

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Child and Family Services Agency



CONTRACTS AND PROCUREMENT ADMINISTRATION

**BLANKET PURCHASE AGREEMENT
ON SITE AND VIDEO REMOTE INTERPRETING SERVICES
DCRL-2014-A-0166**

1. EXTENT OF OBLIGATION:

- 1.1 The Government of the District of Columbia is obligated only to the extent that authorized purchases are actually made under the Blanket Purchase Agreement (BPA), and is not obligated to place future orders. (Title 27 of the District of Columbia Municipal Regulations (DCMR), Chapter 18, Section 1810.2 (a) (c).
- 1.2 Delivery or performance shall be made only as authorized by orders. All authorized orders maybe in the form of a Purchase Order. 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 specified in the price schedule. The District will order at least the minimum quantity specified in the price schedule.
- 1.3 There is no limit on the number of orders that may be issued. The District may issue orders requiring delivery to multiple destinations or performance at multiple locations.
- 1.4 Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The Contract shall govern the Contractor's and District's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; providing that the contractor shall not be required to make any deliveries under this contract after the expiration date of the contract.
- 1.5 The Contractor shall not provide any services under this agreement until a purchase order with sufficient funding to cover the cost of the requested services has been issued.

2. PURCHASE LIMITATION:

- 2.1 The limitation of this BPA shall not exceed \$100,000.00 in a one year period from date of award.

3. SCOPE OF WORK

- 3.1 The Child and Family Services Agency, seeks the services of a Contractor to provide internet based video remote interpreting (VRI) services, as well as live on-site community interpreters as an auxiliary aid for the deaf and hearing impaired. The VRI service should provide users with immediate access to interpreters, and be accessible via Wi-Fi or a cellular network on laptops, tablets, and mobile devices. The on-site interpreters should be available with short-term notice (i.e. less than 24 hours' notice).

The Agency's short term on-site interpreting requests may provide as little as one (1) hour notice. The Contractor shall ensure that in circumstances where the interpreter does not show up for a scheduled interpreting session or must otherwise cancel a previously confirmed interpreting session, the Agency will not provide payment for the missed session.

In reference to circumstances where the Agency cancels a previously confirmed interpreting request, the Contractor shall stipulate its cancellation policy in its proposal. The cancellation policy shall specify the amount of notice that the Agency is required to give the Contractor prior to cancellation, and the rate at which the Agency will be charged for its failure to provide required amount of notice prior to cancellation. The on-site interpreters should be available for assistance in various locations in the DC metro area.

Contractor's should be able to provide sign language interpreting. Any foreign language interpreting provided should be for sign language in foreign languages. These foreign languages may include, but are not limited to Amharic, Chinese, French, Korean, Spanish and Vietnamese.

3.2 **Definitions:**

- 3.2.1 **Covered Entities:** Any District government agency, department, or program that furnishes information or renders services, programs, or activities directly to the public or contracts with other entities, either directly or indirectly, to conduct programs, services, or activities.
- 3.2.2 **Video Remote Interpreting Services (VRI):** On-demand sign language interpreting service delivered over a live Internet or Wi Fi video connection with ADA qualified interpreters, clear audio and high-quality video, it's as if the interpreter is in the room with you. The video allows deaf and hard-of-hearing patients to communicate orally conveying the significance of a source/service from the source's service language into the language of the native speaker who is seeking the service(s) (target) and vice versa.
- 3.2.3 **On Site Community Interpreting:** "In-person interpreting," this delivery method requires the interpreter to be physically present in order for the interpretation to take place. In on-site interpreting settings, all of the parties who wish to speak to one another are usually located in the same place. This is by far the most common modality used for most public and social service settings.
- 3.2.4 **Language Interpretation:** Facilitating of oral sign-language communication, either simultaneously or consecutively, between users of different languages. The process is described by both the words *interpreting* and *interpretation*. Translation studies deal with the systematic study of the theory, the description and the application of language interpretation and translation.
- 3.2.5 **Video Relay Services (VRS):** Also sometimes known as a video interpreting service (VIS), is a video telecommunication service that allows deaf, hard-of-hearing and speech-impaired (D-HOH-SI) individuals to communicate over video telephones and similar technologies with hearing people in real-time, via a sign language interpreter.

- 3.26 **Single Award, Blanket Purchase Agreement (BPA):** A streamlined contracting vehicle that CFSA makes available to all covered entities/offices. It consists of a roster of Contractors that are approved by the originating Contracting Officer on the basis of proposals submitted in response to a solicitation.
- 3.27 **Sign Language:** A language that employs signs made with the hands and other movements, including facial expressions and postures of the body, used primarily by people who are deaf. Example: American Sign Language (ASL).
- 3.28 **Task Order:** A covered entity's/office's order for services placed against an established BPA.
- 3.29 **Interpreting Services:**

The Contractor shall provide on-site ADA-compliant qualified interpreters for DC Child and Family Services Agency on an as-needed basis when requested. The Contractor shall provide quality, professional service 24 hours a day, 7 days a week, 365 days a year with experienced interpreters both on-site and via video remote technology. Services shall be performed with a high level of interpretation skills and proficiency in both the English language and sign language in order to interpret the speaker's meaning completely and accurately. Specifically, interpreters employed by the Contractor for CFSA interpreting requests must be:

- a.) Knowledgeable of specialized vocabulary (terminology) in both English and sign language typically used in systems including, but not limited to, health systems, social service systems, legal systems and school systems;
- b.) Knowledgeable of the National Association of the Deaf-Registry of Interpreters for the Deaf (NAD-RID) Code of Professional Conduct for Interpreters , to be indicated by having each interpreter sign a copy of the Code of Professional Conduct;
- c.) Able to speak English and sign language fluently, including high to low levels of language register, regional colloquialisms and slang expressions, and do so with clear and intelligible pronunciation;
- d.) Certified by the Registry of Interpreters for the Deaf

4. **Deliverables:**

- 4.1 In the Task Order the agency will specify the requirements. The Contractor shall have the ability to deliver requested services. The Contractor shall adhere to the specified requirement.

Deliverables	Deadline	Delivery Format/Method	Deliver To Whom
Video Remote Interpreting Services	Immediately after placement of order by CFSA on an as needed basis.	In writing and sent by email or facsimile	Contract Administrator (CA)
On-Site (in-person) Interpreting Services	Short-term notice (i.e. less than 24 hour notice after placement of order by CFSA on a as needed basis	Submit in writing by email and facsimile, confirmation that an interpreter has been assigned.	Contract Administrator (CA)
VRI Services including Wi-Fi or a cellular network on laptops, tablets and mobile devices	No later than 48 hours prior to the scheduled start time of the interpreting event after placement of order by CFSA.	In writing and sent by email and facsimile.	Contract Administrator (CA)
Cancellation Policy	Submitted as part of the proposal on the due date of the proposal.	Submit in writing as a part of the proposal and include the rate in Schedule B in the pricing schedule.	In the proposal

4.2 Direct all technical inquiries to the Contract Administrator (CA), Simone Jenkins at (202) 724-7385, phone (202) 727-4831 fax.

4.3 The terms and conditions included in this BPA apply to all purchases made pursuant to this BPA and the District's Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts dated March 2007. In the event of an inconsistency between the provisions of this BPA and the Contractor's invoice, the provisions of this BPA will take precedence.

5. **Minimum Requirements:**

5.1 **Certification:**

5.1.1 Interpreters employed by the Contractor for CFSA interpreting requests shall have a minimum of one (1) consecutive year of professional experience in the field of oral interpretation and **one** of the following certifications and/or qualifications.

- National Interpreter Certification (NIC) from the Registry of Interpreters for the Deaf
- Specialist Certificate: Legal Certification (SC:L) from the Registry of Interpreters for the Deaf
- Educational Certificate: K-12 (Ed:K-12) from the Registry of Interpreters for the Deaf

6. Additional Requirements:

- The Contractor shall contact CFSA within twenty-four (24) hours to collect instructions on video remote and sign language interpretation services required unless otherwise instructed.
- CFSA shall indicate the need for specialized interpretation (e.g. medical or legal, etc.) For task orders requiring medical or legal interpreting, the Contractor shall only provide interpreters that have specific training and certification for medical and/or legal interpreting.
- Interpreters employed by the Contractor for on-site interpreting requests shall arrive at the requested location in a timely manner.
- Contractor shall train CFSA staff at CFSA location on the use of the VRI technology.

7. Non-Compliance:

- 7.1 The Government reserves the right to refuse the employment of an interpreter by the Contractor due to poor performance or any other reason based on a failure to satisfy the requirements of the BPA. Once the Contractor is notified that a particular assessment has been disqualified, the Contractor shall not employ such assessments in any Government function, unless reinstatement is granted by the Contract Administrator (CA) or designee.

8. Specific Requirements:

- 8.1 The Contractor shall provide VRI services for clients, including children, family members and other interested parties who are hearing impaired and therefore need auxiliary aids to access and fully participate in the Agency's social services. The VRI service should provide users with immediate access to interpreters, and be accessible via Wi-Fi or a cellular network on laptops, tablets and mobile devices. The on-site interpreters shall be available with short-term notice as little as one (1) hour notice. The on-site interpreters shall be available for assistance in various locations in the DC metropolitan area. For all interpreter requests other than short-term requests, the vendor shall provide written confirmation that an interpreter has been assigned no later than 48 hours prior to the scheduled start time of the interpreting event.
- 8.2 The Contractor shall be legally responsible for its employees and shall maintain that relationship during the time its employees are assigned to CFSA. The Contractor shall recruit, test, hire, train, assign, pay, provide benefits and leave to, and as necessary, address performance problems, discipline, and terminate its employees. The Contractor shall be responsible for payroll deductions and payment of income taxes, social security (FICA), unemployment insurance, and worker's compensation, and any required liability insurance and bonding.

9. Standard of Performance:

- 9.1 The Contractor shall, at all times act in good faith and in the best interests of the CFSA, use its best efforts and exercise all due care and sound business judgment in performing its duties under this contract. Contractor shall at all times, comply with CFSA

operational policies, procedures and directives while performing the duties specified in this BPA.

- 9.2 The Contractor shall be capable of delivering the video remote interpreting services immediately after placement of order by CFSA. The Contractor shall be capable of providing on-site interpreting within twelve (12) hours after placement of order by CFSA. CFSA will issue an order under this Agreement in writing, in the form of an electronic email or facsimile. These will be considered direct ordering agreements made with the contractor.
- 9.3 By signing this BPA, the contractor warrants and agrees that the prices charged to the District government shall be as low, or lower than the prices charged to their most favored customer for comparable services under similar terms and conditions, in addition to any discounts for prompt payment.

10. REFERRALS

- 10.1 Contractor shall only accept and process referrals, which are submitted by the CA or designated representative for services covered under this contract, consistent with the quantity limitations set forth in this contract, the qualifications of the Contractor to render such services, and all other requirements of this contract. Any disputes arising under or relating to this contract shall be resolved under the Disputes Clause, Clause 18, of the Standard Contract Provisions for Use with District of Columbia Government Supply and Services Contracts (March 2007).

11. ADVERTISING AND PUBLICITY

- 11.1 Neither Contractor nor its subcontractors, if any, shall issue or sponsor any advertising or publicity that states or implies, either directly or indirectly, that the District endorses, recommends or prefers Contractor's or the subcontractor's services. Contractor or any subcontractor shall not use CFSA's logo in any fashion without prior written approval of the Contracting Officer. Contractor and/or any subcontractor(s) shall not use or release information, photographs or other depictions of any CFSA project for publication, advertising or otherwise without the Contracting Officer's prior written approval.

12. PRICE/COST SCHEDULE/INDIVIDUAL AWARD ITEM

- 12.1 The Contractor shall provide all direct and indirect resources to provide the services in accordance to the specifications contained in this BPA and at the prices stated. This is a Fixed-Price BPA for the supplies/services with a cost reimbursement component to be performed at the unit prices specified in Section 12.2 – 12.6 the Price Schedules. The Contractor may submit pricing/proposals for both the VRI and On-site Interpreting or just one.

12.2 COST REIMBURSEMENT

- 12.2.1 The Contractor shall be reimbursed on a cost reimbursable basis for *mileage (only)* all client specific cost that are supported and substantiated by the Contractor with a ceiling amount set forth in CLINS 0002, 1002, 2002, 3002 and 4002. The items that are cost reimbursable are mileage reimbursement for travel expenses. (Airfare at the GSA market rate).

The Contractor cannot mark-up the cost reimbursement allowable expenses on this contract with indirect cost of overhead and general and administrative cost. Profit may not be charged against cost reimbursement expenses under this contract. Tangible items charged under this cost reimbursement CLIN (such as vehicles, computers, or equipment) will become the property of the District of Columbia.

12.3 COST REIMBURSEMENT CEILING

- 12.4 Cost reimbursement ceiling for this contract is set forth in Section 12.2.
- 12.5 The cost for performing this contract shall not exceed the cost reimbursement ceiling specified in Section 12.2.
- 12.6 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.
- 12.7 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.
- 12.8 As part of the notification, the Contractor must provide the CO a revised estimate of the total cost of performing this contract.
- 12.9 The District is not obligated to reimburse the Contractor for costs incurred in excess of the cost reimbursement ceiling specified in Section 12.2, 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 12.2, 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.
- 12.10 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.

- 12.11 If any cost reimbursement ceiling specified in Section 12.2 is increased, any costs the Contractor incurs before the increase that are in excess of the previous costs reimbursement ceiling shall be allowable to the same extent as if incurred afterward, unless the CO issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.
- 12.12 A change order shall not be considered an authorization to exceed the applicable cost reimbursement ceiling specified in Section 12.2, unless the change order specifically increases the cost reimbursement ceiling.
- 12.13 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.
- 12.14 At any time or times before final payment and three (3) years thereafter, the contracting officer may have the contractor's invoices or vouchers and statements audited.
- 12.15 Any payment may be reduced by amounts found by the contracting officer (1) not to constitute allowable payment as adjusted for prior overpayments or underpayments, or (2) not to constitute allowable, allocable, or reasonable costs. This section is subject to the Disputes provision of the contract.

13. PER DIEM RATE

- 13.1 The Per Diem Rate shall include all costs for providing services enumerated herein with the exception of those items clearly delineated and identified as Cost Re-imbusement items in Section 12.2.1.

13.2 BASE YEAR

CLIN	Description	Unit	Total Amount
0001	On Site Interpreting Services	Hour	\$
0002	Cost Reimbursement for Mileage (not to exceed)	Lump Sum	\$2,000.00
0003	Cancellation Policy	Hour	\$
0004	Video Remote Interpreting Services	Hour	\$
	Total Not-To-Exceed Amount for CLINS Nos. 0001 through 0004		\$

13.3 OPTION YEAR ONE

CLIN	Description	Unit	Total Amount
1001	On Site Interpreting Services	Hour	\$
1002	Cost Reimbursement for Mileage (not to exceed)	Lump Sum	\$2,000.00
1003	Cancellation Policy	Hour	\$
1004	Video Remote Interpreting Services	Hour	\$
	Total Not-To-Exceed Amount for CLINS Nos. 1001 through 1004		\$

13.4 OPTION YEAR TWO

Item	Description	Unit	Total Amount
2001	On Site Interpreting Services	Hour	\$
2002	Cost Reimbursement for Mileage (not to exceed)	Lump Sum	\$2,000.00
2003	Cancellation Policy	Hour	\$
2004	Video Remote Interpreting Services	Hour	\$
	Total Not-To-Exceed Amount for CLINS Nos. 2001 through 2004		\$

13.5 OPTION YEAR THREE

Item	Description	Unit	Total Amount
3001	On Site Interpreting Services	Hour	\$
3002	Cost Reimbursement for Mileage (not to exceed)	Lump Sum	\$2,000.00
3003	Cancellation Policy	Hour	\$
3004	Video Remote Interpreting Services	Hour	\$
	Total Not-To-Exceed Amount for CLINS Nos. 3001 through 3004		\$

13.6 OPTION YEAR FOUR

Item	Description	Unit	Total Amount
4001	On Site Interpreting Services	Hour	\$
4002	Cost Reimbursement for Mileage (not to exceed)	Lump Sum	\$2,000.00
4003	Cancellation Policy	Hour	\$
4004	Video Remote Interpreting Services	Hour	\$
	Total Not-To-Exceed Amount for CLINS Nos. 4001 through 4004		\$

14. DELIVERABLES OR PERFORMANCE TERM OF AGREEMENT

- 14.1 The term of this agreement shall be for a period of one (1) year from the date of award specified on page 1 of the BPA. The District reserves the right to extend this BPA for one year option periods under the same terms as stated for the initial period performance. Purchase orders issued by the District will expire at the end of each fiscal year.

The expiration date of a purchase order has no effect on the delivery period of the actual BPA unless the purchase limitation amount has been met. The BPA specifies the requirements. The Contractor shall have the ability to deliver the requested services. The Contractor shall adhere to the specified requirements.

14.2. NOTICE OF INDIVIDUALS AUTHORIZED TO PLACE ORDERS UNDER THE BPA: OFFICE POINT OF CONTACTS

Contracts and Procurement Administration: Tara Sigamoni
Agency Chief Contracting Officer

Human Resources Administration: Dexter Starkes, Director
PH: (202) 724-7373
Dexter.starkes@dc.gov

Human Resources Administration: Simone Jenkins, ADA Coordinator
PH: (202) 724-7385
Simone.jenkins@dc.gov

15. OPTION TO EXTEND THE TERM OF THE BLANKET PURCHASE ORDER:

15.1 The District may extend the term of this contract for a period of four (4), one-year option periods, or successive fractions thereof by written notice to the Contractor before the expiration of the contract; provided that the District will give the Contractor a preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the contract.

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

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

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

15.4.1 Order For Services And Invoices:

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

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

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

- 15.4.4 The requirements of a proper invoice are as specified in the Federal Supply Schedule contract. Invoices will be submitted to the address specified in the purchase order(s) issued against this BPA. The District reserves the right to reject any improper or inaccurate invoice.
- 15.4.5 **Payment** In accordance with the Quick Payment Act, D.C. Official Code § 2-221.02, payment shall be made within thirty (30) days from the date of receipt of a properly submitted invoice after all approvals are completed as required by the PASS system. CFSA will only pay the Contractor for performing the services under this BPA at the prices stated under BPA number: **DCRL-2014-A-0166**.
- 15.4.6 The terms and conditions included in this BPA apply to all purchases made pursuant to it. In the event of an inconsistency between the provisions of this BPA and the contractor's invoice, the provisions of this BPA will take precedence.
- 15.4.7 Award will be made to the lowest responsive bidder meeting the District's minimum requirements enumerated herein. The District reserve the rights to award to the contractor offering the District the best overall value taking into consideration the make/mode offered, delivery schedule, pricing or a combination of these factors.
- 15.4.8 The District will notify the contractor at least thirty (30) days prior to expiration or termination of orders against this BPA.

16. INSPECTION AND ACCEPTANCE:

- 16.1 The inspection and acceptance requirements for the resultant agreement shall be governed by clause number six (6), "Inspection of Services" of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March 2007.

17. METHOD OF AWARD:

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

In order for the response to be complete the offeror shall submit the following:

- Resumes of employees for this procurement
- Written proposal that clearly and convincingly address the technical factors enumerated in Section 17.4; and the requirements enumerated throughout this document.

17.2 TECHNICAL RATING(S)

17.2.1 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.

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

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

17.4 TECHNICAL EXPERTISE 75 Points Maximum)

FACTOR(S)	Evaluation Criteria	Points
Factor #1	Demonstrated capability to adhere to the functionalities and duties of a video remote interpreting as described in, Section 4.1R: Scope of Work Contractor should describe its VRI technology, its accessibility via Wi-Fi or a cellular network on laptops, tablets, and mobile devices, and any feature that contributes to ease-of-access; and its experience in providing VRI services (particularly, any experience in providing on-site interpreting for social service, child welfare system, or government entities). Demonstrated capability to adhere to the functionalities and duties of on-site interpreting as described in Section 4.1: Scope of Work. Contractor should describe its interpreter request process, any features of the request process that contribute to ease-of-access, and its experience in providing on-site interpreting in social service, child welfare system, or government settings);	20
Factor #2	Knowledge of interpreting process and procedures. Vendor should describe the educational background of its interpreters meet the certification requirements listed in Section 6: Certification; and its ability to maintain complete confidentiality in regards to the client's records.	15
Factor #3	Demonstrated Capability to provide Interpreting Services in an effective manner. Contractor shall describe how quickly the VRI technology provides users with access to an interpreter; the volume of requests the VRI system can handle within a given period of time; how quickly on-site interpreters can be secured after a request has been submitted; the volume of requests for on-site interpreting that the contractor can handle within a given period of time; how quickly the contractor provides confirmation that the interpreter has been secured for a request.	15
Factor #4	Submit a proposal detailing past performance and management staffing. Provide a list of three (3) previous contracts for which the Contractor provided identical or similar work within the last five years. Include the name of Company, Title and Description of the Project, Contact Number, Dollar Amount, Period of Performance, Name of the Contact Person, and Title, Telephone Number and email address.	15
Factor #5	Provide a cancellation policy that specify the amount of notice that the Agency is required to give the contractor prior to cancellation of services and include the rate in Schedule B in the pricing schedule. Best Value Preferred.	10
Total		75

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:

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

17.5 TOTAL POINTS (100 Points Maximum)

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

18. EVALUATION OF OPTION YEARS

- 18.1 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.

19. BEST AND FINAL OFFERS

- 19.1 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.

20. KEY PERSONNEL

- 20.1 The District considers the following positions to be key personnel for this BPA: Video Remote Interpreter and Sign Language Interpreter.
- 20.2 The Contractor shall set forth in its response the names and reporting relationships of the key personnel the Contractor will use to perform the work under the proposed contract. The Contractor shall include in its response a resume for each key personnel and the hours that each will devote to the contract in total and broken down by task.

21. DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL

- 21.1 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.

22. DEPARTMENT OF LABOR WAGE DETERMINATIONS:

- 22.1 The Contractor shall be bound by the Wage Determination No. 2005-2103 Rev. 15, dated January 22, 2014, 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 an attachment. The Contractor shall be bound by the wage rates for the term of the contract subject to revision as stated herein and in accordance with Section 24 of the SCP. If an option is exercised, the Contractor shall be bound by the applicable wage rates at the time of the exercise of the option. If the option is exercised and the CO obtains a revised wage determination, the revised wage determination is applicable for the option periods and the Contractor may be entitled to an equitable adjustment.

23. CONSEQUENCES OF CONTRACTOR'S FAILURE TO PERFORM REQUIRED SERVICES

- 23.1 The Contractor shall be held to the full performance of the contract. CFSA shall deduct from the Contractor's invoice or otherwise withhold payment for any non-conforming service as specified below.
- 23.2 A service task may be composed of several sub-items. A service task may be determined to be partially complete if the Contractor satisfactorily completes some, but not all, of the sub-items. In those cases, partial deductions may be taken from the Contractor's invoice/timesheet.
- 23.3 CFSA shall give the Contractor written notice of deductions by providing copies of reports, which summarize the deficiencies for which the determination was made to assess the deduction in payment for unsatisfactory work.
- 23.4 Therefore in the case of non-performed work, the CFSA:
- 23.5 CFSA shall deduct from the Contractor's invoice/timesheet, all amounts associated with such non-performed work at the rate set out in Section 6 or provided by other provisions of the contract.
- 23.6 CFSA, shall give the Contractor an opportunity to perform the non-performed work within a reasonable period subject to the discretion of the Contracting Officer and at no additional cost to the CFSA
- 23.7 May, at its option, perform the services by the CFSA personnel or other means.
- 23.8 In the case of unsatisfactory work, the CFSA:
- 23.9 CFSA shall deduct from the Contractor's invoice/timesheet all amounts associated with such unsatisfactory work at the rates set out in Section 6 or provided by other provisions of the contract, unless the Contractor is afforded an opportunity to re-perform and satisfactory completes the work;
- 23.10 **CFSA may**, at its option, afford the Contractor an opportunity to perform the unsatisfactory work within a reasonable period subject to the discretion of the Contracting Officer and at no additional cost to the CFSA.

24. FREEDOM OF INFORMATION ACT

24.1 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 BPA 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 BPA 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 BPA, 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*.

25. SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended.

25.1 During the performance of the BPA, 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.*

26. AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

26.1 During the performance of this BPA, 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.*

27. PROTECTION OF PROPERTY

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

28. CONFIDENTIALITY OF INFORMATION

28.1 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.

29. SUBCONTRACTING

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

29.2 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.

- 29.3 The 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.

30. HIPAA PRIVACY COMPLIANCE

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

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

1. Definitions

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

Covered Entity that is:

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

- k. *Individually Identifiable Health Information* is information that is health information, including demographic information collected from an individual, and;
- i. Is created or received by a health care provider, health plan, employer, or health care clearinghouse;
 - ii. Relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - iii. That identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- l. *National Provider Identifier (NPI) Rule*: "National Provider Identifier" shall mean the Standard Unique Health Identifier for Healthcare Providers; Final Rule at 45 C.F.R. Part 162.
- m. *Privacy and Security Official*. The person or persons designated by the District of Columbia, a Hybrid Entity, who is/are responsible for developing, maintaining, implementing and enforcing the District-wide Privacy Policies and Procedures, and for overseeing full compliance with the Privacy and Security Rules, and other applicable federal and state privacy law.
- n. *Privacy Officer*. The person designated by the Privacy and Security Official or one of the District of Columbia's designated health care components, who is responsible for overseeing compliance with the Covered Agency's Privacy Policies and Procedures, the HIPAA Privacy Regulations, HIPAA Security Regulations and other applicable federal and state privacy law(s). The Covered Agency's privacy officer shall follow the guidance of the District's Privacy and Security Official, and shall be responsive to and report to the District's Privacy and Security Official on matters pertaining to HIPAA compliance.
- o. *Privacy Rule*. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
- p. *Protected Health Information*. "Protected Health Information" (PHI) or "Electronic Protected Health Information" (ePHI) means individually identifiable health information that is created or received by the Business Associate from or on behalf of the Covered Entity, or agency following HIPAA best practices, which is:
- i. Transmitted by, created or maintained in electronic media; or
 - ii. Transmitted or maintained in any other form or medium;

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

- q. *Secretary*. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- r. *Security Officer*. The person designated by the Security Official or one of the District of Columbia's designated health care components, who are 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.

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 effect that is known to the Business Associate of a use or disclosure of Protected Health Information by the Business Associate in violation of the requirements of this Clause.
- d. The Business Associate agrees to report to Covered Entity, in writing, any use or disclosure of the Protected Health Information not permitted or required by this HIPAA Compliance Clause to the District Privacy Official or agency Privacy Officer within ten (10) days from the time the Business Associate becomes aware of such unauthorized use or disclosure.
- e. The Business Associate agrees to ensure that any workforce member or any agent, including a subcontractor, agrees to the same restrictions and conditions that apply through this Clause with respect to Protected Health Information received from the Business Associate, Protected Health Information created by the Business Associate, or Protected Health Information received by the

Business Associate on behalf of the Covered Entity.

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

1. 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.

30.1.2

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).

30.1.3

Additional Obligations of the Business Associate

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

30.1.4

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.

30.1.5

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.

30.1.6

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.

30.1.7

Representations and Warranties

The Business Associate represents and warrants to the Covered Entity:

- a. That it is duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is organized or licensed, it has the full power to enter into this HIPAA Compliance Clause and it, its employees, agents, subcontractors, representatives and members of its workforce are licensed and in good standing with the applicable agency, board, or governing body to perform its obligations hereunder, and that the performance by it of its obligations under this HIPAA Compliance Clause has been duly authorized by all necessary corporate or other actions and will not violate any provision of any license, corporate charter or bylaws;
- b. That it, its employees, agents, subcontractors, representatives and members of its workforce are in good standing with the District of Columbia, that it, its employees, agents, subcontractors, representatives and members of its workforce will submit a letter of good standing from the District of Columbia, and that it, its employees, agents, subcontractors, representatives and members of its workforce have not been de-barred from being employed as a contractor by the federal government or District of Columbia;
- c. That neither the execution of this HIPAA Compliance Clause, nor its performance hereunder, will directly or indirectly violate or interfere with the terms of another agreement to which it is a party, or give any governmental entity the right to suspend, terminate, or modify any of its governmental authorizations or assets required for its performance hereunder. The Business Associate represents and warrants to the Covered Entity that it will not enter into any agreement the execution or performance of which would violate or interfere with this HIPAA Compliance Clause;
- d. That it is not currently the subject of a voluntary or involuntary petition in bankruptcy, does not currently contemplate filing any such voluntary petition, and is not aware of any claim for the filing of an involuntary petition;
- e. That all of its employees, agents, subcontractors, representatives and members of its workforce, whose services may be used to fulfill obligations under this HIPAA Compliance Clause are or shall be appropriately informed of the terms of this HIPAA Compliance Clause and are under legal obligation to the Business Associate, by contract or otherwise, sufficient to enable the Business Associate to fully comply with all provisions of this HIPAA Compliance Clause. Modifications or limitations that the Covered Entity has agreed to adhere to with regards to the use and disclosure of Protected Health Information of any individual that materially affects or limits the uses and disclosures that are otherwise permitted under the Privacy Rule will be communicated to the Business Associate, in writing, and in a timely fashion;
- f. That it will reasonably cooperate with the Covered Entity in the performance

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

30.1.8

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.

30.1.9

Miscellaneous

- a. *Regulatory References.* A reference in this HIPAA Compliance Clause to a section in the Privacy Rule means the section as in effect or as amended.
- b. *Amendment.* The Parties agree to take such action as is necessary to amend

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

- c. *Survival.* The respective rights and obligations of the Business Associate under *Section 9. Term and Termination* of this HIPAA Compliance Clause and Sections 9 and 20 of the Standard Contract Provisions for use with the District of Columbia Government Supply and Services Contracts, effective April 2003, shall survive termination of the Contract.
- d. *Interpretation.* Any ambiguity in this HIPAA Compliance Clause shall be resolved to permit the Covered Entity to comply with applicable federal and District of Columbia laws, rules and regulations, and the Privacy Rule, and any requirements, rulings, interpretations, procedures, or other actions related thereto that are promulgated, issued or taken by or on behalf of the Secretary; provided that applicable federal and District of Columbia laws, rules and regulations shall supersede the Privacy Rule if, and to the extent that they impose additional requirements, have requirements that are more stringent than or provide greater protection of patient privacy or the security or safeguarding of Protected Health Information than those of HIPAA and its Privacy Rule.

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

- e. *No Third-Party Beneficiaries.* The Covered Entity and the Business Associate are the only parties to this HIPAA Compliance Clause and are the only parties entitled to enforce its terms. Except for the rights of Individuals, as defined herein, to have access to and amend their Protected Health Information, and to an accounting of the uses and disclosures thereof, in accordance with Paragraphs (2)(f), (g) and (j), nothing in the HIPAA Compliance Clause gives, is intended to give, , or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons.
- f. *Compliance with Applicable Law.* The Business Associate shall comply with

all federal and District of Columbia laws, regulations, executive orders and ordinances, as they may be amended from time to time during the term of this HIPAA Compliance Clause and the Contract; to the extent they are applicable to this HIPAA Compliance Clause and the Contract.

- g. *Governing Law and Forum Selection.* This Contract shall be construed broadly to implement and comply with the requirements relating to the Privacy Rule, and other applicable laws and regulations. All other aspects of this Contract shall be governed under the laws of the District of Columbia. The Covered Entity and the Business Associate agree that all disputes which cannot be amicably resolved by the Covered Entity and the Business Associate regarding this HIPAA Compliance Clause shall be litigated before the District of Columbia Contract Appeals Board, the District of Columbia Court of Appeals, or the United States District Court for the District of Columbia having jurisdiction, as the case may be. The Covered Entity and the Business Associate expressly waive any and all rights to initiate litigation, arbitration, mediation, negotiations and/or similar proceedings outside the physical boundaries of the District of Columbia and expressly consent to the jurisdiction of the above tribunals.
- h. *Indemnification.* The Business Associate shall indemnify, hold harmless and defend the Covered Entity from and against any and all claims, losses, liabilities, costs, and other expenses incurred as a result or arising directly or indirectly out of or in connection with (a) any misrepresentation, breach of warranty or non-fulfillment of any undertaking of the Business Associate under this HIPAA Compliance Clause; and (b) any claims, demands, awards, judgments, actions and proceedings made by any person or organization, arising out of or in any way connected with the performance of the Business Associate under this HIPAA Compliance Clause.
- i. *Injunctive Relief.* Notwithstanding any rights or remedies under this HIPAA Compliance Clause or provided by law, the Covered Entity retains all rights to seek injunctive relief to prevent or stop the unauthorized use or disclosure of Protected Health Information by the Business Associate, its workforce, any of its subcontractors, agents, or any third party who has received Protected Health Information from the Business Associate.
- j. *Assistance in litigation or administrative proceedings.* The Business Associate shall make itself and any agents, affiliates, subsidiaries, subcontractors or its workforce assisting the Business Associate in the fulfillment of its obligations under this HIPAA Compliance Clause and the Contract, available to the Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Covered Entity, its directors, officers or employees based upon claimed violation of HIPAA, the Privacy Rule or other laws relating to security and privacy, except where the Business Associate or its agents, affiliates, subsidiaries, subcontractors or its workforce are a named adverse party.

- k. *Notices.* Any notices between the Parties or notices to be given under this HIPAA Compliance Clause shall be given in writing and delivered by personal courier delivery or overnight courier delivery, or by certified mail with return receipt requested, to the Business Associate or to the Covered Entity, to the addresses given for each Party below or to the address either Party hereafter gives to the other Party. Any notice, being addressed and mailed in the foregoing manner, shall be deemed given five (5) business days after mailing. Any notice delivered by personal courier delivery or overnight courier delivery shall be deemed given upon notice upon receipt.

If to the Business Associate, to:

If to the Covered Entity, to:

Child and Family Services Agency
Privacy Officer
200 I Street, SE
Washington, D.C. 20003
Attention: Dionne M. Bryant

- l. *Headings.* Headings are for convenience only and form no part of this HIPAA Compliance Clause and shall not affect its interpretation.
- m. *Counterparts; Facsimiles.* This HIPAA Compliance Clause may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.
- n. *Successors and Assigns.* The provisions of this HIPAA Compliance Clause shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns, if any.
- o. *Severance.* In the event that any provision of this HIPAA Compliance Clause is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this HIPAA Compliance Clause will remain in full force and effect. In addition, in the event a Party believes in good faith that any provision of this HIPAA Compliance Clause fails to comply with the then-current requirements of the Privacy Rule, such party shall notify the other Party in writing, in the manner set forth in Section 10. Miscellaneous, Paragraph 1 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*

31 INSURANCE

- A. GENERAL REQUIREMENTS. The Contractor shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A-VIII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein. The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event the stated limit in the declarations page of the policy is reduced via endorsement or the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium.
1. Commercial General Liability Insurance. The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate; Bodily Injury and Property Damage including, but not limited to: premises-operations; broad form property damage; Products and Completed Operations; Personal and Advertising Injury; contractual liability and independent contractors. The policy coverage shall include the District of Columbia as an additional insured, shall be primary and non-contributory with any other insurance maintained by the District of Columbia, and shall contain a waiver of subrogation.
 2. 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 \$2,000,000 annual

aggregate.

3.

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
Agency Chief Contracting Officer
Contracts and Procurement Administrator
Child and Family Services Agency
200 I Street, SE, Suite 2031
Washington, DC 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.

CFSA is requiring that you submit a signed copy of this Blanket Purchase Agreement (BPA) no later than 2:00 PM, Thursday August 13, 2015. Please return the completed BPA with prices quoted in the **PRICE SCHEDULE** to Pamela Glover via email at pamela.glover@dc.gov or if hand delivering BPA's, bidders are cautioned to **USE ONLY THE 2nd Street, S.E. Entrance**, also known as the CFSA Clinic entrance. **DO NOT GO TO THE LOADING DOCK OR MAIN LOBBY.** This is a secure access building and CFSA will ensure that staff is present at this location to ensure timely receipt of bids. Bidders are cautioned to allow sufficient time to locate parking. Bidders assume the risk of ensuring the bids are received prior to the date and time set for the receipt of bids. If the Bidder uses an entrance other than 2nd Street, S.E., CFSA does not guarantee that it will be able to reach the location in sufficient time to ensure timely receipt.

Please direct questions concerning this solicitation to Ms. Pamela Glover, who may be reached at (202) 724-7579.

CONTRACTOR: _____
(Sign Here)

NAME: _____ **DATE:** _____

TITLE: _____

CHILD AND FAMILY SERVICES AGENCY:

Tara Sigamoni
Agency Chief Contracting Officer
(202) 724-5300 (phone)
(202) 727-5886 (Fax)

Date