractor who will administer the subcontracting plan, and a description of the duties of the individual;

**H.13.2.5** A description of the efforts the prime contractor will make to ensure that SBEs, or, if insufficient SBEs are available, that certified business enterprises will have an equitable opportunity to compete for subcontracts;

- H.13.2.6** In all subcontracts that offer further subcontracting opportunities, assurances that the prime contractor will include a statement, approved by the contracting officer, that the subcontractor will adopt a subcontracting plan similar to the subcontracting plan required by the contract;
- H.13.2.7** Assurances that the prime contractor will cooperate in any studies or surveys that may be required by the contracting officer, and submit periodic reports, as requested by the contracting officer, to allow the District to determine the extent of compliance by the prime contractor with the subcontracting plan;
- H.13.2.8** A list of the type of records the prime contractor will maintain to demonstrate procedures adopted to comply with the requirements set forth in the subcontracting plan, and assurances that the prime contractor will make such records available for review upon the District's request; and
- H.13.2.9** A description of the prime contractor's recent effort to locate SBEs or, if insufficient SBEs are available, certified business enterprises, and to award subcontracts to them.
- H.13.3** Subcontracting Plan Compliance Reporting. If the Contractor has an approved subcontracting plan required by law under this contract, the Contractor shall submit to the CO and the Director of DSLBD, no later than the 21st of each month following execution of the contract, a Subcontracting Plan Compliance Report to verify its compliance with the subcontracting requirements for the preceding month. The monthly subcontracting plan compliance report shall include the following information:
- H.13.3.1** The dollar amount of the contract or procurement;
- H.13.3.2** A brief description of the goods procured or the services contracted for;
- H.13.3.3** The name of the business enterprise from which the goods were procured or services contracted;
- H.13.3.4** Whether the subcontractors to the contract are currently certified business enterprises;
- H.13.3.5** The dollar percentage of the contract awarded to SBEs, or if insufficient SBEs, to other certified business enterprises;
- H.13.3.6** A description of the activities the Contractor engaged in, in order to achieve the subcontracting requirements set forth in its plan; and
- H.13.3.7** A description of any changes to the activities the Contractor intends to make by the next month to achieve the requirements set forth in its plan.
- H.13.4** **Subcontractor Standards**
- H.13.4.1** A prime contractor shall ensure that subcontractors meet the criteria for responsibility described in D.C. Official Code § 2-353.01.

### **H.13.5 Enforcement and Penalties for Breach of Subcontracting Plan**

- H.13.5.1** If during the performance of this contract, the Contractor fails to comply with its approved subcontracting plan, and the CO determines the Contractor's failure to be a material breach of the contract, the CO shall have cause to terminate the contract under the default clause of the Standard Contract Provisions.
- H.13.5.2** There shall be a rebuttable presumption that a contractor willfully breached its approved subcontracting plan if the contractor (i) fails to submit any required monitoring or compliance report; or (ii) submits a monitoring or compliance report with the intent to defraud.
- H.13.5.3** A contractor that is found to have willfully breached its approved subcontracting plan for utilization of certified business enterprises in the performance of a contract shall be subject to the imposition of penalties, including monetary fines of \$15,000 or 5% of the total amount of the work that the contractor was to subcontract to certified business enterprises, whichever is greater, for each such breach.

### **H.14 DISTRICT FURNISHED PROPERTY**

- H.14.1** If Government-furnished property is provided to the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt of it, notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either repair, modify, return, or otherwise dispose of the property.
- H.14.2** The Government shall retain title to all Government-furnished property.
- H.14.3** The Government property shall be used only for performing this contract, unless otherwise provided in this contract or approved by the Contracting Officer.
- H.14.4** The Contractor shall be responsible and accountable for all Government property provided under this contract and shall comply with Title 27, District of Columbia Municipal Regulations (DCMR) Chapter 41, Section 4106, in effect on the date of this contract.
- H.14.5** The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government-furnished property in accordance with sound industrial practice and the applicable provisions of Title 27, District of Columbia Municipal Regulations (DCMR) Chapter 41, Section 4107.
- H.14.6** If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government will replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot affect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer.
- H.14.7** The Contractor represents that the contract price does not include any amount for repairs or replacement for which the Government is responsible. Repair or replacement of property for which the Contractor is responsible shall be accomplished by the Contractor at its own expense.

- H.14.8** The Government and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.
- H.14.9** Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, Government property upon its delivery to the Contractor. However, the Contractor is not responsible for reasonable wear and tear to Government property or for Government property properly consumed in performing this contract.
- H.14.10** The Contractor shall obtain the COTR's approval to remove Government property from the premises at which the property is currently located. If approval is granted, any costs incurred by the Contractor to transport or store the property shall not increase the price or fee of any Government contract. The storage facility shall be appropriate for assuring the property's physical safety and suitability for use. Approval does not relieve the Contractor of any liability under this contract for such property.
- H.14.11** The Contractor shall require its sub-contractors provided with government furnished property under this contract to comply with the requirements of Title 12, District of Columbia Municipal Regulations, Chapter 41, Section 4106 and 4107.

**H.15 ORGANIZATIONAL CONFLICT OF INTEREST**

- H.15.1** Definition. An organizational conflict of interest means that because of other activities or relationships with other entities, an entity is unable or potentially unable to render impartial assistance or advice to the District, or its objectivity in performing the contract work is or might be otherwise impaired, or an entity has an unfair competitive advantage. It does not include the normal flow of benefits from incumbency.
- H.15.2** The Contracting Officer has determined that significant potential organizational conflicts of interest may arise or exist due to the nature of the work the Contractor will perform under this contract. The Contractor shall be ineligible to act as a prime contractor, consultant, or subcontractor to supply services for any project where the Contractor has provided or is providing support as described in 27 DCMR 2220.1.
- H.15.3** The Contracting Officer may make a determination to allow a Contractor to participate in an acquisition subject to the submission of an acceptable mitigation plan in accordance with paragraphs (1) and (2) below. This determination may not be appealed.
- (1) The District's determinations regarding the adequacy of the mitigation plan or the possibility of mitigation are unilateral decisions made solely at the discretion of the District and are not subject to the Disputes clause of the contract. The District may terminate the contract for default if the Contractor fails to implement and follow the procedures contained in any approved mitigation plan.
  - (2) Any mitigation plan shall include: non-disclosure agreements to be executed by the Contractor and the Contractor's employees supporting the District, identification of the organizational conflict(s) of interest; reporting and tracking system; an organizational

conflict of interest compliance/enforcement plan, to include employee training and sanctions, in the event of unauthorized disclosure of sensitive information; a plan for organizational segregation (e.g., separate reporting chains); and data security measures.

- H.15.4** This clause shall remain in effect for one year after completion of this contract.
- H.15.5** The Contractor's employees shall be trained and informed of 27 DCMR Chapter 22, Section 2220 and this contract provision, and shall execute a Contractor-Employee Personal Financial Interest/Protection of Sensitive Information Agreement as appropriate.
- H.15.6** The Contractor agrees that it will use all reasonable diligence in protecting proprietary data received by it. The Contractor further agrees it will not willfully disclose proprietary data to unauthorized parties without the prior permission of the District, and that proprietary data shall not be duplicated, used or disclosed, in whole or part, for any purpose other than to accomplish the contracted effort. This restriction does not limit the contractors right to use, duplicate or disclose such information if such information was lawfully obtained by the contractor from other sources.
- H.15.7** The Contractor agrees to enter into written agreements with all companies whose proprietary data it shall have access and to protect such data from unauthorized use or disclosure as long as it remains proprietary. The Contractor shall furnish to the Contracting Officer copies of these written agreements. The Contractor agrees to protect the proprietary data and rights of other organizations disclosed to the Contractor during performance of this contract with the same caution that a reasonably prudent Contractor would use to safeguard highly valuable property. The Contractor agrees to refrain from using proprietary information for any purpose other than that for which it was furnished.
- H.15.8** The Contractor shall not distribute reports, data or information of any nature arising from its performance under this contract, except as provided by this contract or as may be directed by the Contracting Officer.
- H.15.9** District Representatives shall have access to the Contractors premises and the right to inspect all pertinent books and records in order to insure that the contractor is in compliance with 27 DCMR Section 2220.
- H.15.10** The Contractor agrees that if after award it discovers a potential organizational conflict of interest, a prompt and full disclosure shall be made in writing to the Contracting Officer. This disclosure shall include a description of the actions the Contractor has taken or proposes to take, to avoid or mitigate such conflicts.
- H.15.11** The District may waive application of this clause when it is determined to be in the best interest of the District to do so.

## **PART II: CONTRACT CLAUSES**

### **SECTION I: CONTRACT CLAUSES**

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

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” incorporated by reference into this Contract, and shall govern the relationship of the parties as contained in this Contract. By signing this Contract, the Contractor agrees and acknowledges its obligation to be bound by the Standard Contract Provisions, and its requirements.

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

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

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

All information obtained by the Contractor relating to any employee or customer of the District will be kept in absolute confidence and shall not be used by the Contractor in connection with any other matters, nor shall any such information be disclosed to any other person, firm, or corporation, in accordance with the District and Federal laws governing the confidentiality of records.

#### **I.4 TIME**

Time, if stated in a number of days, will include Saturdays, Sundays, and holidays, unless otherwise stated herein.

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

- I.5.1** “Data,” as used herein, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.
- I.5.2** The term “Technical Data”, as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation. Technical data does not include computer software or

financial, administrative, cost and pricing, and management data or other information incidental to contract administration.

- I.5.3** The term “Computer Software”, as used herein means computer programs and computer databases. “Computer Programs”, as used herein means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. "Computer Programs" include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort merge programs, and automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.
- I.5.4** The term "computer databases", as used herein, means a collection of data in a form capable of being processed and operated on by a computer.
- I.5.5** All data first produced in the performance of this Contract shall be the sole property of the District. The Contractor hereby acknowledges that all data, including, without limitation, computer program codes, produced by Contractor for the District under this Contract, are works made for hire and are the sole property of the District; but, to the extent any such data may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the District the ownership of copyright in such works, whether published or unpublished. The Contractor agrees to give the District all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights in common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District may have released such data to the public.
- I.5.6** The District will have restricted rights in data, including computer software and all accompanying documentation, manuals and instructional materials, listed or as described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:
- I.5.6.1** Use the computer software and all accompanying documentation and manuals or instructional materials with the computer for which or with which it was acquired, including use at any District installation to which the computer may be transferred by the District;
- I.5.6.2** Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;
- I.5.6.3** Copy computer programs for safekeeping (archives) or backup purposes; and modify the computer software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provision that the modified portions shall remain subject to these restrictions.

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

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

**RESTRICTED RIGHTS LEGEND**

**Use, duplication, or disclosure is subject to restrictions stated in  
Contract No. \_\_\_\_\_**

and,

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

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

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

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

- I.5.11** The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this contract, or (ii) based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.
- I.5.12** Nothing contained in this clause shall imply a license to the District under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.
- I.5.13** Paragraphs I.5.6, I.5.7, I.5.8, I.5.11 and I.5.12 above are not applicable to material furnished to the Contractor by the District and incorporated in the work furnished under contract, provided that such incorporated material is identified by the Contractor at the time of delivery of such work

## **I.6 OTHER CONTRACTORS**

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

## **I.7 SUBCONTRACTS**

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior written consent of the Contracting Officer. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District will have the right to review and approve prior to its execution by the Contractor. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder.

## I.8 INSURANCE

A. **GENERAL REQUIREMENTS.** The Contractor shall acquire and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A-VIII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein. The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event the stated limit in the declarations page of the policy is reduced via endorsement or the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium.

1. **Commercial General Liability Insurance.** The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate; Bodily Injury and Property Damage including, but not limited to: premises-operations; broad form property damage; Products and Completed Operations; Personal and Advertising Injury; contractual liability and independent contractors. The policy coverage shall include the District of Columbia as an additional insured, shall be primary and non-contributory with any other insurance maintained by the District of Columbia, and shall contain a waiver of subrogation. The Contractor shall maintain Completed Operations coverage for five (5) years following final acceptance of the work performed under this contract.
2. **Automobile Liability Insurance.** The Contractor shall provide automobile liability insurance to cover all owned, hired or non-owned motor vehicles used in conjunction with the performance of this contract. The policy shall provide a \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
3. **Workers' Compensation Insurance.** The Contractor shall provide Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.

**Employer's Liability Insurance.** The Contractor shall provide employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.

4. **Umbrella or Excess Liability Insurance.** The Contractor shall provide umbrella or excess liability (which is excess over employer's liability, general liability, and automobile liability) insurance as follows: \$2,000,000 per occurrence, including the District of Columbia as additional insured.

5. **Professional Liability Insurance (Errors & Omissions).** The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The policy shall provide limits of \$1,000,000 per occurrence for each wrongful act and \$1,000,000 annual aggregate.

The Contractor shall maintain this insurance for five (5) years following the District's final acceptance of the work performed under this contract.

6. **Crime Insurance (3<sup>rd</sup> Party Indemnity).** The Contractor shall provide a 3<sup>rd</sup> Party Crime policy to cover the dishonest acts of Contractor's employees that result in a loss to the District. The policy shall provide a limit of \$50,000 per occurrence. This coverage shall be endorsed to name the District of Columbia as joint-loss payee, as their interests may appear.
7. **Sexual/Physical Abuse & Molestation.** The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate. The policy coverage shall include the District of Columbia as an additional insured. This insurance requirement will be considered met if the general liability insurance includes sexual abuse and molestation coverage for the required amounts.
8. **Employment Practices Liability.** The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to the operations performed to cover the defense of employment related claims that the District of Columbia would be named as a co-defendant in claims arising from: Discrimination, Sexual Harassment, Wrongful Termination, or Workplace Torts. Policy shall include the Client Company Endorsement for Temporary Help Firms and the Independent Contractors Endorsement. The policy shall provide limits of \$1,000,000 for each wrongful act and \$1,000,000 annual aggregate for each wrongful act. The Contractor shall maintain this insurance for five (5) years following the District's final acceptance of the work performed under this contract.

B. **DURATION.** The Contractor shall carry all required insurance until all contract work is accepted by the District, and shall carry the required General Liability; any required Professional Liability; and any required Employment Practices Liability insurance for five (5) years following final acceptance of the work performed under this contract.

C. **LIABILITY.** These are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE CONTRACTOR'S LIABILITY UNDER THIS CONTRACT.**

D. **CONTRACTOR'S PROPERTY.** Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.

- E. **MEASURE OF PAYMENT.** The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.
- F. **NOTIFICATION.** The Contractor shall immediately provide the CO with written notice in the event that its insurance coverage has or will be substantially changed, canceled or not renewed, and provide an updated certificate of insurance to the CO.
- G. **CERTIFICATES OF INSURANCE.** The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Evidence of insurance shall be submitted to:

Janice Parker Watson  
Department on Disability Services  
Office of Contracts and Procurement  
1125 15<sup>th</sup> St, NW, 4<sup>th</sup> Floor  
Washington, DC 20005  
(202) 730-1716  
E-mail janice.watson@dc.gov

- H. **DISCLOSURE OF INFORMATION.** The Contractor agrees that the District may disclose the name and contact information of its insurers to any third party which presents a claim against the District for any damages or claims resulting from or arising out of work performed by the Contractor, its agents, employees, servants or subcontractors in the performance of this contract.

## **I.9 EQUAL EMPLOYMENT OPPORTUNITY**

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

## **I.10 ORDER OF PRECEDENCE**

A conflict in language shall be resolved by giving precedence to the document in the highest order of priority that contains language addressing the issue in question. The following documents are incorporated into the contract by reference and made a part of the contract in the following order of precedence:

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

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

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

**I.12 GOVERNING LAW**

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

### PART III

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

#### **SECTION J: LIST OF ATTACHMENTS**

##### **J.1 ATTACHMENTS**

**J.1.1** Wage Determination No. 2005-2103, Revision No.12 dated June 13, 2012

**J.1.2** Case 1:76-CV-00293, ESH 2010 Revision of 2001 Plan for Compliance and Conclusion of Evans v. Gray, July 2010.

**J.1.3** DDA Policy/Procedure, DDA Health and Wellness Standards, March 2013

**J.2** **INCORPORATED ATTACHMENTS** (The following forms, located at [www.ocp.dc.gov](http://www.ocp.dc.gov) shall be completed and incorporated with the offer.)

**J.2.1** [Bidder/Offeror Certifications \(XLS\)](#)

**J.2.2** [Subcontracting Plan Form \(DOC\)](#)

**J.2.3** E.O. Information and Mayor's Order 85-85

**J.2.4** Tax Certification Affidavit

**J.2.5** First Source Employment Agreement

**J.2.6** Cost/Price Data Package

*The documents below are located on the OCP website under Vendor Support Center, Solicitation Attachments.*

**J.3** Certified Business Enterprise Certification Package  
(If applicable, see [www.dslbd.dc.gov/http://dslbd.dc.gov/service/certify-your-business](http://www.dslbd.dc.gov/http://dslbd.dc.gov/service/certify-your-business))

**J.4** Standard Contract Provisions for Use with District of Columbia Supplies and Services Contracts, dated March 2007 )

**J.5.** [2010 Living Wage Act Fact Sheet \(PDF\)](#)

**J.6.** [2010 Living Wage Notice \(PDF\)](#)

**PART IV - REPRESENTATIONS AND INSTRUCTIONS**

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

Provider shall complete and submit with proposal the  
Bidder/Offeror Certification Form  
found at [www.ocp.dc.gov](http://www.ocp.dc.gov) under Vendor Support Center,  
Click on “Solicitation Attachments”.

## **SECTION L: INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS**

### **L.1 CONTRACT AWARD**

#### **L.1.1 Most Advantageous to the District**

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

#### **L.1.2 Initial Offers**

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

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

**L.2.1** One original and *three (3)* copies of the written proposals shall be submitted in two parts, titled "Technical Proposal" and "Price Proposal." Proposals shall be typewritten in 12-point font size on 8.5" by 11" bond paper. Telephonic, telegraphic, and facsimile proposals will not be accepted. Each proposal shall be submitted in a sealed envelope conspicuously marked: "Proposal in Response to *Solicitation No. DCJM-2013-R-0017, DDS Clinicians/Therapists*"

**L.2.2** Offerors are directed to the specific proposal evaluation criteria found in Section M of this solicitation, **Evaluation Factors**. The Offeror shall respond to each factor in a way that will allow the District to evaluate the Offeror's response. The Offeror shall submit information in a clear, concise, factual and logical manner providing a comprehensive description of program services and delivery thereof. The information requested below for the technical proposal shall facilitate evaluation and best value source selection for all proposals. The technical proposal must contain sufficient detail to provide a clear and concise representation of the requirements in Section C and as described below:

#### **L.2.2.1 Technical Expertise**

The Offeror must submit evidence of its understanding of the requirements, experience in providing long-term health care professionals to public and private organizations and in-depth knowledge in providing health care to individuals with intellectual and developmental disabilities. The Offeror shall describe its organizational infrastructure and staffing to implement the RFP requirements. The Offeror shall provide resumes in each area that demonstrate the applicable background, education, experience, licenses, certifications and special qualifications of personnel designated to work on the contract. The resumes should also include the availability date for hire.

### **L.2.2.2 Management Approach**

The Offeror shall submit evidence of its understanding of the statement of work, and demonstrate that it can sustain the staffing levels in each of the required clinical areas. The Offeror must present a management plan to successfully accomplish the requirements of the contract. The plan must describe how the Lead Clinician will operate to coordinate and manage activities and ensure total accountability for successful performance of all tasks and deliverables.

### **L.2.2.3 Past Performance**

The Offeror shall provide evidence that it has provided health care professionals on a long-term basis to the District, other Government and/or state agency, private or public health care facilities or other agencies that required similar staffing within the past five years. The health care professionals provided should be the same or similar in education, qualifications and skills. The Offeror shall provide contact information for at least three references for which it has provided services in the past five years so that DDS may obtain past performance evaluations.

## **L.3 PRICE PROPOSAL**

The price proposal shall be submitted as set forth in Section B.3. Cost and pricing data are required to support all costs. The successful offeror may be required to submit a certificate of current cost or pricing data.

## **L.4 PROPOSAL SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, WITHDRAWAL OR MODIFICATION OF PROPOSALS AND LATE PROPOSALS**

### **L.4.1 Proposal Submission**

Proposals must be submitted no later *than 2:00 pm, May 31, 2013*. Proposals, modifications to proposals, or requests for withdrawals that are received in the designated District office after the exact local time specified above, are "late" and shall be considered only if they are received before the award is made and one (1) or more of the following circumstances apply:

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

#### **L.4.2 Withdrawal or Modification of Proposals**

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

#### **L.4.3 Postmarks**

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

#### **L.4.4 Late Modifications**

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

#### **L.4.5 Late Proposals**

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

### **L.5 EXPLANATION TO PROSPECTIVE OFFERORS**

If a prospective offeror has any questions relative to this solicitation, the prospective offeror shall submit the question in writing to the contact person, identified on page one. The prospective offeror shall submit questions no later than *five (5)* days prior to the closing date and time indicated for this solicitation. The District will not consider any questions received less than *five (5)* days before the date set for submission of proposals. The District will furnish responses promptly to all other prospective offerors. An amendment to the solicitation will be issued if that information is necessary in submitting offers, or if the lack of it would be prejudicial to any other prospective offerors. Oral explanations or instructions given before the award of the contract will not be binding.

### **L.6 FAILURE TO SUBMIT OFFERS**

Recipients of this solicitation not responding with an offer should not return this solicitation. Instead, they should advise the Contracting Officer, DDS, 1125 15<sup>th</sup> Street, NW, Washington, DC 20005, by letter or postcard whether they want to receive future solicitations for similar requirements. It is also requested that such recipients advise the Contracting Officer, DDS, 1125 15<sup>th</sup> Street, NW, Washington, DC 20005 of the reason for not submitting a proposal in response to this solicitation. If a recipient does not submit an offer and does not notify the Contracting Officer

that future solicitations are desired, the recipient's name may be removed from the applicable mailing list.

## **L.7 RESTRICTION ON DISCLOSURE AND USE OF DATA**

**L.7.1** Offerors who include in their proposal data that they do not want disclosed to the public or used by the District except for use in the procurement process shall mark the title page with the following legend:

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

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

**L.7.2** Mark each sheet of data it wishes to restrict with the following legend:

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

## **L.8 PROPOSALS WITH OPTION YEARS**

The offeror shall include option year prices in its price/cost proposal. An offer may be determined to be unacceptable if it fails to include option year pricing.

## **L.9 PROPOSAL PROTESTS**

Any actual or prospective offeror or contractor, who is aggrieved in connection with the solicitation or award of a contract, must file with the D.C. Contract Appeals Board (Board) a protest no later than 10 business days after the basis of protest is known or should have been known, whichever is earlier. A protest based on alleged improprieties in a solicitation that are apparent at the time set for receipt of initial proposals shall be filed with the Board prior to the time set for receipt of initial proposals. In procurements in which proposals are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into the solicitation, must be protested no later than the next closing time for receipt of proposals following the incorporation. The protest shall be filed in writing, with the Contract Appeals Board, 717 14th Street, N.W., Suite 430, Washington, D.C. 20004. The aggrieved person shall also mail a copy of the protest to the Contracting Officer for the solicitation.

## **L.10 SIGNING OF OFFERS**

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

**L.11 UNNECESSARILY ELABORATE PROPOSALS**

Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are not desired and may be construed as an indication of the offeror's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor desired.

**L.12 RETENTION OF PROPOSALS**

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

**L.13 PROPOSAL COSTS**

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

**L.14 ELECTRONIC COPY OF PROPOSALS FOR FREEDOM OF INFORMATION ACT REQUESTS**

In addition to other proposal submission requirements, the offeror must submit an electronic copy of its proposal, redacted in accordance with any applicable exemptions from disclosure in D.C. Official Code § 2-534, in order for the District to comply with Section 2-536(b) that requires the District to make available electronically copies of records that must be made public.

The District's policy is to release documents relating to District proposals following award of the contract, subject to applicable FOIA exemption under Section 2-534(a)(1).

**L.15 CERTIFICATES OF INSURANCE**

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

Ms. Janice Parker Watson  
Chief Contracting Officer  
1125 – 15<sup>th</sup> Street NW, 4<sup>th</sup> Floor  
Washington, DC 20005  
Telephone Number: (202) 730-1716  
Facsimile Number: (202) 730-1514  
E-Mail: [Janice.Watson@dc.gov](mailto:Janice.Watson@dc.gov)

## **L.16 ACKNOWLEDGMENT OF AMENDMENTS**

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

## **L.17 BEST AND FINAL OFFERS**

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

## **L.18 LEGAL STATUS OF OFFEROR**

Each proposal must provide the following information:

**L.18.1** Name, address, telephone number and federal tax identification number of offeror;

**L.18.2** A copy of each District of Columbia license, registration or certification that the offeror is required by law to obtain. This mandate also requires the offeror to provide a copy of the executed "Clean Hands Certification" that is referenced in D.C. Official Code §47-2862 (2001), if the offeror is required by law to make such certification. If the offeror is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the offer shall certify its intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements; and

**L.18.3** If the offeror is a partnership or joint venture, the names and addresses of the general partners or individual members of the joint venture, and copies of any joint venture or teaming agreements.

## **L.19 FAMILIARIZATION WITH CONDITIONS**

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

## **L.20 STANDARDS OF RESPONSIBILITY**

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

- L.20.1** Evidence of adequate financial resources, credit or the ability to obtain such resources as required during the performance of the contract.
- L.20.2** Evidence of the ability to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.
- L.20.3** Evidence of the necessary organization, experience, accounting and operational control, technical skills or the ability to obtain them.
- L.20.4** Evidence of compliance with the applicable District licensing and tax laws and regulations.
- L.20.5** Evidence of a satisfactory performance record, record of integrity and business ethics.
- L.20.6** Evidence of the necessary production, construction and technical equipment and facilities or the ability to obtain them.
- L.20.7** Evidence of other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations
- L.20.8** If the prospective contractor fails to supply the information requested, the Contracting Officer shall make the determination of responsibility or non-responsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the Contracting Officer shall determine the prospective contractor to be non-responsible.

**SECTION M - EVALUATION FACTORS FOR AWARD**

**M.1 EVALUATION FOR AWARD**

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

**M.2 TECHNICAL RATING**

**M.2.1** The Technical Rating Scale is as follows:

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

**M.2.2** The technical rating is a weighting mechanism that will be applied to the point value for each evaluation factor to determine the offeror’s score for each factor. The offeror’s total technical score will be determined by adding the offeror’s score in each evaluation factor. For example, if an evaluation factor has a point value range of zero (0) to forty (40) points, using the Technical Rating Scale above, if the District evaluates the offeror’s response as “Good,” then the score for that evaluation factor is 4/5 of 40 or 32.

**M.3 EVALUATION CRITERIA**

Proposals will be evaluated based on the following evaluation factors and subfactors in descending order of importance.

**M.3.1** Technical Expertise

**M.3.2** Management Approach.

**M.3.3** Past Performance.

**M.3.4** Price.

**M.4. TECHNICAL CRITERIA**

**M.4.1 Technical Expertise (40 points)**

**M.4.2.1** Experience in providing health care professionals

**M.4.2.2** Quality of resumes with IDD background

**M.4.2.3** Availability of personnel

**M.4.2 Management Approach (20 points)**

**M.4.2.1** Understanding of requirements

**M.4.2.2** Organization and Staffing plan

**M.4.2.3** Thoroughness of management plan and service delivery approach

**M.4.3 Past Performance (20 points)**

**M.4.3.1** Quality of Past Performance

**M.4.3.2** Relevance of past performance

**M.4.4 PRICE CRITERIA (20 Points)**

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

$$\frac{\text{Lowest price proposal}}{\text{Price of proposal being evaluated}} \times \text{Weight} = \text{Evaluated Price Score}$$

**M.4.5 TOTAL TECHNICAL AND PRICE (100 points)**

## **M.5. PREFERENCES FOR CERTIFIED BUSINESS ENTERPRISES**

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

### **M.5.1 Application of Preferences**

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

- M.5.1.1** Any prime contractor that is a small business enterprise (SBE) certified by the Department of Small and Local Business Development (DSLBD) will receive the addition of three points on a 100-point scale added to the overall score for proposals submitted by the SBE in response to this Request for Proposals (RFP).
- M.5.1.2** Any prime contractor that is a resident-owned business (ROB) certified by DSLBD will receive the addition of five points on a 100-point scale added to the overall score for proposals submitted by the ROB in response to this RFP.
- M.5.1.3** Any prime contractor that is a longtime resident business (LRB) certified by DSLBD will receive the addition of five points on a 100-point scale added to the overall score for proposals submitted by the LRB in response to this RFP.
- M.5.1.4** Any prime contractor that is a local business enterprise (LBE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the LBE in response to this RFP.
- M.5.1.5** Any prime contractor that is a local business enterprise with its principal offices located in an enterprise zone (DZE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the DZE in response to this RFP.
- M.5.1.6** Any prime contractor that is a disadvantaged business enterprise (DBE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the DBE in response to this RFP.
- M.5.1.7** Any prime contractor that is a veteran-owned business (VOB) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the VOB in response to this RFP.
- M.5.1.8** Any prime contractor that is a local manufacturing business enterprise (LMBE) certified by DSLBD will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the LMBE in response to this RFP.

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

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

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

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

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

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

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

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

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

## **M.6 EVALUATION OF OPTION YEARS**

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

## **M.7 EVALUATION OF PROMPT PAYMENT DISCOUNT**

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

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