

SECTION B: CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE/COST

B.1 The District of Columbia, Child and Family Services Agency (CFSA, the Agency or the District) is seeking a contractor to provide 24 hours, 7 days a week, in-patient substance abuse treatment for female clients and up to four (4) of their children between the ages of birth and 12 years.

B.2 INDEFINITE DELIVERY- INDEFINITE QUANTITY (IDIQ) CONTRACT

This is an IDIQ contract for the supplies or services specified, and effective for the period stated.

- a) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering Clause, Section G.7. The Contractor shall furnish to the District, when and if ordered, the supplies or services specified in the Schedule up to and including the maximum quantity of eight (8) for CLINs 0001, 0001A, 0002 and 0002A one hundred (100) for 0001B and 0002B and forty eight (48) for 0001C and 0002C. The District will order at least the minimum quantity of one (1).
- b) 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.
- c) 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 completion of all services needed in accordance with the scope, provided the referral was made during the effective period of the contract..

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B.3 PRICE SCHEDULE – IDIQ
B.3.1 BASE YEAR: GROUP AWARD ITEMS

Contract Line Item No. (CLIN)	Item Description	Price Per Unit (Mile)	Price Per Unit (Day)	Price per Unit (Month)	Qty. Min.	Min. Total Price (Unit price x min. qty.)	Qty. Max.	Max. Total Price (Unit price x Max. qty.)
GROUP 1								
0001 (See Section C.4)	In-patient Substance Abuse Treatment Services for Women	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
0001A	Cost per child for up to 4 children (From birth until 5 years)	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
0001B	Cost Reimbursable: Transportation for Medical or Court appointments: Mileage	\$_____ per mile	N/A	N/A	1	\$_____	100	Not-To-Exceed \$_____
0001C	Monthly post-treatment assessment communication for 6 months	N/A	N/A	\$_____	1	\$_____	48	\$_____
Total for GROUP 1						\$_____		\$_____
GROUP 2								
0002 (See Section C.4)	In-patient Substance Abuse Treatment Services for Women	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
0002A	Cost per child for up to 4 children (From birth until 12 years)	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
0002B	Cost Reimbursable: Transportation for Medical or Court appointments: Mileage	\$_____ per mile	N/A	N/A	1	\$_____	100	Not-To-Exceed \$_____
0002C	Monthly post-treatment assessment communication for 6 months	N/A	N/A	\$_____	1	\$_____	48	\$_____
Total for GROUP 2						\$_____		\$_____

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B.3.2 OPTION YEAR 1: GROUP AWARD ITEMS

Contract Line Item No. (CLIN)	Item Description	Price Per Unit (Mile)	Price Per Unit (Day)	Price per Unit (Month)	Qty. Min.	Min. Total Price (Unit price x min. qty.)	Qty. Max.	Max. Total Price (Unit price x Max. qty.)
GROUP 1								
1001 (See Section C.4)	In-patient Substance Abuse Treatment Services for Women	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
1001A	Cost per child for up to 4 children (From birth until 5 years)	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
1001B	Cost Reimbursable: Transportation for Medical or Court appointments: Mileage	\$_____ per mile	N/A	N/A	1	\$_____	100	Not-To-Exceed \$_____
1001C	Monthly post-treatment assessment communication for 6 months	N/A	N/A	\$_____	1	\$_____	48	\$_____
Total for GROUP 1						\$_____		\$_____
GROUP 2								
1002 (See Section C.4)	In-patient Substance Abuse Treatment Services for Women	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
1002A	Cost per child for up to 4 children (From birth until 12 years)	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
1002B	Cost Reimbursable: Transportation for Medical or Court appointments: Mileage	\$_____ per mile	N/A	N/A	1	\$_____	100	Not-To-Exceed \$_____
1002C	Monthly post-treatment assessment communication for 6 months	N/A	N/A	\$_____	1	\$_____	48	\$_____
Total for GROUP 2						\$_____		\$_____

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B.3.3 OPTION YEAR 2: GROUP AWARD ITEMS

Contract Line Item No. (CLIN)	Item Description	Price Per Unit (Mile)	Price Per Unit (Day)	Price per Unit (Month)	Qty. Min.	Min. Total Price (Unit price x min. qty.)	Qty. Max.	Max. Total Price (Unit price x Max. qty.)
GROUP 1								
2001 (See Section C.4)	In-patient Substance Abuse Treatment Services for Women	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
2001A	Cost per child for up to 4 children (From birth until 5 years)	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
2001B	Cost Reimbursable: Transportation for Medical or Court appointments: Mileage	\$_____ per mile	N/A	N/A	1	\$_____	100	Not-To-Exceed \$_____
2001C	Monthly post-treatment assessment communication for 6 months	N/A	N/A	\$_____	1	\$_____	48	\$_____
Total for GROUP 1						\$_____		\$_____
GROUP 2								
2002 (See Section C.4)	In-patient Substance Abuse Treatment Services for Women	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
2002A	Cost per child for up to 4 children (From birth until 12 years)	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
2002B	Cost Reimbursable: Transportation for Medical or Court appointments: Mileage	\$_____ per mile	N/A	N/A	1	\$_____	100	Not-To-Exceed \$_____
2002C	Monthly post-treatment assessment communication for 6 months	N/A	N/A	\$_____	1	\$_____	48	\$_____
Total for GROUP 2						\$_____		\$_____

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B.3.4 OPTION YEAR 3: GROUP AWARD ITEMS

Contract Line Item No. (CLIN)	Item Description	Price Per Unit (Mile)	Price Per Unit (Day)	Price per Unit (Month)	Qty. Min.	Min. Total Price (Unit price x min. qty.)	Qty. Max.	Max. Total Price (Unit price x Max. qty.)
GROUP 1								
3001 (See Section C.4)	In-patient Substance Abuse Treatment Services for Women	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
3001A	Cost per child for up to 4 children (From birth until 5 years)	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
3001B	Cost Reimbursable: Transportation for Medical or Court appointments: Mileage	\$_____ per mile	N/A	N/A	1	\$_____	100	Not-To-Exceed \$_____
3001C	Monthly post-treatment assessment communication for 6 months	N/A	N/A	\$_____	1	\$_____	48	\$_____
Total for GROUP 1						\$_____		\$_____
GROUP 2								
3002 (See Section C.4)	In-patient Substance Abuse Treatment Services for Women	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
3002A	Cost per child for up to 4 children (From birth until 12 years)	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
3002B	Cost Reimbursable: Transportation for Medical or Court appointments: Mileage	\$_____ per mile	N/A	N/A	1	\$_____	100	Not-To-Exceed \$_____
3002C	Monthly post-treatment assessment communication for 6 months	N/A	N/A	\$_____	1	\$_____	48	\$_____
Total for GROUP 2						\$_____		\$_____

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B.3.5 OPTION YEAR 4: GROUP AWARD ITEMS

Contract Line Item No. (CLIN)	Item Description	Price Per Unit (Mile)	Price Per Unit (Day)	Price per Unit (Month)	Qty. Min.	Min. Total Price (Unit price x min. qty.)	Qty. Max.	Max. Total Price (Unit price x Max. qty.)
GROUP 1								
4001 (See Section C.4)	In-patient Substance Abuse Treatment Services for Women	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
4001A	Cost per child for up to 4 children (From birth until 5 years)	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
4001B	Cost Reimbursable: Transportation for Medical or Court appointments: Mileage	\$_____ per mile	N/A	N/A	1	\$_____	100	Not-To-Exceed \$_____
4001C	Monthly post-treatment assessment communication for 6 months	N/A	N/A	\$_____	1	\$_____	48	\$_____
Total for GROUP 1						\$_____		\$_____
GROUP 2								
4002 (See Section C.4)	In-patient Substance Abuse Treatment Services for Women	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
4002A	Cost per child for up to 4 children (From birth until 12 years)	N/A	\$_____ per day	N/A	1	\$_____	8	\$_____
4002B	Cost Reimbursable: Transportation for Medical or Court appointments: Mileage	\$_____ per mile	N/A	N/A	1	\$_____	100	Not-To-Exceed \$_____
4002C	Monthly post-treatment assessment communication for 6 months	N/A	N/A	\$_____	1	\$_____	48	\$_____
Total for GROUP 2						\$_____		\$_____

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B.4 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.9.1.

*****END OF SECTION B*****

SECTION C: SPECIFICATIONS/WORK STATEMENT

C.1 SCOPE:

The Contractor shall provide 24 hours, 7 days a week, in-patient substance abuse treatment for female clients and up to four (4) of their children between the ages of birth and 12 years. The length of time in treatment will be determined by clinical need. The Contractor shall provide substance abuse treatment for women with a primary diagnosis of chemical dependence. Women with a secondary mental health diagnosis may be admitted into treatment if the Contractor's mental health treatment team, the CFSA clinical team and/or the client's community mental health provider determines her participation to be clinically appropriate. Clients who are deemed a danger to themselves or others may not participate in the inpatient substance abuse treatment program. The Contractor shall provide services in accordance with this contract.

C.2 APPLICABLE DOCUMENTS

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

Item No.	Document
1	<u>LaShawn A. v. Gray</u> Implementation and Exit Plan (IEP)

C.3 BACKGROUND

Substance abuse is just one of multiple challenges confronting youth and families served by the Child and Family Services Agency (CFSA). As a maladaptive coping mechanism for individuals who have been traumatized, like many children who come to the attention of the child welfare system and their primary caregivers, substance abuse seriously aggravates the barriers to self-sufficiency and wellness. Therefore, it is incumbent upon social workers to screen a client's need for substance abuse treatment as part of any initial investigation and throughout the life of an ongoing case in an effort to successfully treat any substance abuse issues in order to aid birth parents in becoming more successful and substance-free as they meet case plan objectives.

C.4 REQUIREMENTS

The Contractor shall develop, implement and evaluate the in-patient substance abuse treatment services for CFSA clients.

C.4.1 TREATMENT AND SERVICE PLANNING

C.4.1.1 The Contractor shall ensure that pregnant women in the program receive a comprehensive obstetrical assessment, including appropriate prenatal care, education concerning pregnancy and the effects of substance use on infant and child development. The Contractor shall collaborate with the client's CFSA social worker to develop a

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delivery and post-delivery discharge plan for the mother and infant. The Contractor shall work with the CFSA social worker to ensure that all prenatal appointments are kept.

- C.4.1.2** The Contractor shall coordinate and provide when needed transportation services to all medical appointments.
- C.4.1.3** The Contractor shall provide, or coordinate through another community-based program if not available through the Contractor, an evidence-based, trauma-informed parenting program aimed at preventing re-entry into the child welfare system. The evidence-based services shall promote protective factors, reduce risk, build family capacity, and foster resilience. The program services shall include training of parents to develop skills in child behavior management and home safety to prevent child maltreatment, parent-child communication to reduce risk for adolescent substance abuse, and child nurturing to strengthen the parent-child bond.
- C.4.1.4** The Contractor shall require clients to attend 12-Step meetings and secure a sponsor within one week of entering treatment. The Contractor shall maintain a record of client's attendance and contact with sponsor.
- C.4.1.5** The Contractor shall develop a written initial *Individual Treatment Plan* (ITP) for the client within 7 days of admission and updated at least every 30 days thereafter. The ITP, once developed, will be reviewed and approved by CFSA within three (3) business days. The ITP shall include the following:
- C.4.1.5.1** A psychosocial assessment of the client's strengths, weaknesses, and specific needs, including but not limited to health (medical, dental), detoxification, housing, education, domestic violence/trauma, visitation and family reunification efforts (i.e. parent-child interaction).
- C.4.1.5.2** Short and long-term goals, objectives and treatment priorities.
- C.4.1.5.3** The ITP shall clearly state staff assignments, time frames and methods for meeting stated objectives.
- C.4.1.6** The Contractor shall assess the client's treatment needs, which shall include the client's history of alcohol and drug use, physical health, psychological assessment, education, vocation, legal, family and interpersonal history.
- C.4.1.7** The Contractor shall provide initial and all updated ITPs, which includes a description of treatment to be undertaken, treatment goals and objectives, supportive services needed, reassessment of clinical goals and objectives and changes in the treatment plan.
- C.4.1.8** The Contractor shall provide progress notes, shall include the client's current progress towards meeting their substance abuse treatment goals, treatment status, attendance at groups and other assigned therapies, summary of treatment activities, client interaction with family and staff, changes in treatment plan, discharge activities, status of aftercare planning and follow-up referrals.

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- C.4.1.9** The Contractor shall provide medical information on each client including a history of illness, injury, diagnosis, treatment, lab reports and findings from periodic urine surveillance.
- C.4.1.10** The Contractor shall report unusual occurrences such as incidents requiring discipline, actual or alleged, victimization by any other person, AWOLs, and actions taken by the Contractor.
- C.4.1.11** The Contractor shall provide discharged client records that contain documentation compiled during treatment and a discharge summary.
- C.4.1.12** The Contractor shall establish and maintain a protocol for client records management that meets HIPPA compliance. This protocol shall be available for the CFSA CA and other authorized representatives on request.
- C.4.1.13** The Contractor shall involve the client, as much as possible, in the development of the ITP. Pursuant to DC Medicaid Regulations, all treatment plans must include an assessment of the client's current mental status, which must be signed and dated by a physician.
- C.4.1.14** The Contractor shall use a multi-disciplinary team approach when developing both initial ITPs and all revisions of the document. The multi-disciplinary team shall include, but not limited to:
 - C.4.1.14.1** The Contractor's substance abuse, mental health, medical and other staff members who have direct contact with the client.
 - C.4.1.14.2** The CFSA social worker and the Office of Well Being point of contact (POC).
- C.4.1.15** The Contractor's multi-disciplinary team shall review and revise the ITP, its goals, objectives, treatment methods and interventions as needed, based on the client's treatment progress.
- C.4.1.16** Copies of the initial ITP and all updates are to be submitted to the client's CFSA social worker and the Office of Well Being POC within seven (7) days of its development.
- C.4.1.17** The Contractor shall provide financial education services to the client on savings, banking, and financial responsibility. The Contractor shall facilitate connections for clients to Bank on DC, a collaborative effort between District government, financial institutions, and non-profits to provide access to financial services and products to unbanked and under-banked households in the DC Metro Area.
- C.4.1.18** The Contractor shall engage family members in the treatment process as clinically appropriate, including older siblings who are not placed at the facility and significant others. The Contractor shall promote active and regular visitation at the facility between the client and the client's other children who are not living at the facility.

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- C.4.1.19** The Contractor shall provide, or coordinate through another community-based program if not available through the Contractor, a credentialed, onsite child care facility with a high-quality curriculum that promotes learning and development. The Contractor shall engage parents in the daily activities of this center, assess the parents and children for family-functioning, assess the child for early intervention needs, and observe the parent-child interaction at the facility. The Contractor shall provide structured exercises or activities to develop bonding and encourage positive parent-child interactions. The Contractor shall provide activities or workshops to help parent understand child's special needs, such as, ADHD, ADD, impact of substance abuse on children or other diagnosed condition. The Contractor shall provide parenting coaching as needed.
- C.4.1.20** The Contractor shall coordinate and provide transportation services to all court hearings.
- C.4.1.21** Within the first 30 days of treatment, the Contractor shall begin working with the client to assess housing needs upon discharge. Families who are unable to identify permanent housing at the time of discharge from the residential facility may be referred to CFSA or other service providers for transitional housing. Transitional housing shall serve to prevent the disruption of placements due to lack of housing upon exit from residential treatment.
- C.4.1.22** The Contractor shall develop an Aftercare Plan with each client prior to their discharge that outlines a continued plan of care. The Aftercare Plan shall identify the client's strengths, needs, abilities, and preferences as well as establishing specific goals, objectives, and desired outcomes for successful recovery. The Aftercare Plan shall be developed two weeks prior to a client's planned discharge from the program and shall be provided to the client, social worker, and Contract Administrator (CA) within 3 days of its development.
- C.4.1.23** The Contractor shall communicate with the client monthly for six months post-treatment to assess the client's recovery process and provide resources after treatment is completed. The Contractor shall report on this communication, or attempts to communicate, to the social worker and CA monthly.
- C.4.2** **CLIENT RECORDS**
- C.4.2.1** The Contractor shall provide the CA and other authorized representatives of CFSA access to CFSA clients, the inpatient substance abuse treatment program and its records, including financial records, as may be necessary for monitoring purposes. For the purpose of confidentiality and security, client records shall be kept in a locked file controlled by the appropriate Contractor's staff.
- C.4.2.2** The Contractor shall maintain the client's case record, in accordance with its established policies and procedures. These records shall include, but not limited to the following:
- C.4.2.2.1** The Contractor shall establish and maintain complete and up-to-date patient records. The records shall document the initial and updated ITPs as well as the ongoing progress of each client.

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- C.4.2.3** The Contractor shall ensure that all information contained in client clinical records are current.
- C.4.2.4** The Contractor shall ensure that release of information forms and appropriate signatures are obtained when needed.
- C.4.2.5** The Contractor shall retain copies of all records for at least seven (7) years following final closeout of the contract.

C.4.3 BIRTH PARENT’S MEDICAL EXPENSES

The medical expenses of the Birth Parents shall be covered by the Birth Parent’s primary insurance provider; CFSA shall not be billed for any medical expenses.

C.4.4 LOCATION OF SERVICES

The Substance Abuse Treatment Services shall be provided within a forty (40) mile radius of Washington, D.C.

*****END OF SECTION C*****

SECTION D: PACKAGING AND MARKING

- D.1** The packaging and marking requirements for this contract shall be governed by clause number (2), Shipping Instructions-Consignment, of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March 2007. (Attachment J.1)

*****END OF SECTION D*****

SECTION E: INSPECTION AND ACCEPTANCE

- E.1** The inspection and acceptance requirements for this contract shall be governed by clause number Clause number six (6), Inspection of Services of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March 2007. (Attachment J.1)

*****END OF SECTION E*****

SECTION F: PERIOD OF PERFORMANCE AND DELIVERABLES

F.1 TERM OF CONTRACT

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

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.2.1 The District may extend the term of this contract for a period of four (4), 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 preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the contract.

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

F.2.3 The price for the option period(s) shall be as specified in the 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

F.3.1 The Contractor shall perform the activities required to successfully complete the District’s requirements and submit each deliverable to the Contract Administrator (CA) identified in section G.10 in accordance with the following:

Deliverable	Quantity	Format/ Delivery Method	Due Date	To Whom
Individual Treatment Plans: Contractor shall provide treatment plans, including any assessment results, and updates as outlined in section C.4	1/client with any necessary updates	Word document/ electronic delivery	Within 7 days of admission, or within 7 days of changes for updates	CFSA Social Worker and CA
12-Step and Sponsor Reports: The Contractor shall maintain a record of client’s 12-Step program attendance and contact with sponsor.	Monthly	Word document/ electronic delivery	Within 7 days of admission and by the 5 th of the month for the previous month thereafter	CFSA Social Worker and CA

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<p>Monthly Client Rosters: Contractor shall provide monthly client rosters, including dates of admission and discharge</p>	<p>Monthly</p>	<p>Excel Spreadsheet to be provided by CFSA</p>	<p>By the 5th of the month for the previous month</p>	<p>CA</p>
<p>Fiscal Report: The Contractor shall provide a quarterly, fiscal expenditure report that includes information per discussions with CFSA.</p>	<p>Quarterly</p>	<p>TBD</p>	<p>By the 5th of the month for the previous quarter</p>	<p>CA</p>
<p>Utilization and Outcome Management: The Contractor shall provide a monthly utilization and outcome management report that includes the following: a. Services provided during the month for CFSA clients b. Upcoming activities or services for CFSA clients c. Recipients of the service and/or activities d. Program improvements, challenges and recommendations</p>	<p>Monthly</p>	<p>TBD</p>	<p>By the 5th of the month for the previous month</p>	<p>CA</p>
<p>Aftercare Plans: Contractor shall provide aftercare plans for each client who is being discharged from the program as outlined in section C.4</p>	<p>1/client</p>	<p>Word document/ electronic delivery</p>	<p>Two weeks prior to scheduled discharge</p>	<p>CFSA Social Worker and CA</p>
<p>Final Report: The Contractor shall provide a Final Report to the CA and other authorized CFSA staff within 30 days of the termination of the contract, which shall include an overview of program goals, objectives, initiatives, utilization, accomplishments and challenges.</p>	<p>1/client</p>	<p>Word document/ electronic delivery</p>	<p>Within 30 days of contract termination</p>	<p>CA</p>

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<p>Unusual Incidents: The Contractor will immediately notify the agency of any unusual incidents involving clients in treatment. Contractor will submit a written report detailing the incident and outlining any actions to be taken by the contractor in response to the incident; See Section H.11.1</p>	<p>As needed</p>	<p>Telephone call/ Written report</p>	<p>Immediate telephone call/ written report within 24 hours</p>	<p>CA</p>
<p>Transitional Housing. Within the first 30 days of treatment, the Contractor shall begin working with the client to assess housing needs upon discharge. Families who are unable to identify permanent housing at the time of discharge from the residential facility may be referred to CFSA or other service providers for transitional housing. Transitional housing shall serve to prevent the disruption of placements due to lack of housing upon exit from residential treatment.</p>	<p>1/client</p>	<p>Written report</p>	<p>Within 30 days of admission</p>	<p>CA and/or other service providers</p>
<p>Aftercare. The Contractor shall communicate with the client monthly for six months post-treatment to assess the client's recovery process and provide resources after treatment is completed. The Contractor shall report on this communication, or attempts to communicate, to the social worker and CA monthly.</p>	<p>Monthly post-treatment for six months</p>	<p>Written report</p>	<p>Within 30 days of discharge</p>	<p>CFSA Social Worker and CA</p>
<p>The Contractor will submit any additional data and reports as requested by CFSA</p>	<p>As requested</p>	<p>TBD</p>	<p>Within 5 days of the request</p>	<p>CA</p>

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F.3.2 The Contractor shall submit to the District, as a deliverable, the report described in section H.5.5 which 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, the District shall not make final payment to the Contractor pursuant to section G.3.2.

*****END OF SECTION F*****

SECTION G: CONTRACT ADMINISTRATION

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 30th 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 with concurrent copies to the CA specified in Section G.9 below. The address of the CFO is:

DC Child and Family Services Agency
Office of the Controller/Agency CFO
200 I (Eye) Street, S.E., Suite 2030
Washington, D.C. 20003
Phone: (202) 727-7383

The contractor may also submit invoices by e-mail to: cfsa.accountspayable@dc.gov.

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 (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 agency 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

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 contract at the prices stated in Section B.

G.5 ASSIGNMENT OF CONTRACT PAYMENTS

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

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

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be paid if payment for the completed delivery of the item of property or service is made on or before:

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

G.6.1.2 Any amount of an interest penalty which 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 seven (7) days of receipt of any amount paid to the Contractor by the District for work performed by any subcontractor under this 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 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 3rd day after the required payment date for meat or a meat product;
- b) the 5th day after the required payment date for an agricultural commodity; or
- c) the 15th day after the required payment date for any other item.

G.6.2.3 Any amount of an interest penalty which 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.6.3 Subcontract requirements

G.6.3.1 The Contractor shall include in each subcontract under this contract a provision requiring the subcontractor to include in its contract with any lower-tier subcontractor or supplier the payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code §2-221.02(d).

G.7 ORDERING CLAUSE

G.7.1 Any supplies and services to be furnished under this contract must be ordered by issuance of delivery orders or task orders by the CO. Such orders may be issued during the term of this contract.

G.7.2 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.7.3 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.8 CONTRACTING OFFICER (CO)

Contracts will be entered into and signed on behalf of the District only by contracting officers. The contact information for the Contracting Officer is:

Tara Sigamoni
Agency Chief Contracting Officer
Contracts and Procurement Administration
Child and Family Services Agency
200 I Street, S.E. Suite 2031
Washington, D.C. 20003
(202) 724-5300

G.9 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER

G.9.1 The CO is the only person authorized to approve changes in any of the requirements of this contract.

G.9.2 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 CO.

G.9.3 In the event the Contractor effects any change at the instruction or request of any person other than the CO, 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.10 CONTRACT ADMINSTRATOR (CA)

G.10.1 The CA is responsible for general administration of the contract and advising the CO as to the Contractor's compliance or noncompliance with the contract. **The terms Contract Administrator and Contract Monitor may be used interchangeably.** The CA has the responsibility of ensuring the work conforms to the requirements of the contract and such other responsibilities and authorities as may be specified in the contract. These include:

G.10.1.1 Keeping the CO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CO of any potential problem areas under the contract;

G.10.1.2 Coordinating site entry for Contractor personnel, if applicable;

G.10.1.3 Reviewing invoices for completed work and recommending approval by the CO if the Contractor's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;

G.10.1.4 Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with the District's payment provisions; and

G.10.1.5 Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, equipment) and invoice or vouchers.

G.10.2 The address and telephone number of the CA is:

Amy Templeman
Well Being Supervisor
Office of Well Being
DC Child and Family Services Agency
200 I Street SE, Room 3650
Washington DC 20003
202-724-7080

G.10.3 The CA shall NOT have the authority to:

1. Award, agree to, or sign any contract, delivery order or task order. Only the CO shall make contractual agreements, commitments or modifications;
2. Grant deviations from or waive any of the terms and conditions of the contract;
3. Increase the dollar limit of the contract or authorize work beyond the dollar limit of the contract,
4. Authorize the expenditure of funds by the Contractor;
5. Change the period of performance; or
6. Authorize the use of District property, except as specified under the contract.

G.10.4 The Contractor will be fully responsible for any changes not authorized in advance, in writing, by the CO; 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.11 PERFORMANCE MONITORING

G.11.1 The CA and other authorized CFSA representatives shall review all written policies and procedures, review reports, conduct site inspections and hold periodic conferences with the Contractor to assess the Contractor's performance in meeting the requirements of this contract.

G.11.2 CFSA may withhold payment if the Contractor fails to meet the scope of services set forth in this contract.

G.12 COST REIMBURSEMENT CEILING

G.12.1 Cost reimbursement ceiling for this contract is set forth in Section B.3.

G.12.2 The costs for performing this contract shall not exceed the cost reimbursement ceiling specified in Section B.3.

G.12.3 The Contractor agrees to use its best efforts to perform the work specified in this contract and to meet all obligations under this contract within the cost reimbursement ceiling.

G.12.4 The Contractor must notify the CO, in writing, whenever it has reason to believe that the total cost for the performance of this contract will be either greater or substantially less than the cost reimbursement ceiling.

G.12.5 As part of the notification, the Contractor must provide the CO a revised estimate of the total cost of performing this contract.

G.12.6 The District is not obligated to reimburse the Contractor for costs incurred in excess of the cost reimbursement ceiling specified in Section B.3, and the Contractor is not obligated to continue performance under this contract (including actions under the Termination clauses of this contract), or otherwise incur costs in excess of the cost reimbursement ceiling specified in Section B.3, until the CO notifies the Contractor, in writing, that the estimated cost has been increased and provides revised cost reimbursement ceiling for performing this contract.

G.12.7 No notice, communication, or representation in any form from any person other than the CO shall change the cost reimbursement ceiling. In the absence of the specified notice, the District is not obligated to reimburse the Contractor for any costs in excess of the costs reimbursement ceiling, whether such costs were incurred during the course of contract performance or as a result of termination.

G.12.8 If any cost reimbursement ceiling specified in Section B.3 is increased, any costs the Contractor incurs before the increase that are in excess of the previous cost reimbursement ceiling shall be allowable to the same extent as if incurred afterward,

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unless the CO issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.

G.12.9 A change order shall not be considered an authorization to exceed the applicable cost reimbursement ceiling specified in Section B.3, unless the change order specifically increases the cost reimbursement ceiling.

G.12.10 Only costs determined in writing to be reimbursable in accordance with the cost principles set forth in rules issued pursuant to Title VI of the D.C. Procurement Practices Act of 1985 shall be reimbursable.

*****END OF SECTION G*****

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 Department of Employment Services ("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 Contractor shall be bound by the **Wage Determination No. 2005-2103 Rev 12 Dated June 13, 2012**, 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 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.

H.3 PUBLICITY

The Contractor shall at all times obtain the prior written approval from the CO 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 CA 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 CA will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the CA within the timeframe designated by the CA. 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.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 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 10th of each month following execution of the contract, a First Source Agreement Contract Compliance Report (“contract compliance report”) to verify 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 CO its compliance with section H.5.4 of this clause; or
- (2) Submit a request to the CO 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 CO may waive the provisions of section H.5.4 if the CO 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 CO 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 CO determines that the Contractor is in compliance, or that a waiver of compliance is justified, the CO shall, within two business days of making the determination forward a copy of the determination to the agency Chief Financial Officer and the CA.

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 CO 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 this contract any decision of the CO 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 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 programs and activities. See 29 U.S.C. § 794 *et seq.*

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

During the performance of this 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 WAY TO WORK AMENDMENT ACT OF 2006

H.8.1 Except as described in H.8.8 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.8.2 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.

H.8.3 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.8.4 The DOES may adjust the living wage annually and the OCP will publish the current living wage rate on its website at www.ocp.dc.gov.

H.8.5 The Contractor shall provide a copy of the Fact Sheet attached as **J.6** to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice attached as **J.5** 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.8.6 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.8.7 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.8.8 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;

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- (5) Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
- (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;
- (7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;
- (8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));
- (9) Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and
- (10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

H.8.9 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.9 SUBCONTRACTING REQUIREMENTS

H.9.1 Mandatory Subcontracting Requirements

H.9.1.1 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.9.1.2 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.9.1.3 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.9.2 **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.9.2.1 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.9.2.2 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.9.2.3 The names and addresses of all proposed subcontractors who are SBEs or, if insufficient SBEs are available, who are certified business enterprises;

H.9.2.4 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.9.2.5 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.9.2.6 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.9.2.7 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.9.2.8 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.9.2.9 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.9.3 **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.9.3.1 The dollar amount of the contract or procurement;

H.9.3.2 A brief description of the goods procured or the services contracted for;

H.9.3.3 The name of the business enterprise from which the goods were procured or services contracted;

H.9.3.4 Whether the subcontractors to the contract are currently certified business enterprises;

H.9.3.5 The dollar percentage of the contract awarded to SBEs, or if insufficient SBEs, to other certified business enterprises;

H.9.3.6 A description of the activities the Contractor engaged in, in order to achieve the subcontracting requirements set forth in its plan; and

H.9.3.7 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.9.4 **Subcontractor Standards**

H.9.4.1 A prime contractor shall ensure that subcontractors meet the criteria for responsibility described in D.C. Official Code § 2-353.01.

H.9.5 **Enforcement and Penalties for Breach of Subcontracting Plan**

H.9.5.1 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.9.5.2 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.9.5.3 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.10 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL

H.10.1 The key personnel specified in the contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified key personnel for any reason, the Contractor shall notify the 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.

H.10.2 The key personnel identified by the Contractor are shown in the table below:

Name	Position

H.11 CONTRACTOR RESPONSIBILITIES

H.11.1 UNUSUAL INCIDENTS

H.11.1.1 The contractor shall immediately report all unusual incidents by telephone to the CA if the incident is involving the adult female client. All unusual incidents involving a CFSA involved child shall be reported to the CFSA twenty four (24) hour Hotline (202-671-SAFE). All unusual incidents must be reported to the CA within 24 hours of the contractor becoming aware of the incident.

H.11.1.2 The Contractor shall establish, implement, and describe in writing policies and procedures for the reporting of unusual incidents, including, but not limited to;

- (a) The death of a client;
- (b) The death of a staff member while on duty or at the facility;
- (c) An attempted suicide;
- (d) Any situation in which a client is the victim of alleged delinquent or criminal behavior;
- (e) An injury, trauma or illness of a client requiring treatment at a hospital; (f) Any use of restraints;
- (g) An outbreak of a communicable disease;
- (h) An incident at the requiring the services of the fire or police departments;
- (i) An automobile accident involving client or staff on duty;
- (j) A loss of any utility, including but not limited to power, water, or sewage;
- (k) Any condition which results in the facility's closure; and
- (l) Any other occurrence or event that substantially interferes with the client's health, welfare, living arrangement, or well being, in any way places the client at risk.

H.11.1.3 The Contractor's director or other designated staff shall complete an Unusual Incident Report and ensure deliver is completed via fax (202-727-7772) or personal delivery to

the CFSA Clinical and Health Services Administration within (24) hours of the occurrence of the incident, except in cases involving abscondence.

H.11.2 MANDATORY REPORTING

H.11.2.1 The Contractor shall ensure that any staff member who receives information concerning, or personally observes, an incident of alleged or actual child abuse or neglect, having any other information indicating an alleged or actual risk to a child/children health or safety, shall make an immediate oral report and a written report within twenty-four (24) hours to the CFSA's twenty-four (24) hour Child Abuse and Neglect Hotline (202 671-SAFE).

H.11.2.2 The Contractor shall ensure that notification is made within (24) hours to the assigned CA, Contract Monitoring Unit and the Contracting Officer.

H.11.2.3 The Contractor shall ensure that any staff member who believes that a resident is in serious and immediate danger shall take immediate steps to protect the resident including, as appropriate, removing the resident from the danger.

H.11.2.4 The Contractor shall ensure that the written report shall include, but need not be limited to, the following information if the person making the report knows:

- (a) The child/children who is the subject of the report
- (b) Each of the child/children siblings; and
- (c) Each of the child/children parents or other persons responsible for the child/children's care;
- (d) The nature and extent of the abuse or neglect of the child/children and any previous abuse or neglect, if known;
- (e) All other information which the person making the report believes may be helpful in establish the cause of the abuse or neglect and the identity of the person responsible for the abuse or neglect; and
- (f) If the source was required to report under this subchapter, the identity and occupation of the source how to contact the source and a statement of the actions taken by the source concerning the child/children.

H.11.2.5 The Contractor shall ensure that all staff complies with the provisions as cited in DC Law 22-2 and DC Code §4-1321.02.

H.11.3 STAFF SECURITY REQUIREMENTS

H.11.3.1 The Provider shall conduct routine, pre-employment child protection and criminal record background checks of the Provider's staff and prospective staff to include consultants and sub-contracts with access to children. All staff, employees, consultants and sub-contractors must be cleared through the Child Protection Register and the Police Department of the jurisdiction(s) in which the staff member resided during the five years prior to employment under this contract, as well as cleared through the District of Columbia Metropolitan Police Department, and the jurisdiction in which they will be providing services. The Provider must ensure that employees, consultants and

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subcontractors obtain FBI and local police clearances every two (2) years, and a Child Protection Registry clearance on an annual basis.

H.11.3.2 The Provider shall not employ any staff in the fulfillment of work under this contract unless said person has undergone both background checks evidencing there are not any convictions of the following:

H.11.3.2.1 Child abuse;

H.11.3.2.2 Child neglect;

H.11.3.2.3 Spousal abuse;

H.11.3.2.4 A crime against children, including child pornography;

H.11.3.2.5 A crime involving violence, including but not limited to, rape, sexual assault, homicide and assault;

H.11.3.2.6 Or, there is any information that the staff has been identified as a possible abuser or neglecter in a pending child abuse or neglect case.

H.11.3.3 The Contractor shall screen new employees for drug and alcohol abuse, and then conduct subsequent, continuous testing on a random basis.

H.11.3.4 The Contractor shall terminate any staff for which an allegation of any of the following has been substantiated by an investigation by CFSA's Institutional Abuse Unit or a comparable Child Protective Services unit in any jurisdiction:

H.11.3.4.1 Neglect of children;

H.11.3.4.2 Physical abuse of children, families or staff members;

H.11.3.4.3 Sexual abuse or harassment of children, families or staff members;

H.11.3.4.4 Verbal or emotional abuse of children, families or staff members;

H.11.3.4.5 Drug or alcohol use on the premises or with children and families, or such that the staff is under the influence while on duty;

H.11.3.4.6 Failure to report any allegation of child abuse and/or neglect to CFSA and to the appropriate law enforcement or social service agency in the jurisdiction in which the allegation occurred.

H.11.3.5 The Provider shall place a staff on suspension or administrative leave and bar access to children or youth following an allegation, and during the time of investigation into those criteria listed in above in Section H.11.3.4 of this agreement.

H.11.3.6 CFSA will consider as sufficient cause for placement restriction, and possible result in contract termination, the Provider's failure to dismiss employees for the conditions listed in Section H.11.3.4 of this agreement.

H.11.3.7 CFSA retains the right to make additional recommendations on staffing security issues that may come to its attention during staff record reviews.

H.11.4 STAFF REQUIREMENTS

H.11.4.1 The Contractor shall maintain documentation that Contractor staff (employees, volunteers and consultants) possesses adequate training, qualifications, and competence to perform the duties to which they are assigned, and hold current licenses or

certifications as appropriate. All direct service personnel assigned to cases must enroll and complete the CFSA training for new employees most closely related to their function, as well as ongoing training at CFSA's expense on a training-space-available basis.

- H.11.4.2** The Contractor shall maintain complete written job descriptions covering all positions funded through the contract, which must be included in the project files and be available for inspection on request by CFSA. Job descriptions will include education, experience, and/or licensing/ certification criteria, a description of duties and responsibilities, hours of work, salary range and performance evaluation criteria. When hiring staff for this contract project, the Contractor shall obtain written documentation of education, work experience and personal references, as well as any current licenses and certifications that are applicable.
- H.11.4.3** The Contractor shall maintain an individual personnel file for each project staff member funded by this contract which will contain the application for employment, professional and personal references, applicable credentials/certifications, records of required medical examinations, personnel actions including time and attendance records, documentation of all training received, notation of any substantiated professional or other misconduct relating thereto, and reason if terminated from employment. All personnel materials will be made available to CFSA upon request.
- H.11.4.4** The Contractor shall provide orientation sessions for each staff member with respect to administrative procedures, program goals, and policies and practices to be adhered to under this contract.
- H.11.4.5** The Contractor shall maintain a current organizational chart, which displays organizational relationships and demonstrates who has responsibility for administrative oversight and supervision over each activity required under this contract.
- H.11.4.6** The Contractor shall ensure that all employees are licensed and qualified to perform services under this contract.
- H.11.4.7** The Contractor shall ensure that all employees who are directly involved in providing services under this contract are informed of the current medical, psychiatric, psychological, cognitive, emotional and behavioral status and patterns of the client.
- H.11.4.8** The Contractor shall ensure that all staff do not have any prior criminal record of convictions for child abuse, molestation, sexual abuse and rape.

H.11.5 COST OF OPERATION

All costs of operation under this contract shall be borne by the Contractor. This includes but is not limited to taxes, surcharges, licenses, insurance, transportation, salaries and bonuses. No payments other than those provided for in the Price Schedule shall be made to the Contractor.

H.11.6 FACILITY REQUIREMENTS

H.11.6.1 The Contractor's facilities used during the performance of this contract shall meet all applicable federal, state, and local regulations for their intended use. The Contractor shall maintain all permits and licenses for facilities.

H.11.6.2 All facilities used for the provision of services under this contract shall be accessible to persons with mobility limitations, consistent with applicable federal and District law, including the Americans with Disabilities Act.

H.11.7 SUBCONTRACTING

H.11.7.1 The Contractor shall not engage subcontractors to perform any of its responsibilities under this contract without the prior written approval of the Contracting Officer.

H.11.7.2 Consent by the District to any proposed subcontractor shall not: (1) constitute a determination of the acceptability of any subcontract terms or conditions; (2) constitute a determination of the acceptability of any amount paid under any subcontract; or (3) relieve Contractor of any of its responsibilities under the contract.

H.11.7.3 Contractor shall assure that all subcontracts approved by the District shall be consistent with the terms of this contract, including, but not limited to, certifications and licenses of staff, safeguarding of confidential information, and insurance coverage.

H.11.8 STANDARD OF PERFORMANCE

H.11.8.1 The Contractor shall at all times act in good faith and in the best interest of CFSA, use its best efforts and exercise due care and sound business judgment in performing the duties under this contract.

H.11.8.2 The Contractor shall at all times comply with CFSA policies, procedures and directives as it pertains to providing services to our children, caregivers and involved family members.

H.12 HIPAA PRIVACY COMPLIANCE

For the purpose of this agreement **the Child and Family Services Agency (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 _____ 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.
- d. *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

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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

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- 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 are 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 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 the Identity And Procedure Verification Policy, attached hereto as Exhibit A and incorporated by reference.
- i. The Business Associate agrees to record authorizations and log such disclosures of Protected Health Information and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528 and applicable District of Columbia laws, rules and regulations.
- 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. Additional Obligations of the Business Associate

- a. Business Associate shall submit a written report to the Covered Entity that identifies the files and reports that constitute the Designated Record Set of the Covered Entity. Business Associate shall submit said written report to the

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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.

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- vi. 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;

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- 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 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 March 2007, 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:

If to the Covered Entity, to:

Child and Family Services Agency
Privacy Officer
Washington, DC 20003
Fax: 202-727-8886

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

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- m. *Counterparts; Facsimiles.* This HIPAA Compliance Clause may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.
- n. *Successors and Assigns.* The provisions of this HIPAA Compliance Clause shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns, if any.
- o. *Severance.* In the event that any provision of this HIPAA Compliance Clause is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this HIPAA Compliance Clause will remain in full force and effect. In addition, in the event a Party believes in good faith that any provision of this HIPAA Compliance Clause fails to comply with the then-current requirements of the Privacy Rule, such party shall notify the other Party in writing, in the manner set forth in Section 10. Miscellaneous, Paragraph k. Notices. Within ten (10) business days from receipt of notice, the Parties shall address in good faith such concern and amend the terms of this HIPAA Compliance Clause, if necessary to bring it into compliance. If, after thirty (30) days, the HIPAA Compliance Clause fails to comply with the Privacy Rule, then either Party has the right to terminate this HIPAA Compliance Clause upon written notice to the other Party.
- p. *Independent 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.

Attachments:

Exhibit A: Identity and Procedure Verification

H.13 CONFIDENTIALITY

H.13.1 The Contractor recognizes and acknowledges that, by virtue of entering into this contract and providing services to the District hereunder, Contractor may have access to certain information of the District and its clients that is confidential and constitutes valuable, special and unique property of the District. The Contractor shall not at any time, either during or subsequent to the term of this contract, disclose to others, use, copy or permit to be copied, any the District client/confidential information without the District's express prior written consent, except pursuant to Contractor's duties hereunder. Contractor agrees to abide by all laws and regulations governing confidentiality, including but not limited to the Health Insurance Portability and Accountability Act of 1996, as amended (HIPAA).

H.13.2 The Contractor shall ensure that all case record information is confidential and shall not be disclosed or used other than in the course of official duties to provide services to the child and in such instances, shall only be disclosed to the least extent possible, consistent with any court order, the individual service plan, and local and federal law.

H.13.3 The Contractor shall maintain the confidentiality and privacy of all identifying information concerning CFSA clients in accordance with the confidentiality law (requirements and restrictions contained in federal and District law concerning access to child welfare information, including D.C. Official Code §§ 4-1302.03, 1302.08, 1303.06 and 130-3.07), 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 Section H.2 of this Contract.

H.13.4 The Contractor and representatives of CFSA shall have access to the client's case record. No other person shall have access to the case record unless authorized in writing by CFSA.

H.13.5 The Contractor shall train all staff on the procedures for maintaining the confidentiality of the client's case record and information contained therein.

H.14 RIGHTS IN DATA

CFSA retains ownership of all client and case management data produced under this contract. The Contractor shall not publish scientific or technical articles based on this data and or information without prior approval and written consent of CFSA. CFSA shall not unreasonable withhold consent to the Contractor's request(s) to publish or reproduce data in professional and scientific publications.

H.15 CRIMINAL BACKGROUND AND TRAFFIC RECORDS CHECKS FOR CONTRACTORS THAT PROVIDE DIRECT SERVICES TO CHILDREN OR YOUTH

H.15.1 A contractor that provides services as a covered child or youth services provider, as defined in section 202(3) of the Child and Youth, Safety and Health Omnibus

Amendment Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code § 4-1501.01 *et seq.*), as amended (in this section, the “Act”), shall obtain criminal history records to investigate persons applying for employment, in either a compensated or an unsupervised volunteer position, as well as its current employees and unsupervised volunteers. The Contractor shall request criminal background checks for the following positions:

All positions that involve contact with wards of CFSA and/or youth (their children)

- H.15.2** The Contractor shall also obtain traffic records to investigate persons applying for employment, as well as current employees and volunteers, when that person will be required to drive a motor vehicle to transport children in the course of performing his or her duties. The Contractor shall request traffic records for the following positions:
All positions that involve contact with wards of CFSA and/or youth (their children)
- H.15.3** The Contractor shall inform all applicants requiring a criminal background check that a criminal background check must be conducted on the applicant before the applicant may be offered a compensated position or an unsupervised volunteer position.
- H.15.4** The Contractor shall inform all applicants requiring a traffic records check that a traffic records check must be conducted on the applicant before the applicant may be offered a compensated position or a volunteer position.
- H.15.5** The Contractor shall obtain from each applicant, employee and unsupervised volunteer:
- (A) a written authorization which authorizes the District to conduct a criminal background check;
 - (B) a written confirmation stating that the Contractor has informed him or her that the District is authorized to conduct a criminal background check;
 - (C) a signed affirmation stating whether or not they have been convicted of a crime, pleaded nolo contendere, are on probation before judgment or placement of a case upon a stet docket, or have been found not guilty by reason of insanity, for any sexual offenses or intra-family offenses in the District or their equivalent in any other state or territory, or for any of the following felony offenses or their equivalent in any other state or territory:
 - (i) Murder, attempted murder, manslaughter, or arson;
 - (ii) Assault, assault with a dangerous weapon, mayhem, malicious disfigurement, or threats to do bodily harm;
 - (iii) Burglary;
 - (iv) Robbery;
 - (v) Kidnapping;
 - (vi) Illegal use or possession of a firearm;
 - (vii) Sexual offenses, including indecent exposure; promoting, procuring, compelling, soliciting, or engaging in prostitution; corrupting minors (sexual relations with children); molesting; voyeurism; committing sex acts in public; incest; rape; sexual assault; sexual battery; or sexual abuse; but excluding sodomy between consenting adults;

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- (viii) Child abuse or cruelty to children; or
- (ix) Unlawful distribution of or possession with intent to distribute a controlled substance;

- (D) a written acknowledgement stating that the Contractor has notified them that they are entitled to receive a copy of the criminal background check and to challenge the accuracy and completeness of the report; and
- (E) a written acknowledgement stating that the Contractor has notified them that they may be denied employment or a volunteer position, or may be terminated as an employee or volunteer based on the results of the criminal background check.

H.15.6 The Contractor shall inform each applicant, employee and unsupervised volunteer that a false statement may subject them to criminal penalties.

H.15.7 Prior to requesting a criminal background check, the Contractor shall provide each applicant, employee, or unsupervised volunteer with a form or forms to be utilized for the following purposes:

- (A) To authorize the Metropolitan Police Department (MPD), or designee, to conduct the criminal background check and confirm that the applicant, employee, or unsupervised volunteer has been informed that the Contractor is authorized and required to conduct a criminal background check;
- (B) To affirm whether or not the applicant, employee, or unsupervised volunteer has been convicted of a crime, has pleaded nolo contendere, is on probation before judgment or placement of a case upon a stet docket, or has been found not guilty by reason of insanity for any sexual offenses or intra-family offenses in the District or their equivalent in any other state or territory of the United States, or for any of the felony offenses described in paragraph H.15.5(C);
- (C) To acknowledge that the applicant, employee, or unsupervised volunteer has been notified of his or her right to obtain a copy of the criminal background check report and to challenge the accuracy and completeness of the report;
- (D) To acknowledge that the applicant may be denied employment, assignment to, or an unsupervised volunteer position for which a criminal background check is required based on the outcome of the criminal background check; and
- (E) To inform the applicant or employee that a false statement on the form or forms may subject them to criminal penalties pursuant to D.C. Official Code §22-2405.

H.15.8 The Contractor shall direct the applicant or employee to complete the form or forms and notify the applicant or employee when and where to report to be fingerprinted.

H.15.9 Unless otherwise provided herein, the Contractor shall request criminal background checks from the Chief, MPD (or designee), who shall be responsible for conducting criminal background checks, including fingerprinting.

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- H.15.10** The Contractor shall request traffic record checks from the Director, Department of Motor Vehicles (DMV) (or designee), who shall be responsible for conducting traffic record checks.
- H.15.11** The Contractor shall provide copies of all criminal background and traffic check reports to the CA within one business day of receipt.
- H.15.12** The Contractor shall pay for the costs for the criminal background and traffic record checks, pursuant to the requirements set forth by the MPD and DMV. The District shall not make any separate payment for the cost of criminal background and traffic record checks.
- H.15.13** The Contractor may make an offer of appointment to, or assign a current employee or applicant to, a compensated position contingent upon receipt from the contracting officer of the CA's decision after his or her assessment of the criminal background or traffic record check.
- H.15.14** The Contractor may not make an offer of appointment to an unsupervised volunteer whose position brings him or her into direct contact with children until it receives from the contracting officer the CA's decision after his or her assessment of the criminal background or traffic record check.
- H.15.15** The Contractor shall not employ or permit to serve as an unsupervised volunteer an applicant or employee who has been convicted of, has pleaded *nolo contendere* to, is on probation before judgment or placement of a case on the stet docket because of, or has been found not guilty by reason of insanity for any sexual offenses involving a minor.
- H.15.16** Unless otherwise specified herein, the Contractor shall conduct periodic criminal background checks upon the exercise of each option year of this contract for current employees and unsupervised volunteer in the positions listed in sections H.15.1 and H.15.2.
- H.15.17** An employee or unsupervised volunteer may be subject to administrative action including, but not limited to, reassignment or termination at the discretion of the CA after his or her assessment of a criminal background or traffic record check.
- H.15.18** The CA shall be solely responsible for assessing the information obtained from each criminal background and traffic records check report to determine whether a final offer may be made to each applicant or employee. The CA shall inform the contracting officer of its decision, and the contracting officer shall inform the Contractor whether an offer may be made to each applicant.
- H.15.19** If any application is denied because the CA determines that the applicant presents a present danger to children or youth, the Contractor shall notify the applicant of such determination and inform the applicant in writing that she or he may appeal the denial to the Commission on Human Rights within thirty (30) days of the determination.
- H.15.20** Criminal background and traffic record check reports obtained under this section shall be confidential and are for the exclusive use of making employment-related determinations.

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The Contractor shall not release or otherwise disclose the reports to any person, except as directed by the contracting officer.

*****END OF SECTION H*****

SECTION I: CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts dated March 2007 (“SCP”) are incorporated as part of the contract. To obtain a copy of the SCP go to www.ocp.dc.gov, click on OCP Policies under the heading “Information”, then click on “Standard Contract Provisions – Supplies and Services Contracts”.

I.2 CONTRACTS THAT CROSS FISCAL YEARS

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

I.3 CONFIDENTIALITY OF INFORMATION

The Contractor shall keep all information relating to any employee or customer of the District in absolute confidence and shall not use the information in connection with any other matters; nor shall it disclose any such information 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.

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

I.5.7 The restricted rights set forth in section I.5.6 are of no effect unless

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

RESTRICTED RIGHTS LEGEND

Use, duplication, or disclosure is subject to restrictions stated in Contract No. _____ with (Contractor's Name); and

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

I.5.8 In addition to the rights granted in Section I.5.6 above, the Contractor hereby grants to the District a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section I.5.6 above, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the District under this contract. Unless written approval of the CO 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 CO. 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

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 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

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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. 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.
5. 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: \$5,000,000 per occurrence, including the District of Columbia as additional insured.
6. 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 \$3,000,000 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.
7. Crime Insurance (3rd Party Indemnity). The Contractor shall provide a 3rd Party Crime policy to cover the dishonest acts of Contractor's employees which 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.

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8. 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.
- 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:
- Tara Sigamoni
Child and Family Services Agency
Contracts and Procurement Administration
200 I Street, S.E. Suite 2031
Washington, D.C. 20003
(202) 724-5300
- 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

The contract awarded as a result of this RFP will contain the following clause:

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) An applicable Court Order, if any
- (2) Contract document
- (3) Standard Contract Provisions
- (4) Contract attachments other than the Standard Contract Provisions
- (5) RFP, as amended
- (6) BAFOs (in order of most recent to earliest)
- (7) 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.

*****END OF SECTION I*****

SECTION J: ATTACHMENTS

The following list of attachments is incorporated into the solicitation by reference.

Attachment Number	Document
J.1	Government of the District of Columbia Standard Contract Provisions for Use with the Supplies and Services Contracts (March 2007) available at www.ocp.dc.gov click on "Solicitation Attachments"
J.2	U.S. Department of Labor Wage Determination No. 2005-2103 Rev 12 Dated June 13 2012
J.3	Office of Local Business Development Equal Employment Opportunity Information Report and Mayor's Order 85-85 available at www.ocp.dc.gov click on "Solicitation Attachments"
J.4	Department of Employment Services First Source Employment Agreement available at www.ocp.dc.gov click on "Solicitation Attachments"
J.5	Way to Work Amendment Act of 2006 - Living Wage Notice
J.6	Way to Work Amendment Act of 2006 - Living Wage Fact Sheet
J.7	Tax Certification Affidavit
J.8	Bidder/Offeror Certifications available at www.ocp.dc.gov click on "Solicitation Attachments"

*****END OF SECTION J*****

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

Bidder/Offeror Certification Form

available at www.ocp.dc.gov click on "Solicitation Attachments"

*****END OF SECTION K*****

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 either a single or multiple contracts resulting from this solicitation to the responsible offeror/s whose offer/s conforming to the solicitation will be most advantageous to the District, cost or price, technical and other factors, specified elsewhere in this solicitation considered.

L.1.2 Initial Offers

The District may award a contract/s 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 ORGANIZATION AND CONTENT

One original and **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. **DCRL-2013-D-0063**, Substance Abuse Treatment Services", and **name of offeror**.

Offerors are directed to the specific proposal evaluation criteria found in Section M of this solicitation, Evaluation Factors. The offeror shall respond to each factor in a way that will allow the District to evaluate the offeror's response. The offeror shall submit information in a clear, concise, factual and logical manner providing a comprehensive description of program supplies and services and delivery thereof. The information requested below for the technical proposal shall facilitate evaluation for all proposals. The technical proposal must contain sufficient detail to provide a clear and concise response fully reflecting the manner in which the offeror proposes to fully meet the requirements in Section C.

L.3 REQUIREMENT FOR AN ELECTRONIC COPY OF PROPOSALS TO BE MADE AVAILABLE TO THE PUBLIC

In addition to the proposal submission requirements in Section L.2 above, the offeror must submit an electronic copy of its proposal, redacted in accordance with any applicable exemptions from disclosure under D.C. Official Code §2-534. Redacted copies of the offeror's proposal must be submitted by e-mail attachment to the contact person designated in the solicitation. D.C. Official Code §2-536(b) 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 §2-534(a)(1). Successful

proposals will be published on the OCP Internet in accordance with D.C. Official Code §2-361.04, subject to applicable FOIA exemptions.

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 **March 26, 2013 by 2:00 pm**. Proposals, modifications to proposals, or requests for withdrawals that are received in the designated District office after the exact local time specified above, are "late" and shall be considered only if they are received before the award is made and one (1) or more of the following circumstances apply:

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

L.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 and time 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 a proposal that is not considered shall be held unopened, unless opened for identification, until after award and then retained with unsuccessful proposals resulting from this solicitation.

L.5 EXPLANATION TO PROSPECTIVE OFFERORS

If a prospective offeror has any questions relating 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 seven (7) days prior to the closing date and time indicated for this solicitation. The District will not consider any questions received less than seven (7) days before the date set for submission of proposals. The District will furnish responses promptly to all prospective offerors. An amendment to the solicitation will be issued if the CO decides that information is necessary in submitting offers, or if the lack of it would be prejudicial to any prospective offeror. Oral explanations or instructions given by District officials 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 CO, **Tara Sigamoni, Agency Chief Contracting Officer, Contracts and Procurement Administration, Child and Family Services Agency, 200 I Street, S.E. Suite 2031, Washington, D.C. 20003, (202) 724-5300**, by letter or postcard whether they want to receive future solicitations for similar requirements. It is also requested that such recipients advise the CO 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 CO 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 pricing for the option year(s).

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 ten (10) business days after the basis of protest is known or should have been known, whichever is earlier. A protest based on alleged improprieties in a solicitation which are apparent at the time set for receipt of initial proposals shall be filed with the Board prior to the time set for receipt of initial proposals. In procurements in which proposals are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into the solicitation, must be protested no later than the next closing time for receipt of proposals following the incorporation. The protest shall be filed in writing, with the Contract Appeals Board, 441 4th Street, N.W., Suite 350N, Washington, D.C. 20001. The aggrieved person shall also mail a copy of the protest to the CO 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 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 offerors.

L.13 PROPOSAL COSTS

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

L.14 CERTIFICATES OF INSURANCE

Prior to commencing work, the Contractor shall have its insurance broker or insurance company submit certificates of insurance giving evidence of the required coverages as specified in Section I.8 to:

Tara Sigamoni
Child and Family Services Agency
Contracts and Procurement Administration
200 I Street, S.E. Suite 2031
Washington, D.C. 20003
(202) 724-5300

L.15 ACKNOWLEDGMENT OF AMENDMENTS

The offeror shall acknowledge receipt of any amendment to this solicitation (a) by signing and returning the amendment; (b) by identifying the amendment number and date in the space provided for this purpose in Section A, Solicitation, Offer and Award form; or (c) by letter, telegram or e-mail from an authorized negotiator. The District must receive the acknowledgment by the date and time specified for receipt of proposals. An offeror's failure to acknowledge an amendment may result in rejection of its offer.

L.16 BEST AND FINAL OFFERS

If, subsequent to receiving original proposals, negotiations are conducted, all offerors within the competitive range will be so notified and will be provided an opportunity to submit written best and final offers at the designated date and time. Best and final offers will be subject to the Late Submissions, Late Modifications and Late Withdrawals of Proposals provisions of the solicitation. After receipt of best and final offers, 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 to all offerors still within the competitive range.

L.17 LEGAL STATUS OF OFFEROR

Each proposal must provide the following information:

L.17.1 Name, address, telephone number and federal tax identification number of offeror;

L.17.2 A copy of each District of Columbia license, registration or certification that the offeror is required by law to obtain. This mandate also requires the offeror to provide a copy of the executed "Clean Hands Certification" that is referenced in D.C. Official Code §47-2862, if the offeror is required by law to make such certification. If the offeror is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the offer shall certify its

intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements; and

L.17.3 If the offeror is a partnership or joint venture, the names and addresses of the general partners or individual members of the joint venture, and copies of any joint venture or teaming agreements.

L.18 FAMILIARIZATION WITH CONDITIONS

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

L.19 GENERAL STANDARDS OF RESPONSIBILITY

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

L.19.1 To be determined responsible, a prospective contractor must demonstrate that it:

- (a) Has adequate financial resources, or the ability to obtain such resources, required to perform the contract;
- (b) Is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;
- (c) Has a satisfactory performance record;
- (d) Has a satisfactory record of integrity and business ethics;
- (e) Has a satisfactory record of compliance with the applicable District licensing and tax laws and regulations;
- (f) Has a satisfactory record of compliance with labor and civil rights laws and rules, and the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code §2-219.01 *et seq.*;
- (g) Has, or has the ability to obtain, the necessary organization, experience, accounting, and operational control, and technical skills;

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- (h) Has, or has the ability to obtain, the necessary production, construction, technical equipment, and facilities;
- (i) Has not exhibited a pattern of overcharging the District;
- (j) Does not have an outstanding debt with the District or the federal government in a delinquent status; and
- (k) Is otherwise qualified and is eligible to receive an award under applicable laws and regulations.

L.19.2 If the prospective contractor fails to supply the information requested, the CO shall make the determination of responsibility or nonresponsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the CO shall determine the prospective contractor to be nonresponsible.

L.20 KEY PERSONNEL

In addition to the general standards of responsibility set forth above, the offeror must submit with its proposal the Treatment Team.

L.20.1 Position Titles

The District shall consider the following treatment team to be key personnel for this contract:

Position Title
Program Counselor
Medical Director/Nurse

The Offeror shall set forth in its proposal, the names and reporting relationships of the key personnel that the offeror will use to perform the work under the proposed contract. Their resumes shall be included. The hours that each will devote to the contract shall be provided in total and broken down by task.

L.20.2 Position Descriptions

Position descriptions for the positions identified as key personnel shall be included with the proposal for review by the members of the evaluation team. **See Section M.**

*****END OF SECTION L*****

SECTION M - EVALUATION FACTORS

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 criteria specified below. Thus, while the points in the evaluation criteria indicate their relative importance, the total scores will not necessarily be determinative of the award. Rather, the total scores will guide the District in making an intelligent award decision based upon the evaluation criteria.

M.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 which are not correctable; offeror did not address the factor.
1	Poor	Marginally meets minimum requirements; major deficiencies which may be correctable.
2	Minimally Acceptable	Marginally meets minimum requirements; minor deficiencies which may be correctable.
3	Acceptable	Meets requirements; no deficiencies.
4	Good	Meets requirements and exceeds some requirements; no deficiencies.
5	Excellent	Exceeds most, if not all requirements; no deficiencies.

M.2.2 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.

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.

M.3 EVALUATION CRITERIA

Proposals will be evaluated based on the following evaluation factors in the manner described below:

M.3.1 TECHNICAL CRITERIA (Total 75 Points maximum)

Description: These factors consider the Offeror’s past performance, experience and key personnel used in performing services similar to the required services as described in Section C. These factors include an examination of the quality of services provided, timeliness in service delivery, business practices, and overall satisfaction with the Offeror’s performance.

Technical Evaluation Factors	Points
Factor A – Expertise in substance abuse among child welfare population	20
Factor B – Effectiveness of treatment, based on treatment completion and reunification of parents with children	20
Factor C - Past Performance and Experience	15
Factor D – Treatment Team	10
Factor E - Proposed Daily Schedule	10
Total	75

M.3.1.1 Factor A - Expertise in substance abuse among child welfare population (20 Points maximum)

M.3.1.1a This evaluation factor requires the Offeror to explain the Offeror’s understanding of the unique challenges faced by parents in the child welfare system.

M.3.1.1b The Offeror should explain the Offeror’s philosophy regarding treating parents who have had children removed from their home.

M.3.1.1c This factor requires the offeror to propose the methodology to be used to provide the services required.

M.3.1.2 Factor B - Effectiveness of treatment, based on treatment completion and reunification of parents with children (20 Points maximum)

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M.3.1.2a This evaluation factor considers statistics on the proposed methodology. Specifically, the offeror shall provide data on the number of women served, the number that completed training, the number that did not complete training and the reasons why these individuals failed to complete training, how many parents were reunified with their children, if they were involved in child welfare.

M.3.1.3 Factor C - Past Performance and Experience (15 Points maximum)

M.3.1.3a Evaluation of past performance and experience allows the District to assess the Offeror's ability to perform and relevance of the work performed.

M.3.1.3b This factor considers the extent of the Offeror's past performance within the last five (5) years, in achieving a high degree of customer satisfaction. Evaluation of this factor will be based on the quantity and quality of Offeror's performance on projects of comparable size, highly technical nature, and complexity. The currency and relevance of the information, source of information, context of the data, and general trends in Offeror's performance shall be considered.

M.3.1.3c The Offeror provides a list of three (3) previous contracts for which the Offeror provided identical or similar work within the last five years. Include the Name of Company, Title and Description of the Project, Contract Number, Dollar Amount, and Period of Performance, Name of the Contact Person, and Title, and Telephone Number and email address.

M.3.1.4 Factor D – Treatment Team (10 Points maximum)

M.3.1.4a This evaluation factor considers the education, experience, knowledge, past performance, necessary skills and expertise of the key personnel directly assigned to the project. The contractor shall propose the team it considers to be the key personnel.

M.3.1.5 Factor E - Proposed Daily Schedule (10 Points maximum)

M.3.1.5a This factor considers the programming offered for the mother and child and the availability of a structured daily schedule which is used in the course of the treatment. A detailed description of the daily schedule will aid the evaluation team in its evaluation.

M.3.2 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:

$$\begin{array}{l} \text{Lowest price proposal} \\ \text{-----} \end{array} \times \text{weight} = \text{Evaluated price score}$$

Price of proposal being evaluated

M.3.3 PREFERENCE POINTS AWARDED PURSUANT TO SECTION M.5.2 (12 Points Maximum)

M.3.4 TOTAL POINTS (112 Points Maximum)

Total points shall be the cumulative total of the offeror's technical criteria points, price criterion points and preference points, if any.

M.4 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.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 PROMPT PAYMENT DISCOUNT

M.6.1 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.6.2 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.

*****END OF SECTION M*****