DCRL-2113-A-0053

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Child and Family Services Agency

CONTRACTS AND PROCUREMENT ADMINISTRATION

BLANKET PURCHASE AGREEMENT
DCRL-2013-A-0053 – Project Coordinator Services

1. EXTENT OF OBLIGATION:

The Government of the District of Columbia is obligated only to the extent that authorized purchases are actually made under the Blanket Purchase Agreement (BPA), and is not obligated to place future orders. (Title 27 of the District of Columbia Municipal Regulations (DCMR), Chapter 18, Section 1810.2 (a) (c)

The Contractor shall not provide any services under this agreement until sufficient funding to cover the cost of the requested services has been issued.

2. PURCHASE LIMITATION /METHOD OF AWARD:

The BPA shall not exceed $ 84,900 through one year from date of award.

3. RESPONSE IS DUE BY: November 30, 2012 and may be sent via: Fax (202) 727-5886, email calvinl.mcfadden@dc.gov or hand-delivered or mailed to:

Child and Family Services Agency
Contracting and Procurement Administration
200 I Street, S.E., Suite 2031
Washington, DC 20003

If you have any questions, please contact Calvin L. McFadden, Contract Specialist, CPPB at (202) 724-7645

4. PERIOD OF PERFORMANCE:

One year from date of award, with four one year option periods. Continuation of this Contract beyond the fiscal year is contingent upon future fiscal appropriations

5. PRICE/COST SCHEDULE/AGGREGATE GROUP AWARD

The Contractor shall provide all direct and indirect resources to provide the services in accordance to the specifications contained in this BPA and at the prices stated. This is a Fixed-Price BPA for the supplies/services to be performed at the unit prices specified in Section 4.1 – 4.5 the Price Schedules.

5.1 BASE YEAR

CONTRACT LINE ITEM NO. (CLIN)	SUPPLIES/ SERVICES	UNIT	Minimum UNIT	Maximum Unit	Unit Price	Maximum Total Cost
0001	Project Coordinator	Hour	1	2080	$	$
					Total Not to Exceed Amount	$

5.2 OPTION YEAR 1

CONTRACT LINE ITEM NO. (CLIN)	SUPPLIES/ SERVICES	UNIT	Minimum UNIT	Maximum Unit	Unit Price	Maximum Total Cost
0001	Project Coordinator	Hour	1	2080	$	$
					Total Not to Exceed Amount	$

5.3 OPTION YEAR TWO

CONTRACT LINE ITEM NO. (CLIN)	SUPPLIES/ SERVICES	UNIT	Minimum UNIT	Maximum Unit	Unit Price	Maximum Total Cost
0001	Project Coordinator	Hour	1	2080	$	$
					Total Not to Exceed Amount	$

5.4 OPTION YEAR THREE

CONTRACT LINE ITEM NO. (CLIN)	SUPPLIES/ SERVICES	UNIT	Minimum UNIT	Maximum Unit	Unit Price	Maximum Total Cost
0001	Project Coordinator	Hour	1	2080	$	$
					Total Not to Exceed Amount	$

5.5 OPTION YEAR FOUR

CONTRACT LINE ITEM NO. (CLIN)	SUPPLIES/ SERVICES	UNIT	Minimum UNIT	Maximum Unit	Unit Price	Maximum Total Cost
0001	Project Coordinator	Hour	1	2080	$	$
					Total Not to Exceed Amount	$

C.1 SCOPE OF WORK:

The Government of the District of Columbia Child and Family Services Agency is seeking a Contractor to provide Project Coordinator Services, to support implementation of a 5-year federal grant awarded under the Administration for Children and Families' *Initiative to Improve Access to Needs Driven, Evidence-Based, Evidence-Informed Mental and Behavioral Health Services in Child Welfare.* The Project Coordinator shall lead the efforts, beginning in Year One of the 5-year federal grant, to develop and finalize the work plan, including any needed information systems enhancements, outreach to community partners, development of inter-agency agreements and/or sub-contracts, and, in collaboration with the evaluator and the assigned federal project officer, finalization of the evaluation plan. In collaboration with the CFSA staff assigned to this project, the Project Coordinator shall be responsible for identifying key individuals necessary to complete all major tasks. The Project Coordinator shall be the key point of contact with the external evaluator and shall support implementation of the grant activities over the course of funding.

The Project Coordinator shall assist in the successful implementation of the District's federal grant award in collaboration with the Department of Mental Health's System of Care federal grant award to address a critical issue that impacts the District's vulnerable children and families

C.2 DEFINITIONS

Four Pillars: The Agency's strategic framework for effective child welfare practice that includes key outcomes to be achieved and measureable indicators of progress.

C.3 BACKGROUND AND NEED

The Child and Family Services Agency (CFSA) is the District of Columbia's cabinet-level child welfare agency. CFSA is charged with protecting child victims and those at risk of abuse and neglect, and with assisting their families. Along with our community partners, CFSA works to ensure that children involved in the public child welfare system grow up in safe, permanent homes with strong families. CFSA investigates reports of child abuse and neglect of children up to age 18, and provides child protection. Services include family stabilization, time-limited foster care and supportive community-based services to support achievement of permanency through reunification, guardianship, adoption, and established lifelong connections. Services are designed to enhance the safety, permanence and well-being of abused, neglected, and at-risk children and youth (until they reach their 21st birthday), and their families in the District of Columbia. The Agency seeks to achieve the highest quality of community-based services, to increase the number of families who receive community-based preventive and support services, and to expand the network of resources providing services to at-risk children and their families to reduce the need for placement in the foster care system. CFSA's overall strategic framework is comprised of four pillars:

Narrowing the Front Door - Children should have the opportunity to grow up with their families and should be removed only when necessary to keep them safe. It is a priority of the

current administration to reach out, locate, and utilize relatives as resources and support for children who come to CFSA's attention.

Temporary Safe Haven - Foster care should be a temporary safe haven, with permanency planning beginning the day a child enters care. CFSA will seek relative placements first, followed by the most appropriate and homelike setting to keep children connected to their schools and communities. CFSA will promote and preserve maternal and paternal relationships and sibling connections through frequent, quality visits. Permanence is best achieved through a legal relationship such as reunification, guardianship, or adoption.

Well-being – Every child is entitled to have a nurturing environment that supports growth and development as a healthy, self-assured and educated adult. CFSA is committed to working collaboratively with other system to address education, mental health, and physical health care so children we serve receive the supports they need to thrive. Our goal is to support educational achievement for all children in care, from early childhood education through high school and college or vocational school.

Exits to Positive Permanency - Every child and youth should exit foster care to a well-supported family environment or lifelong connection as quickly as possible. Older youth should exit care with the education and skills necessary to help them become successful, self-supporting adults, with appropriate community-based aftercare services.

The Agency also closely collaborates with the Family Court of the District of Columbia Superior Court, community stakeholders, advocacy groups, and service providers to support the achievement of safety, permanency, and well-being for all the children it services.

The responsibility for children in foster care is shared between CFSA and its network of contracted private agencies. Of the 1,542 children placed in foster care as of September 30, 2012, 81% (n=1,244) were served in family-based settings, including with kin, non-relative foster parents, or in pre-adoptive homes. The total population of children was evenly distributed between male and female. Fifty-five percent of youth in care were 12 years and older; a level 18% greater than national figures. Permanency goals include reunification (26%), adoption (21%) and guardianship (26%), as well as Another Planned Permanent Living Arrangement (APPLA) (20%).

Compared to other jurisdictions, the District of Columbia has one of the highest percentages of children living in poverty (30% compared to 22% nationally)[1] and has a high proportion of children in foster care. In the District of Columbia, census data indicates approximately 101,000 of the District's residents are under the age of 18. The census data also indicate a disproportional distribution of the youth population throughout the 8 wards of the District. Six of the 8 wards account for almost 90% of the youth. Racial and ethnicity composition for youth varies from 63% Caucasian in Ward 3 to over 90% in Ward 7. According to US Census data, 1.7% of all children and youth in the District are in the foster care system.[2] Children in the District's foster care population are about equal in gender distribution, older than in most jurisdictions, and are over-represented (90%) by the African American population. CFSA-

involved children are at higher risk for poor educational outcomes, chronic health issues, early parenthood, and long-term dependence on public assistance, increased rates of incarceration, homelessness, and unemployment.

Under the Administration for Children and Families' ***Initiative to Improve Access to Needs Driven, Evidence-Based, Evidence-Informed Mental and Behavioral Health Services in Child Welfare*** funding opportunity , CFSA has been awarded federal grant funds in the amount of $3,200,000 ($640,000 each year for five years) to facilitate transformation of the District's current child welfare system into one that is trauma-informed, contributing to measureable improvements in the social and emotional well-being of children in foster care. Implementation of evidence-based or evidence-informed screening, assessment, and case planning practice that complements existing resources will contribute to restoring the developmentally appropriate functioning of targeted children and youth in foster care that have mental and behavioral health needs. The District will increase placement stability, reduce lengths of stay in foster care, and increase the percentage of children exiting to positive permanency including adoption. The District expects to serve a minimum of 1,000 families over the course of the 5-year demonstration project.

Trauma-informed child welfare practice will be reflected in the implementation and adherence to fidelity of trauma-informed screening tools and functional assessments that inform outcome-oriented case planning, and the provision of specialized training to child welfare staff, including senior leadership, mental health providers and the resource parents who have responsibility for maintaining a standard of care for children involved in the child welfare system. System transformation is designed to include long-term reduction in the use of psychotropic medication as a first-line treatment strategy and increase the use of behavioral or non-pharmacological treatment approaches in response to the mental health needs of children in foster care.

Our efforts are closely aligned with the Department of Mental Health's System of Care (SOC) Expansion Planning Grant. CFSA is taking a strategic approach to how the child welfare system engages its partners in supporting families who become involved with the child welfare system, and priorities include well-being of children while in foster care and exits to positive permanence. As the District implements an SOC that facilitates the provision of required individualized, culturally and linguistically-competent mental health and recovery those practices that are not effective and/or do not meet the assessed needs of the child welfare population in general.

The grant evaluation will assess the extent to which the proposed activities impact outcomes associated with increased protective factors, overall well-being and exits to permanency. The District's project will also assess the impact of increased information sharing and communication across the child welfare and mental health systems including the capacity to sustain efforts long-term.

Interested individuals must demonstrate experience and capacity to meet required deliverables and submit an application which outlines relevant experience and background that qualifies them for the position of Project Coordinator.

C.4 REQUIREMENTS

The Government of the District of Columbia, Child and Family Services Agency (District, CFSA or Agency) requires a contractor to provide Project Coordinator (Coordinator) services with a limited mobilization lead time.

C.4.1 The Coordinator shall oversee and facilitate the work plan development and implementation.

C.4.2 The Coordinator shall be responsible for ongoing monitoring of the work plan and completing of required deliverable as determined by the Administration for Children and Families' Children's Bureau (CB), federal project officer and CFSA's core project team.

C.4.3 The Coordinator shall be the lead for submission of federally required reports under the grant award.

C.4.4 The Coordinator in collaboration with CFSA grant point of contact shall ensure timelines outlined in the District's Cooperative Agreement with CB under the Initiative to Improve Access to Needs Driven, Evidence-Based, Evidence-Informed Mental and Behavioral Health Services in Child Welfare award.

C.4.5 The Coordinator shall complete the followings:

C.4.5.1 Weekly status updates to be provided to the core project team detailing progress on work plan deliverable and adherence to timelines. Status updates shall include challenges to timely completion or expected action steps and identification of resources or support needed to meet stated objectives.

C.4.5.2 Quarterly progress report detailing project implementation including key accomplishments, deliverables and next steps.

C.4.5.3 All reports and submission required by the CB and the federal project officer as part of the Initiative to Improve Access to Needs Driven, Evidence-Based, Evidence-Informed Mental and Behavioral Health Services in Child Welfare award.

C.4.6 The Coordinator shall facilitate the overall activities of the demonstration project, which will include:

C.4.6.1 Convening regular meetings,

C.4.6.2 Identifying the objectives/deliverables to be completed,

C.4.6.3 Establishing timeframes for the completion of the priorities selected,

C.4.6.4 Working closely with the DMH staff to integrate the project into SOC activities,

C.4.6.5 Providing updates and status reports on progress and barriers to the external evaluator.

C.4.7. The Coordinator shall ensure that the project work plan is implemented as approved by CFSA and the Children's Bureau.

C.4.8 The Coordinator shall prepare and submit routine and special reports for the Children's Bureau, federal project officer and internal and external stakeholders.

C.4.9 The Coordinator shall coordinate a team of professionals who are detailed to provide support for the grant over the course of the five year grant period.

C.4.10 The coordinator shall provide direct supervision of an administrative support position assigned part-time to the grant.

C.4.11 The coordinator shall oversee the implementation of grant-related conferences, workshop, and program related training.

C.4.12 The Coordinator shall lead efforts to identify and propose resources to sustain the proposed intervention after the demonstration project ends. Significant time will be spent in the final year (Year Five) of the project considering and disseminating outcomes, challenges, and the most effective approaches to expand the intervention.

C.5 COORIDINATOR REQUIREMENTS:

C.5.1 The Coordinator shall demonstrate superior planning and project coordination skills.

C.5.2 The Coordinator shall be able to develop high level objectives and create strategic plans to achieve those objectives through individual projects and tasks, and monitor and report on project status.

C.5.2 The Coordinator shall demonstrate skills and experienced in managing complex projects and in providing leadership in a tea-based environment.

C.5.3 The Coordinator shall set appropriate work standard and ensure accountability for their performance.

C.5.4 The Coordinator shall demonstrate ability to analyze facts, draw conclusions, and recommend course of action.

C.5.5 The Coordinator shall demonstrate excellent verbal and written communication skills.

C.5.6 The Coordinator shall demonstrate excellent skills with Microsoft Office Suite and web-based programs.

C.5.7 The Coordinator shall provide the Contracting Officer the following information: professional and personal references, and resume.

C.5.8 The Coordinator shall submit a written proposal in response to the ranking factors pursuant to Section C.10.4.

C.5.9 The coordinator shall submit a response to written assignment.

C.5.10 The coordinator shall provide an oral presentation of written assignment.

C.6 DELIVERABLES:

A proposed work plan that includes goals and objectives with associated timelines for implementation developed with the project team is due by 12/31/2012 or by the date determined by the CA.

C.7 NOTICE OF INDIVIDUALS AUTHORIZED TO PLACE ORDERS UNDER THE BPA:

OFFICE	**POINT OF CONTACTS**
Contracts and Procurement Administration:	Tara Sigamoni Agency Chief Contracting Officer
Office of Planning, Policy and Program Support:	Michele Rosenberg Chief of Staff PH: (202) 442-6160 micheler.rosenberg@dc.gov

C.7 OPTION TO EXTEND THE TERM OF THE BLANKET PURCHASE ORDER:

C.7.1 The District may extend the term of this contract for a period of four (4), 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.

C.7.2 If the District exercises this option, the extended contract shall be considered to include this option provision.

C.7.3 The price for the option period shall be as specified in the contract.

C.7.4 The total duration of this contract, including the exercise of any options under this clause, shall not exceed five (5) years.

C.8 Order For Services And Invoices:

C.8.1 Orders will be placed against this BPA via Electronic Data Interchange (EDI), FAX or paper communications.

C.8.2 The contractor shall invoice in duplicate to CFSA's Fiscal Operations Administration (Office of the Chief Financial Officer) at cfsa.accountspayable@dc.gov or via regular mail delivery to:

Child and Family Services Agency
Fiscal Operations
200 I Street, SE, Suite 2030
Washington, DC 20003

C.8.3 The requirements of a proper invoice are as specified in the Federal Supply Schedule contract. Invoices will be submitted to the address specified in the purchase order(s) issued against this BPA. The District reserves the right to reject any improper or inaccurate invoice.

C.8.4 **Payment.** In accordance with the Quick Payment Act, D.C. Official Code § 2-221.02, payment shall be made within thirty (30) days from the date of receipt of a properly submitted invoice, after all approvals are completed as required by the PASS system. CFSA will only pay the Contractor for performing the services under this BPA at the prices stated under BPA number **DCRL-2013-A-0053**.

C.8.5 The terms and conditions included in this BPA apply to all purchases made pursuant to it. In the event of an inconsistency between the provisions of this BPA and the contractor's invoice, the provisions of this BPA will take precedence.

C.8.6 Award will be made to the lowest responsive bidder meeting the District's minimum requirements enumerated herein. The District reserve the rights to award to the contractor offering the District the best overall valve taking into consideration the make/mode offered, delivery schedule, pricing or a combination of these factors.

C.8.7 The District will notify the contractor at least thirty (30) days prior to expiration or termination of orders against this BPA.

C.9 INSPECTION AND ACCEPTANCE:

The inspection and acceptance requirements for the resultant agreement 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.

C.10 METHOD OF AWARD:

C.10.1 The contract will be awarded to the responsible Offeror whose offer is most advantageous to the District, based upon the evaluation criteria specified below. Thus, while the points in the evaluation criteria indicate their relative importance, the total scores will not necessarily be determinative of the award. Rather, the total scores will guide the District in making an intelligent award decision based upon the evaluation criteria.

In order for the response to be considered complete, the contractor shall submit the following:

Resume
Written proposal that clearly addresses the technical factors enumerated in section C.10.4
Written response to section C.10.4.1

C.10.2 TECHNICAL RATING(S)

C.10.2.1 Technical Rating Scale is as follows:

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

C.10.3 The technical rating is a weighting mechanism that will be applied to the point value for each ranking 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.

If subfactors are applied, the Offeror's total technical score will be determined by adding the offeror's score for each subfactor. For example, if an evaluation factor has a point value range of zero (0) to forty (40) points, with two subfactors of twenty (20) points each, using the Technical Rating Scale above, if the District evaluates the Offeror's response as "Good" for the first subfactor and "Poor" for the second subfactor, then the total score for that evaluation factor is 4/5 of 20 or 16 for the first subfactor plus 1/5 of 20 or 4 for the second subfactor, for a total of 20 for the entire factor.

C.10.4 TECHNICAL EXPERTTISE (75 Points Maximum)

FACTOR(S)	Evaluation Criteria	Points
Factor #1	Demonstrated superior planning and project coordination skills. Ability to develop high-level objectives and create strategic plans to achieve those objectives through individual projects and tasks. Ability to monitor and report on project status	20
Factor #2	Demonstrated skills and experience in managing complex projects and in providing leadership in a team-based environment; and the ability to set appropriate work standards and to hold people accountable for their performance	20
Factor #3	Ability to analyze facts, draw conclusions, and recommend a course of action	10
Factor #4	Superior oral and written communication skills. Ability to make accurate summaries of facts and prepare reports, opinions and findings.	15
Factor #5	Knowledge of automated office systems and equipment; ability to use computer equipment and software (Microsoft office suite, etc.)	10
Total		**75**

C.10.4.1 To successfully demonstrate Factors 1 and 4, the contractor's response to the below shall be in the form of a workplan and should include at a minimum, the steps the Contractor shall take to meet each objective with proposed timeframes and the tools or mechanisms that the contractor shall use to track progress and provide monthly status updates**respond to the following:**

C.10.4.1.1 Develop an inclusive infrastructure that has the authority, resources and operational capacity to implement and oversee the demonstration project.

Objective 1: Within 30 days of grant award notice, the Agency Director convenes a meeting of the project team and charges them with implementation responsibilities.

Objective 2: Within 90 days of award, the project team has developed a work plan to implement goals and objectives within the identified timeframes, including development of the financing plan necessary to sustain the program beyond the period of funding.

Objective 3: Within 90 days of award, the project team has finalized all inter-agency agreements and sub-contracts required for program implementation and evaluation over the course of the period of funding.

Objective 4: Within 120 days of award, the project team has developed and initiated the cross-system approach to data collection, outcome measurement and performance assessment that will continually inform program development throughout the period of funding.

Objective 5: Within 180 days of award, the project team has established an inter-agency protocol and training mechanism to assure consistent, timely intake and initial assessment of need through standardized screening and assessment tools.

Objective 6: By the end of Year 1, the implementation plan has been finalized.

Objective 7: By the end of Year 2, the project team in collaboration with the evaluator, identifies service gaps as well as most interventions that have greatest impact on well-being and functional outcomes, and develops a plan to address findings where necessary to scale-up or reduce services.

C.10.4.1.2 Strategic communication and outreach activities are continuously refined and utilized to engage and increase awareness by youth and families, community-based resources and leaders and external stakeholders.

Objective 1: The project team, in collaboration with the Agency's Public Information Officer, develops and implements an ongoing communication plan regarding the demonstration project.

Objective 2: The project team ensures necessary stipends and supports are available to support long-term monitoring and follow-up as part of outcome evaluation.

Objective 3: By the end of Year 1, the project team and Public Information Officer, have provided a minimum of 6 presentations to internal and external stakeholders on the project including available data and findings from families who are receiving services from CFSA and DMH.

Objective 4: By the end of Year 2 through Year 5, the project team and Public Information Officer have made a minimum of 6 presentations (annually) to internal and external stakeholders on the project including services available, key evaluation findings and data on outcomes including cost analysis.

C.11 PRICE CRITERION (25 Points Maximum)

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

Lowest price proposal
---------- x weight = Evaluated price score
Price of proposal being evaluated

C.11.1 TOTAL POINTS (100 Points Maximum)

Total points shall be the cumulative total of the Offeror's technical criteria points and price.

C.12 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.

C.13 BEST AND FINAL OFFERS

If, subsequent to receiving original proposals, negotiations are conducted, the top three highest scoring Offerrors shall be so notified and will be provided an opportunity to submit written best and final offers or oral presentations at the designated date and time. Best and final offers will be subject to the Late Submissions, Late Modifications and Late Withdrawals of Proposals provisions of the solicitation. After receipt of best and final offers or oral presentations, no discussions will be reopened unless the CO determines that it is clearly in the District's best interest to do so, e.g., it is clear that information available at that time is inadequate to reasonably justify contractor selection and award based on the best and final offers received. If discussions are reopened, the CO shall issue an additional request for best and final offers.

C.13 KEY PERSONNEL

C.13.1 The District considers the following positions to be key personnel for this contract: Project Coordinator.

C.13.2 The Offeror shall set forth in its response the names and reporting relationships of the key personnel the Offeror will use to perform the work under the proposed contract. The Offeror shall include in its response a resume for each key personnel and the hours that each will devote to the contract in total and broken down by task.

C.14 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL

The key personnel specified in the contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified key personnel for any reason, the Contractor shall notify the CO at least thirty (30) calendar days in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact upon the contract. The Contractor shall obtain written approval of the CO for any proposed substitution of key personnel.

C.15 STANDARD OF PERFORMANCE:

C.15.1 The Project Coordinator shall at all times, while acting in good faith and in the best interest of the CFSA, use its best efforts and exercise all due care and sound business judgment in performing its duties under this contract. The Contractor shall at all times, comply with CFSA operational policies, procedures and directives while performing the duties specified in the contract

C.15.2 The Project Coordinator shall comply with the confidentiality requirements of CFSA and ensure that medical records and medical consultation is provided with the scope of CFSA confidentiality requirements consistent with a child welfare agency.

C.16 ADVERTISING AND PUBLICITY:

Unless granted prior, express, written authority by the Director, the Contractor shall not issue or sponsor any advertising or publicity that states or implies, either directly or indirectly, that CFSA endorses, recommends or prefers the Contractor's services; shall not use CFSA logo in any fashion; or use or release information, photographs or other depictions obtained as a result of the performance of services under this contract, for publication, advertising or financial benefit.

C.17 CONFIDENTIALITY:

The Contractor and the Coordinator shall maintain the confidentiality and privacy of all identifying information concerning CFSA children and youth in accordance with the confidentiality law, the privacy rule (the requirements and restrictions contained in 45 CFR part 160 and part 164, subparts A and E, as modified by any District of Columbia laws, including the Mental Health Information Act of 1978, that may have preemptive effect by operation of 45 CFR part 160, subpart B) and agrees to comply with administrative, physical, and technical safeguards requirements in 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316 as required by § 13401 of the HITECH ACT (February 18, 2010), to maintain the security of the Protected Health Information and to prevent use or disclosure of such Protected Health Information other than as provided for by this Clause.

C.18 RIGHTS IN DATA:

C.18.1 Any 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, produced by the Contractor and the Project Coordinator for CFSA under this contract are works made for hire and are the sole property of CFSA; but, to the extent any such data may not, by operation of law, be works made for hire, the Contractor and the Project Coordinator hereby transfers and assigns to CFSA ownership of copyright in such works, whether published or unpublished.

C.18.2 The Project Coordinator agrees to give 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 Project Coordinator agrees not to assert any rights in common law or in equity in such data. The Project Coordinator 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 CFSA at such time as to review the intent to release such data to the public.

CFSA shall not unreasonably withhold consent to the Project Coordinator's request to publish or reproduce data in professional and scientific publications.

C.19 APPLICABILITY OF STANDARD CONTRACT PROVISIONS:

The Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts dated March 2007 ("SCP") are incorporated as part of the contract. To obtain a copy of the SCP go to www.ocp.dc.gov, click on Solicitation Attachments, then click on "Standard Contract Provisions (March 2007) (PDF)".

C.20 DEPARTMENT OF LABOR WAGE DETERMINATIONS:

The Contractor shall be bound by the Wage Determination No. 2004-2103 Rev. 11, dated June 13, 2011, issued by the U.S. Department of Labor in accordance with the Service Contract Act, 41 U.S.C. §351 *et seq*., and incorporated herein as Section J.2. The Contractor shall be bound by the wage rates for the term of the contract subject to revision as stated herein and in accordance with Section 24 of the SCP. If an option is exercised, the Contractor shall be bound by the applicable wage rates at the time of the exercise of the option. If the option is exercised and the CO obtains a revised wage determination, the revised wage determination is applicable for the option periods and the Contractor may be entitled to an equitable adjustment.

C.21 INSURANCE:

A. GENERAL REQUIREMENTS. The Contractor shall procure 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 Contracting Officer 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 Contracting Officer. 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 Contracting Officer 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 Contracting Officer 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 Contracting Officer 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.

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.

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 Contracting Officer 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 Contracting Officer.

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:

Tara Sigamoni
Agency Chief Contracting Officer
Child and Family Services Agency

Contracts and Procurement Administration
200 I Street, SE., Suite 2031
Washington, D.C. 20003; Phone: (202) 724-5300

C.22 HIPAA PRIVACY COMPLIANCE

C.22.1 For the purpose of this agreement Child and Family Services (CFSA), a covered component within the District of Columbia's Hybrid Entity will be referred to as a "Covered Entity" as that term is defined by the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA") and associated regulations promulgated at 45 CFR Parts 160, 162 and 164 as amended (the "HIPAA Regulations") and the Contractor as a recipient of Protected Health Information or electronic Protected Health Information from CFSA, is a "Business Associate" as that term is defined by HIPAA.

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the HIPAA Regulations.

1. Definitions

a. Business Associate means a person or entity, who performs, or assists in the performance of a function or activity on behalf of a covered entity or an organized health care organization in which the covered entity participates, involving the use or disclosure of individually identifiable health information, other than in the capacity of a workforce member of such covered entity or organization. A business associate is also any person or organization that provides, other than in the capacity of a workforce member of such covered entity, legal, actuarial, accounting, consulting, data aggregation, management, administration, accreditation, or financial services to or for the covered entity and receives individually identifiable health information from a covered entity or another business associate on behalf of a covered entity. In some instances, a covered entity may be a business associate of another covered entity.

b. Covered Entity means a health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form in connection with a transaction covered by 45 C.F.R. Parts 160 and 164 of HIPAA. With respect to this HIPAA Compliance Clause, Covered Entity shall also include the designated health care components of the District government's hybrid entity or a District agency following HIPAA best practices.

c. Data Aggregation means, with respect to Protected Health Information created or received by a business associate in its capacity as the business associate of a covered entity, the combining of such Protected Health Information by the business associate with the Protected Health Information received by the business associate in its capacity as a business associate of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.

Designated Record Set means a group of records maintained by or for the Covered Entity that are:

i. The medical records and billing records about individuals maintained by or for a covered health care provider;
ii. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
iii. Records used, in whole or in part, by or for the Covered Entity to make decisions about individuals.

e. Health Care means care services, or services, or supplies related to the health of an individual. Health care includes, but is not limited to, the following:

i. Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and

ii. Sale or dispensing of a drug, device, equipment, or other item in accordance with the prescription.

f. *Health Care Components* means a component or a combination of components of a hybrid entity designated by a hybrid entity. Health Care Components must include non-covered functions that provide services to the covered functions for the purpose of facilitating the sharing of Protected Health Information with such functions of the hybrid entity without business associate agreements or individual authorizations.

g. Health Care Operations shall have the same meaning as the term "health care operations" in 45 C.F.R. § 164.501.

h. Hybrid Entity means a single legal entity that is a covered entity and whose business activities include both covered and non-covered functions, and that designates health care components in accordance with 45 C.F.R. § 164.105(a)(2)(iii)(C). A Hybrid Entity is required to designate as a health care component, any other components of the entity that provide services to the covered functions for the purpose of facilitating the sharing of Protected Health Information with such functions of the hybrid entity without business associate agreements or individual authorizations. The District of Columbia is a Hybrid Covered Entity.

i. Record shall mean any item, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for the Covered Entity.

j. Individual shall have the same meaning as the term "individual" in 45 C.F.R. § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

k. Individually Identifiable Health Information is information that is health information, including demographic information collected from an individual, and;

i. Is created or received by a health care provider, health plan, employer, or health care clearinghouse;

ii. Relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual; and

iii. That identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

l. National Provider Identifier (NPI) Rule: "National Provider Identifier" shall mean the Standard Unique Health Identifier for Healthcare Providers; Final Rule at 45 C.F.R. Part 162.

m. Privacy and Security Official. The person or persons designated by the District of Columbia, a Hybrid Entity, who is/are responsible for developing, maintaining, implementing and enforcing the District-wide Privacy Policies and Procedures, and for overseeing full compliance with the Privacy and Security Rules, and other applicable federal and state privacy law.

n. Privacy Officer. The person designated by the Privacy and Security Official or one of the District of Columbia's designated health care components, who is responsible for overseeing compliance with the Covered Agency's Privacy Policies and Procedures, the HIPAA Privacy Regulations, HIPAA Security Regulations and other applicable federal and state privacy law(s). The Covered Agency's privacy officer shall follow the guidance of the District's Privacy and Security Official, and shall be responsive to and report to the District's Privacy and Security Official on matters pertaining to HIPAA compliance.

o. 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.

p. Protected Health Information. "Protected Health Information" (PHI) or "Electronic Protected Health Information" (ePHI) means individually identifiable health information that is created or received by the Business Associate from or on behalf of the Covered Entity, or agency following HIPAA best practices, which is:

i. Transmitted by, created or maintained in electronic media; or
ii. Transmitted or maintained in any other form or medium;

Protected Health Information does not include information in the records listed in subsection (2) of the definition in 45 C.F.R. §160.103.Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.

q. Secretary. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.

r. Security Officer. The person designated by the Security Official or one of the District of Columbia's designated health care components, who is responsible for overseeing compliance with the Covered Agency's Privacy Policies and Procedures, the Security Rules, and other applicable federal and state privacy law(s). The Covered Agency's security officer shall follow the guidance of the District's Security Official, as well as the Associate Security Official within the Office of the Chief Technology Officer, and shall be responsive to the same on matters pertaining to HIPAA compliance.

s. Security Rule. "Security Rule" shall mean the Standards for Security of Individually Identifiable Health Information at 45 C.F.R. part 164.

t. *Workforce.* "Workforce" shall mean employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity or business associate, is under the direct control of such entity, whether or not they are paid by the covered entity or business associate.

2. Obligations and Activities of Business Associate

a. The Business Associate agrees not to use or disclose Protected Health Information or electronic Protected Health Information (hereinafter "PHI" or Protected Health Information") other than as permitted or required by this HIPAA Compliance Clause or as Required By Law.

b. The Business Associate agrees to comply with administrative, physical, and technical safeguards requirements in 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316 as required by § 13401 of the HITECH ACT (February 18, 2010), to maintain the security of the Protected Health Information and to prevent use or disclosure of such Protected Health Information other than as provided for by this Clause.

c. The Business Associate agrees to establish procedures for mitigating, and to mitigate to the extent practicable, any deleterious effects that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate in violation of the requirements of this Clause.

d. The Business Associate agrees to report to Covered Entity, in writing, any use or disclosure of the Protected Health Information not permitted or required by this HIPAA Compliance Clause to the District Privacy Official or agency Privacy Officer within ten (10) days from the time the Business Associate becomes aware of such unauthorized use or disclosure.

e. The Business Associate agrees to ensure that any workforce member or any agent, including a subcontractor, agrees to the same restrictions and conditions that apply through this Clause with respect to Protected Health Information received from the

Business Associate, Protected Health Information created by the Business Associate, or Protected Health Information received by the Business Associate on behalf of the Covered Entity.

f. The Business Associate agrees to provide access within five business days, 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, to facilitate the District's compliance with the requirements under 45 C.F.R. §164.524.

g. The Business Associate agrees to make any amendment(s) within five business days 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** or as directed by the District Privacy Official or agency Privacy Officer in order to facilitate the District's compliance with the requirements under 45 C.F.R. §164.526.

h. The Business Associate agrees to use the standard practices of the Covered Entity to verify the identification and authority of an Individual who requests the Protected Health Information in a Designated Record Set of a recipient of services from or through the Covered Entity. The Business Associate agrees to comply with the applicable portions of **Attachment A hereby incorporated by reference.**

i. The Business Associate agrees to record authorizations and log such disclosures of Protected Health Information and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528 and applicable District of Columbia laws, rules and regulations.

j. The Business Associate agrees to provide to the Covered Entity or an Individual, within five (5) business days of a request **at a mutually agreed upon location, during normal business hours, and in a format designated** 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.

k. The Business Associate agrees to make internal practices, books, and records, including policies and procedures, and Protected Health Information, relating to the use and disclosure of Protected Health Information received from the Business Associate, or created, or received by the Business Associate on behalf of the Covered Entity, available to the Covered Entity, or to the Secretary, within five (5) business days of their request and **at a mutually agreed upon location, during**

normal business hours, and in a format designated by the District Privacy Official or agency Privacy Officer and the duly authorized Business Associate workforce member, or in a time and manner designated by the Secretary, for purposes of the Secretary in determining compliance of the Covered Entity with the Privacy Rule.

l. The Business Associate may aggregate Protected Health Information in its possession with the Protected Health Information of other Covered Entities that Business Associate has in its possession through its capacity as a Business Associate to other Covered Entities provided that the purpose of the aggregation is to provide the Covered Entity with data analyses to the Health Care Operations of the Covered Entity. Under no circumstances may the Business Associate disclose Protected Health Information of one Covered Entity to another Covered Entity absent the explicit written authorization and consent of the Privacy Officer or a duly authorized workforce member of the Covered Entity.

m. Business Associate may de-identify any and all Protected Health Information provided that the de-identification conforms to the requirements of 45 C.F.R. § 164.514(b). Pursuant to 45 C.F.R. § 164.502(d)(2), de-identified information does not constitute Protected Health Information and is not subject to the terms of this HIPAA Compliance Clause.

3. Permitted Uses and Disclosures by the Business Associate

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

b. Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

c. Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate,

provided that the disclosures are Required By Law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used, or further disclosed, only as Required By Law, or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it has knowledge that the confidentiality of the information has been breached.

d. Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may use Protected Health Information to provide Data Aggregation services to the Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

e. Business Associate may use Protected Health Information to report violations of the Law to the appropriate federal and District of Columbia authorities, consistent with 45 C.F.R. § 164.502(j)(1).

4. <u>Additional Obligations of the Business Associate</u>

a. Business Associate shall submit a written report to the Covered Entity that identifies the files and reports that constitute the Designated Record Set of the Covered Entity. Business Associate shall submit said written report to the Privacy Officer no later than thirty (30) days after the commencement of the HIPAA Compliance Clause. In the event that Business Associate utilizes new files or reports which constitute the Designated Record Set, Business Associate shall notify the Covered Entity of said event within thirty (30) days of the commencement of the file's or report's usage. The Designated Record Set file shall include, but not be limited to the identity of the following:

i. Name of the Business Associate of the Covered Entity;
ii. Title of the Report/File;
iii. Confirmation that the Report/File contains Protected Health Information (Yes or No);
iv. Description of the basic content of the Report/File;
v. Format of the Report/File (Electronic or Paper);
vi. Physical location of Report/File;
vii. Name and telephone number of current member(s) of the workforce of the Covered Entity or other District of Columbia Government agency responsible for receiving and processing requests for Protected Health Information; and
viii. Supporting documents if the recipient/personal representative has access to the Report/File.

b. Business Associate must provide assurances to the Covered Entity] that it will continue to employ sufficient administrative, technical and physical safeguards, as described under the Security Rule, to protect and secure (the Covered Entity's) ePHI entrusted to it. These safeguards include:

i. The Business Associate agrees to administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI that the Business Associate creates, receives, maintains or transmits on behalf of the covered entity.

ii. The Business Associate agrees to report to the covered entity any security incident of which it becomes aware, including any attempts to access ePHI, whether those attempts were successful or not.

iii. This Business Associate Agreement may be terminated if the covered entity determines that the business associate has materially breached the agreement.

iv. The Business Associate agrees to make all policies and procedures, and documents relating to security, available to the Secretary of HHS for the purposes of determining the covered entity's compliance with HIPAA.

v. This agreement continues in force for as long as the Business Associate retains any access to the Covered Entity's ePHI.

With respect to the subset of PHI known as electronic PHI (ePHI) as defined by HIPAA Security Standards at 45 C.F.R. Parts 160 and 164, subparts A and C (the "Security Rule"), if in performing the Services, Business Associate, its employees, agents, subcontractors and any other individual permitted by Business Associate will have access to any computer system, network, file, data or software owned by or licensed to Provider that contains ePHI, or if Business Associate otherwise creates, maintains, or transmits ePHI on Provider's behalf, Business Associate shall take reasonable security measures necessary to protect the security of all such computer systems, networks, files, data and software. With respect to the security of ePHI, Business Associate shall: (A) Implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the ePHI that it creates, receives, maintains, or transmits on behalf of the Provider; (B) Ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect it; and (C) Report to the Provider any security incident of which it becomes aware.

vii. Business Associate agrees not to electronically transmit or permit access to PHI unless such transmission or access is authorized by this Addendum and the Agreement and further agrees that it shall only transmit or permit such access if such information is secured in a manner that is consistent with applicable law, including the Security Rule. For purposes of this Addendum, "encrypted" shall mean the reversible conversion of readable information into unreadable, protected form so that only a recipient who has the appropriate "key" can convert the information back into original readable form. If the Covered Entity stores, uses or maintains PHI in encrypted form, or in any other secured form acceptable under the security regulations, Covered Entity shall promptly, at request, provide with the key or keys to decrypt such information and will otherwise assure that such PHI is accessible by upon reasonable request.

viii. In the event Business Associate performs functions or activities involving the use or disclosure of PHI on behalf of Covered Entity that involve the installation or maintenance of any software (as it functions alone or in combination with any hardware or other software), Business Associate shall ensure that all such software complies with all applicable standards

and specifications required by the HIPAA Regulations and shall inform of any software standards or specifications not compliant with the HIPAA Regulations.

c. At the request of the Covered Entity, the Business Associate agrees to amend this agreement to comply with all HIPAA mandates.

5. **Sanctions**

Business Associate agrees that its workforce members, agents and subcontractors who violate the provisions of HIPAA or other applicable federal or state privacy law will be subject to discipline in accordance with Business Associate's Personnel Policy 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 Compliance Clause 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 HIPAA or other applicable federal or state privacy laws, the Business Associate shall inform the District Privacy Official or the agency Privacy Officer of the imposition of sanctions.

6. **Obligations of the Covered Entity**

a. The Covered Entity shall notify the Business Associate of any limitation(s) in its Notice of Privacy Practices of the Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect the use or disclosure of Protected Health Information by the Business Associate.

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

c. The Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect the use or disclosure of Protected Health Information by the Business Associate.

7. **Permissible Requests by Covered Entity**

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

8. **Representations and Warranties**

The Business Associate represents and warrants to the Covered Entity:

a. That it is duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is organized or licensed, it has the full power to enter into this HIPAA Compliance Clause and it, its employees, agents, subcontractors, representatives and members of its workforce are licensed and in good standing with the applicable agency, board, or governing body to perform its obligations hereunder, and that the performance by it of its obligations under this HIPAA Compliance Clause has been duly authorized by all necessary corporate or other actions and will not violate any provision of any license, corporate charter or bylaws;

b. That it, its employees, agents, subcontractors, representatives and members of its workforce are in good standing with the District of Columbia, that it, its employees, agents, subcontractors, representatives and members of its workforce will submit a letter of good standing from the District of Columbia, and that it, its employees, agents, subcontractors, representatives and members of its workforce have not been de-barred from being employed as a contractor by the federal government or District of Columbia;

c. That neither the execution of this HIPAA Compliance Clause, nor its performance hereunder, will directly or indirectly violate or interfere with the terms of another agreement to which it is a party, or give any governmental entity the right to suspend, terminate, or modify any of its governmental authorizations or assets required for its performance hereunder. The Business Associate represents and warrants to the Covered Entity that it will not enter into any agreement the execution or performance of which would violate or interfere with this HIPAA Compliance Clause;

d. That it is not currently the subject of a voluntary or involuntary petition in bankruptcy, does not currently contemplate filing any such voluntary petition, and is not aware of any claim for the filing of an involuntary petition;

e. That all of its employees, agents, subcontractors, representatives and members of its workforce, whose services may be used to fulfill obligations under this HIPAA Compliance Clause are or shall be appropriately informed of the terms of this HIPAA Compliance Clause and are under legal obligation to the Business Associate, by contract or otherwise, sufficient to enable the Business Associate to fully comply with all provisions of this HIPAA Compliance Clause. Modifications or limitations that the Covered Entity has agreed to adhere to with regards to the use and disclosure of Protected Health Information of any individual that materially affects or limits the uses and disclosures that are otherwise permitted under the Privacy Rule will be communicated to the Business Associate, in writing, and in a timely fashion;

f. That it will reasonably cooperate with the Covered Entity in the performance of the mutual obligations under this Agreement;

g. That neither the Business Associate, nor its shareholders, members, directors, officers, agents, subcontractors, employees or members of its workforce have been excluded or served a notice of exclusion or have been served with a notice of proposed exclusion, or have committed any acts which are cause for exclusion, from participation in, or had any sanctions, or civil or criminal penalties imposed under, any federal or District healthcare program, including but not limited to Medicare or Medicaid, or have been convicted, under federal or District law (including without limitation following a plea of nolo contendere or participation in a first offender deferred adjudication or other arrangement whereby a judgment of conviction has been withheld), of a criminal offense related to (a) the neglect or abuse of a patient, (b) the delivery of an item or service, including the performance of management or administrative services related to the delivery of an item or service, under a federal or District healthcare program, (c) fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a healthcare item or service or with respect to any act or omission in any program operated by or financed in whole or in part by any federal, District or local government agency, (d) the unlawful, manufacture, distribution, prescription or dispensing of a controlled substance, or (e) interference with or obstruction of any investigation into any criminal offense described in (a) through (d) above. The Business Associate further agrees to notify the Covered Entity immediately after the Business Associate becomes aware that any of the foregoing representations and warranties may be inaccurate or may become incorrect

9. **Term and Termination**

a. *Term.* The requirements of this HIPAA Compliance Clause shall be effective as of the date of the contract award, and shall terminate when all of the Protected Health Information provided by the Covered Entity to the Business Associate, or created or received by the Business Associate on behalf of the Covered Entity, is confidentially destroyed or returned to the Covered Entity within five (5) business days of its request. The Protected Health Information shall be 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.; If it is infeasible to return or confidentially destroy the Protected Health Information, protections shall be 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. The requirement to return Protected Health Information to the District at the end of the contract term or if the contract is terminated applies irrespective of whether the Business Associate is also a covered entity under HIPAA. Where a business associate is also a covered entity, Protected Health Information provided by the District, or created or received by the Business Associate on behalf of the District, a duplicate of the record may be acceptable if mutually agreed.

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

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

ii. Immediately terminate the Contract if the Business Associate breaches a material term of this HIPAA Compliance Clause and a cure is not possible.

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

c. Effect of Termination.

i. Except as provided in paragraph (ii) of this section, upon termination of the Contract, for any reason, the Business Associate shall return in a **mutually agreed upon format or confidentially destroy** *[delete bolded material and insert negotiated terms and conditions if applicable]* all Protected Health Information received from the Covered Entity, or created or received by the Business Associate on behalf of the Covered Entity within five (5) business days of termination. This provision shall apply to Protected Health Information that is in the possession of ALL subcontractors, agents or workforce members of the Business Associate. The Business Associate shall retain no copies of Protected Health Information in any form.

ii. In the event that the Business Associate determines that returning or destroying the Protected Health Information is infeasible, the Business Associate shall provide to the Covered Entity notification of the conditions that make the return or confidential destruction infeasible. Upon determination by the agency Privacy Officer that the return or confidential destruction of the Protected Health Information is infeasible, the Business Associate shall extend the protections of this HIPAA Compliance Clause to such Protected Health Information and limit further uses and disclosures of such Protected Health Information for so long as the Business Associate maintains such Protected Health Information. The obligations outlined in Section 2. Obligations and Activities of Business Associate will remain in force to the extent applicable.

10. Miscellaneous

a. *Regulatory References.* A reference in this HIPAA Compliance Clause to a section in
the Privacy Rule means the section as in effect or as amended.

b. Amendment. The Parties agree to take such action as is necessary to amend this HIPAA Compliance Clause from time to time as is necessary for the Covered Entity to comply with the requirements of the Privacy Rule and HIPAA. Except

for provisions required by law as defined herein, no provision hereof shall be deemed waived unless in writing and signed by duly authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any other right or remedy under this HIPAA Compliance Clause.

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

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

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

e. *No Third-Party Beneficiaries*. The Covered Entity and the Business Associate are the only parties to this HIPAA Compliance Clause and are the only parties entitled to enforce its terms. Except for the rights of Individuals, as defined herein, to have access to and amend 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 provide any benefit or right, whether directly, indirectly, or otherwise, to third persons.

f. *Compliance with Applicable Law.* The Business Associate shall comply with all federal and District of Columbia laws, regulations, executive orders and ordinances, as they may be amended from time to time during the term of this HIPAA Compliance Clause and the Contract; to the extent they are applicable to this HIPAA Compliance Clause and the Contract.

g. Governing Law and Forum Selection. This Contract shall be construed broadly to implement and comply with the requirements relating to the Privacy Rule, and other applicable laws and regulations. All other aspects of this Contract shall be governed under the laws of the District of Columbia. The Covered Entity and the Business Associate agree that all disputes which cannot be amicably resolved by the Covered Entity and the Business Associate regarding this HIPAA Compliance Clause shall be litigated before the District of Columbia Contract Appeals Board, the District of Columbia Court of Appeals, or the United States District Court for the District of Columbia having jurisdiction, as the case may be. The Covered Entity and the Business Associate expressly waive any and all rights to initiate litigation, arbitration, mediation, negotiations and/or similar proceedings outside the physical boundaries of the District of Columbia and expressly consent to the jurisdiction of the above tribunals.

h. Indemnification. The Business Associate shall indemnify, hold harmless and defend the Covered Entity from and against any and all claims, losses, liabilities, costs, and other expenses incurred as a result or arising directly or indirectly out of or in connection with (a) any misrepresentation, breach of warranty or non-fulfillment of any undertaking of the Business Associate under this HIPAA Compliance Clause; and (b) any claims, demands, awards, judgments, actions and proceedings made by any person or organization, arising out of or in any way connected with the performance of the Business Associate under this HIPAA Compliance Clause.

i. Injunctive Relief. Notwithstanding any rights or remedies under this HIPAA Compliance Clause or provided by law, the Covered Entity retains all rights to seek injunctive relief to prevent or stop the unauthorized use or disclosure of Protected Health Information by the Business Associate, its workforce, any of its subcontractors, agents, or any third party who has received Protected Health Information from the Business Associate.

j. Assistance in litigation or administrative proceedings. The Business Associate shall make itself and any agents, affiliates, subsidiaries, subcontractors or its workforce assisting the Business Associate in the fulfillment of its obligations under this HIPAA Compliance Clause and the Contract, available to the Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Covered Entity, its directors, officers or employees based upon claimed violation of HIPAA, the Privacy Rule or other laws relating to security and privacy, except where the Business Associate or its agents, affiliates, subsidiaries, subcontractors or its workforce are a named adverse party.

k. Notices. Any notices between the Parties or notices to be given under this HIPAA Compliance Clause shall be given in writing and delivered by personal courier delivery or overnight courier delivery, or by certified mail with return receipt requested, to the Business Associate or to the Covered Entity, to the addresses given for each Party below or to

the address either Party hereafter gives to the other Party. Any notice, being addressed and mailed in the foregoing manner, shall be deemed given five (5) business days after mailing. Any notice delivered by personal courier delivery or overnight courier delivery shall be deemed given upon notice upon receipt.

If to the Business Associate, to:

Fax;

If to the Covered Entity, to:

Child and Family Services Agency
Privacy Officer
200 I Street, SE

Washington, D.C. 2000324
Attention: Dionne M. Bryant
Fax: 202-727-6333

l. Headings. Headings are for convenience only and form no part of this HIPAA Compliance Clause and shall not affect its interpretation.

m. Counterparts; Facsimiles. This HIPAA Compliance Clause may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

n. Successors and Assigns. The provisions of this HIPAA Compliance Clause shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns, if any.

o. Severance. In the event that any provision of this HIPAA Compliance Clause is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this HIPAA Compliance Clause will remain in full force and effect. In addition, in the event a Party believes in good faith that any provision of this HIPAA Compliance Clause fails to comply with the then-current requirements of the Privacy Rule, such party shall notify the other Party in writing, in the manner set forth in Section 10. Miscellaneous, Paragraph l k. Notices. Within ten (10) business days from receipt of notice, the Parties shall address in good faith such concern and amend the terms of this HIPAA Compliance Clause, if necessary to bring it into compliance. If, after thirty (30) days, the HIPAA Compliance Clause fails to comply with the Privacy Rule, then either Party has the right to terminate this HIPAA Compliance Clause upon written notice to the other Party.

p. Independent 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.

q. Entire Agreement. This HIPAA Compliance Clause, as may be amended from time to time pursuant to Section 10. Miscellaneous, Paragraph b. Amendment, which incorporates by reference the Contract, and specific procedures from the District of Columbia Department of Health Privacy Policy Operations Manual, constitutes the entire agreement and understanding between the Parties and supersedes all prior oral and written agreements and understandings between them with respect to applicable District of Columbia and federal laws, rules and regulations, HIPAA and the Privacy Rule, and any rules, regulations, requirements, rulings, interpretations, procedures, or other actions related thereto that are promulgated, issued or taken by or on behalf of the Secretary.

Attachment: ***Identity and Procedure Verification***

Name and address of Contractor:

_____

_____

_____

_____

_____ _____

Signature of Authorized Representative **Date**

Acceptance by the District:

_____ _____

Tara Sigamoni Date
Agency Chief Contracting Officer
Child and Family Services Agency
200 I Street, SE, Suite 2031
Washington, DC 20003