

<b>SOLICITATION, OFFER, AND AWARD</b>		1. Caption <b>Document/Record Management Services</b>			Page of Pages	
					1	71
2. Contract Number	3. Solicitation Number  DCRL-2014-R-0013	4. Type of Solicitation <input type="checkbox"/> Sealed Bid (IFB) <input checked="" type="checkbox"/> Sealed Proposals (RFP) <input type="checkbox"/> Sole Source <input type="checkbox"/> Emergency	5. Date Issued  11/27/13	6. Type of Market <input checked="" type="checkbox"/> Open <input type="checkbox"/> Set Aside <input type="checkbox"/> Open Market with Set-Aside CBE Designated Category		
7. Issued By: Child and Family Services Agency Office of Contracts and Procurement Administration 200 I Street, S.E. Suite 2031 Washington, D.C. 20003		8. Address Offer to: Child and Family Services Agency Office of Contracts and Procurement Administration 200 I Street, S.E. Suite 2031 Washington, D.C. 20003				

NOTE: In sealed bid solicitations "offer" or "offeror" means "bid or "bidder"

**SOLICITATION**

9. Sealed offers in original and 3 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand carried to the Office of Contracts and Procurement Administration at 200 I Street, S.E. Suite 2031 at 2:00 p.m. local time on 1/6/14.  
(Hour) (Date)

CAUTION: Late submission, Modifications and Withdrawals: See 27 DCMR chapters 15 & 16 as applicable. All offers are subject to all terms & conditions contained in solicitation.

10. For Information Contact	A. Name		B. Telephone			C. E-mail Address
	Ronald W. Davis Jr.	(Area Code) 202	(Number) 724-7509	(Ext) N/A	Ronaldw.davis@dc.gov	

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**OFFER**

12. In conjunction with the above, the undersigned agrees, if this offer is accepted within 120 calendar days from the receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified herein.

13. Discount for Prompt Payment	10 Calendar days %	20 Calendar days %	30 Calendar days %	___ Calendar days %
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14. Acknowledgement of Amendments (The offeror acknowledges receipt of amendments to the SOLICITATION):	Amendment Number	Date	Amendment Number	Date

15A. Name and Address of Offeror	16. Name and Title of Person Authorized to Sign Offer/Contract
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15B. Telephone	<input type="checkbox"/> 15 C. Check if remittance address is different from above – Refer to section G	17. Signature	18. Award Date
(Area Code) (Number) (Ext)			

**AWARD (TO BE COMPLETED BY GOVERNMENT)**

19. Accepted as to Items Numbered	20. Amount	21. Accounting and Appropriation

2. Name of Contracting Officer (Type or Print)  Tara Sigamoni	23. Signature of Contracting Officer (district of Columbia)	24. Award Date
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**SOLICITATION B: CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE/COST**

**B.1** The District of Columbia Child and Family Services Agency (the “District”) is seeking a contractor for the implementation of an enterprise content management (ECM) platform focused on imaging management solution(s) (IMS) integrated with an electronic document records management system (EDRMS) for the purpose of CFSA meeting its short and long term goal of converting paper documents to digital format by way of imaging management, documents management, records management, workflow management, e-Mail management, e-Discovery management, and storage management.

**B.2** The District contemplates award of a Firm Fixed-price contract.

**B.3** PRICE SCHEDULE BASE YEAR

**B.3.1 AGGREGATE AWARD GROUP ITEMS 0001, THRU 0011**

Contract Line Item Number (CLIN)	Item Description	Total Price
0001	Document Preparation/Conversion Plan	\$_____
0002	Commence five year back file conversion/scanning of hardcopy closed client records, 1,000,000 pages.	\$_____
0003	Develop Taxonomy (Milestones/Deliverable)	\$_____
0004	Develop agency File Plan (Milestones/Deliverables)	\$_____
0005	Develop System Design and Configuration Plan, (Milestones/Deliverable)	\$_____
0006	Develop a Workflow Plan.	\$_____
0007	Develop Training Methodology Plan	\$_____

0008	Develop Test Plan Deploy test environment and begin testing.	\$ _____
0009	Develop Implementation/Transition Plan	\$ _____
0010	Commence Train the Trainer Training Session	\$ _____
0011	Post Implementation/Deployment Review (with user community)	\$ _____
Total Cost for CLIN 0001 thru 0011		\$ _____

**B.3.2 OPTION YEAR 1**

<b>Contract Line Item Number CLIN</b>	<b>Item Description</b>	<b>Total Price</b>
<b>CLIN 1001</b>	Commence Scanning of 1,000,000 pages	\$ _____
<b>CLIN 1002</b>	Training of fifty CFSA Staff	\$ _____
<b>Total Cost for CLIN 1001 thru 1002</b>		\$ _____

**B.4** An offer or respondent 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 legally required subcontracting plan. 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.

## SECTION C: SPECIFICATIONS/WORK STATEMENT

**C.1 SCOPE:** Develop and deploy an enterprise content management system (ECMS) based on imaging management solution (IMS) methodology, records management methodology and best practices that address and enhance the policies and practices of Child and Family Services Agency (CFSA). CFSA's goal of converting paper documents to electronic format will be executed using Kofax or comparable software. The capabilities shall include: high volume scanning, capture of various types of paper and electronic documents and forms, auto classification of all types of documents into structured electronic information. The product shall also have the ability to examine documents and apply the correct settings to deliver high quality scanned images. The electronic system will have Kofax or comparable software integrated on the front end with an electronic Document/Records Management System (EDRMS) platform as the central point and a central repository/storage on the back end consisting of Oracle object-relational database management system (ORDBMS) or Microsoft Sequel SQL Server or comparable database systems. CFSA has a need for a contractor with proven experience implementing an EDRMS to convert an estimated one (1) million pages of child welfare related client records. The records are formatted into 6 sections consisting of additional subsection within the file folder structure.

Records consists of sections A to F and include the title of the main sections and subsections example: Section A: Identifying, Judicial, and Legal Information, within this section are subsection Identifying Information, Legal Documents, Court Reports, and so on. Subsections vary in size.

The document records management initiative will be executed in two phases: Phase 1 - involves the back file conversion of 1 million closed client records located in the CFSA records management unit (RMU) and Phase 2 involves digitizing day forward content.

**\*Vendor must provide maintenance package agreement for services to include hardware and software for the year under contracts.**

The need for Kofax or comparable software and an EDRMS platform is agency wide and requires that the system be functionally able to manage all content within CFSA's records management (RM) infrastructure. The Kofax or comparable software /EDRMS system shall allow for sharing enabled by policy driven restrictions of all record content between CFSA and its community partners. The system will require a central repository and enterprise portal for content retrieval and storage across CFSA and private agency platforms. The EDRMS must meet the following requirements standards: (1) DOD 5015.2, (2) HIPAA, (3) Rehabilitation Act of 1973, sections 508 and section 255, optional requirements for consideration are (4) Federal Enterprise Architect Records Management (FEARM) profile for records management and (5) ISO15489 international standards for records management.

## C.2 APPLICABLE DOCUMENTS

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

Item No.	Document Type	Title	Date
Health Insurance Portability and Accountability	Information Technology Risk Assessment	HIPAA and Information Security Policy	August 30, 2011

<b>Act of 1996 (HIPAA) 45 C.F.R. Parts 160, 162, and 164 (Security Rules), 45 C.F.R. § 164.308 (a)(ii)(A)-(D), 45 C.F.R. § 164.308 (a)(1) (Security Management) and (a)(8) (Evaluation), DC Official Code § 2-213.01, DC Official Code § 2-213.02, and DC Official Code § 1-1404</b>			
<b>National Institute of Standards and Technology (NIST) and International Organization for Standardization (ISO) 17799,</b>	<b>Information Technology Risk Assessment</b>	<b>HIPAA and Information Security Policy</b>	<b>August 30, 2011</b>
<b>DOD 5015.2.3</b>	<b>Design Criteria Standard for Electronic Records Systems.</b>	<b>Software Application</b>	<b>April 25, 2007</b>
<b>HIPAA and Information Security Policy</b>	<b>Information Technology Access Controls</b>		<b>August 30, 2011</b>
<b>Federal Enterprise Architecture</b>	<b>FEA Records Management Profile</b>	<i>Version 1.0</i>	<b>December 15, 2005</b>
<b>Section 508 and section 255 of the Rehabilitation Act of 1973</b>	<b>508 legal compliance and 255 Accessibility Guidelines</b>	<i>legal compliance and Accessibility Guidelines</i>	<b>December 21, 2000</b>

### C.3 DEFINITIONS

**These terms when used in this RFP have the following meanings:**

- C.3.1. Application Programming Interface (API)** is a set of commands, functions, and protocols which programmers can use when building software for a specific operating system.
- C.3.2. Configuration Management (CM)** is a field of management that focuses on establishing and maintaining consistency of a system's or product's performance and its functional and physical attributes with its requirements, design, and operational information throughout its life.
- C.3.3. Commercial-Off-The Shelf (COTS)** is a term defining technology which is ready-made and available for sale, lease, or license to the general public.
- C.3.4. Document Management (DMS)** is the use of a computer system and software to store, manage and track electronic documents and electronic images of paper based information captured through the use of a document scanner or other electronic devices.
- C.3.5. Records Management (RM)** is the practice of maintaining the records of an organization from the time they are created to their eventual disposal. This may include classifying, storing, securing, and destruction or in some cases, archival preservation of records.
- C.3.6. Enterprise Content Management Solution (ECMS)** is a type of content management system and refers to the combined technologies of document management and records management systems as an integrated system.
- C.3.7. Enterprise Wide (EW)** Information technology requirements, plans, systems, that span or are common across multiple divisions or groups. An enterprise-wide system is not necessarily a core system.
- C.3.8. Child and Family Services Agency (CFSA)** is the public child welfare agency in the District of Columbia responsible for protecting child victims and those at risk of abuse and neglect and assisting their families.
- C.3.9. Electronic Freedom of Information Act System (FOIA)** - a federal freedom of information law that allows for the full or partial disclosure of previously unreleased information and documents controlled by the United States government.
- C.3.10. Electronic Document Records Management System (EDRMS)** is a type of content management system and refers to the combined technologies of document management and records management systems as an integrated system.
- C.3.11. Imaging Management Solution (IMS)** helps to manage a growing volume of paper and electronic information when facing higher costs lower productivity and increased compliance risks.
- C.3.12. Project Start (PW)** date contract start.
- C.3.13. Software (SW)** the programs and other operating information used by a computer.

**C.3.14. Workflow Management (WFM)** consists of a sequence of connected steps. It is a depiction of a sequence of operations, declared as work of a person, a group of persons, an organization of staff, or one or more simple or complex mechanisms.

**C.3.15. Electronic Discovery (ED)** any process in which electronic data is sight, located, secured, and searched with the intent of using it as evidence.

**C.3.16. Storage Management (SM)** Storage management is used to describe the tools, processes, and policies used to manage storage networks and storage services such as virtualization, replication, mirroring, security, compression, traffic analysis and other services. Storage management also encompasses numerous storage technologies including process automation, real-time infrastructure products and storage provisioning.

**C.3.17. Imaging Management Solutions (IMS)** helps to manage a growing volume of paper and electronic information when facing higher cost, lower productivity and increased compliance risks.

**C.3.18. Electronic Freedom of Information Act (eFOIA)** a law enacted in 1966 requiring that government records except those relating to national security, confidential financial data, and law enforcement be made available to the public upon request.

**C.3.19. Kofax-** Company which manufactures and sells computer software and services, including smart process applications, and information-capture applications for document and content management systems.

**C.3.20. Taxonomy** - the science or technique of classification.

**C.3.21. Federal Enterprise Architecture Records Management-** Provides agency decision-makers with a framework for incorporating statutory records management requirements and sound records management principles seamlessly into agency work processes, enterprise architectures, and information systems

**C.3.22. File Plan-** Tool use for classifying records to bring together record content with common characteristics.

## **C.4 BACKGROUND**

CFSA's records management is currently being performed by CFSA's records management unit (RMU), located at 200 I Street SE, Washington, D.C. Closed hard copy paper documents/records are currently stored at the agency's location at 200 I Street SE, Washington, D.C., 4th floor file room for approximately five (5) years from the date of closure prior to being archived. Archived closed case management records are stored at either the Office of Public Records facility at Naylor Court, Washington D.C. or the Washington National Record Center in Suitland, Maryland for approximately seventy (70) years from the date of transfer from CFSA. The documents/records transferred for closure are processed in a secure, controlled environment. Documents/Records related to CFSA's client case management records adhere to records retention disposition standards that require these files be kept for a total retention period of seventy-five (75) years from the date of closure. The retention disposition period for other documents/records types is governed by DC Government record retention schedules.

Currently, all CFSA active client case management records are stored and maintained at the location of the assigned social worker. Soft copy or electronic records are stored in FACES.NET.

FACES.NET is the District of Columbia's web-based statewide automated child welfare information system (SACWIS) that is federally mandated through the administration of children and families.

FACES.NET is a government off the shelf (GOTS) in house automated case management solution developed to meet SACWIS requirements.

FACES.NET is a comprehensive automated case management software solution that supports the life cycles of case and client records.

FACES.NET supportive functions include finance, contracts, clinical practice, and well-being indicators.

FACES.NET gathers, stores, and utilizes client information to protect child victims, promote stability and security, and protect at risk children and families within the care of CFSA.

FACES.NET has the capability of providing case specific and aggregate reports.

FACES.NET is legally obligated to support required federal reporting of data to the Adoption and Foster Care Analysis Reporting System and the National Child Abuse and Neglect Data System. The FACES.NET application is built using an n-tier architecture approach.

FACES.NET is implemented using three distinct logical tiers: presentation, business, and data access.

The FACES.NET application uses a variety of hardware components that work together to support the application and take into consideration critical factors such as load balancing, redundancy, fault tolerance, disaster recovery and interoperability.

FACES.NET application consists of Data Access Layer Components, and Data Access Logic.

FACES.NET is supported by an Oracle 10g relational database and is hosted on three application servers, which provide redundancy and fault tolerance. FACES.NET will continue to be CFSA's official case management system; the new IMS/EDRMS will be the records management component with the functionality to integrate with FACES.NET.

## C.5 REQUIREMENTS

- C.5.1.** The contractor is required to work under various deadlines to complete all assigned tasks under the direction of the Contract Administrator (CA). **See section F.3 deliverables.**
- C.5.2.** The contractor shall develop the process and documentation for **document preparation/conversion Plan** (Scanning) which ensures that the best possible image is consistently reproduced at the highest level of quality. The process to be implemented shall ensure that the files are prepared to enable the best possible scanning and indexing results. All scanning shall be performed by the contractor at a minimum of 300dpi to a maximum of 600dpi depending on requirement for content. **See section F.3 deliverables.**
- C.5.3** The contractor shall advise and document to CFSA the conversion process of paper records to digital format for storage into a secure electronic document records management system (EDRMS) and ensure that the data is readily accessible and protects the integrity of the records from loss due to natural disasters and human error. **(Milestone within document preparation/conversion plan document).**
- C.5.4.** The contractor shall develop and implement a file plan that must create additional flexibility regarding the way records are actually defined with CFSA. The file plan must support the records management program current policy for records at CFSA. The file plan must provide a

comprehensive and workable strategy for secure and enduring retention of records. The file plan must enable the accurate and secure final disposition of records based on CFSA records management policy. The file plan must consist of numeric representation metadata attach to each records (The numeric number must represent an element of metadata). The file plan must consist of **chronological-** arranged by date, **numeric-** arranged by number, **alphabetical-** arranged in alphabetical order from A-Z. Alpha-numeric- arranged according to an identifier made up of letters and numbers.

**Due 10 days after client sign off of Taxonomy**

**See section F.3 deliverables.**

The contractor shall develop, implement and train 50 designated CFSA staff on the imaging/scanning solution which shall verify 100% of all information that has been captured, indexed and stored in its proper location within the EDRMS central repository, while ensuring the documents/records shall be returned to original order/format. (**Milestones within training plan document**).

**C.5.5.** The contractor shall institute an initial system of quality control and ongoing control checks to verify all documents/records have been electronically captured. (**Milestones within document preparation/conversion plan document**).

**C.5.6.** The contractor shall develop a **taxonomy plan** define as an enterprise taxonomy that shall provide a single methodology for categorizing information across all CFSA programs, offices and regions.  
The contractor shall also demonstrate how the taxonomy will be used to populate metadata fields, based on the system design and use, and explain if the taxonomy will be employ front-end or back-end functionality. The taxonomy shall build common agency-wide terminology resources. Draft due 8 days after CFSA sign off on the taxonomy plan.  
**Final due five days after CFSA provides feedback. See section F.3 deliverables.**

**C.5.7.** The contractor shall develop a workflow plan by using Kofax or comparable software and the EDRMS products.  
The workflow plan shall consist of a sequence of connected steps related to the business process of the CFSA records management unit and allow for future workflow processes based on CFSA programs. The workflow plan shall determine how CFSA programs or units may select how content flows through an approval process. Draft due 8 days after CFSA sign off of system design and configuration plan.  
**Final due five days after CFSA provides feedback. See section F.3 deliverables.**

**C.5.8.** The contractor shall develop a **Configuration Management (CM) Plan** consisting of the introduction, system overview, configuration management components (software and hardware), and configuration management processes, next steps must include recommendations on how best to implement and maintain the IMS/EDRMS once deployed. Draft due 10 days after CFSA sign of on taxonomy plan.  
**Final due five days after CFSA provides feedback. See Section F.3 deliverables.**

**C.5.9.** The contractor shall develop Kofax or comparable software and EDRMS **System Design Plan** consisting of user interface (UI) design and requirements, system design change log, conceptual system design section, functional requirements and system description, system functional requirements, system user requirements, conceptual system design description, preliminary system design section, detailed system design section, system

administration/developer installation guide, and sample metrics for ERM systems. **Draft due 10 days after CFSA sign off on taxonomy. Final due 5 days after CFSA feedback. See section F.3 deliverables.**

- C.5.10.** The contractor shall develop **System Security Plan** consisting of Kofax or comparable software platform and the EDRMS platforms. system security plan shall consist of review and approval form, Security plan process, EDRMS system name, application name, brief description of what the IMS/EDRMS will do, application data owner, program area/ unit, summary of hardware /software, overview of security requirements and processes, legal / regulatory requirements for security/privacy, confidentiality requirements/data classification, administration, roles & responsibilities for security functions, access requirements and restrictions, the data security access levels, security logging and monitoring, security training, security testing, infrastructure, telecommunications and environment security components, backup and disaster recovery requirements, remote access requirements, physical security, responsible organization, information contact(s), assignment of security responsibility, authorizing official, vulnerability management plan, risks threats matrix, and system interconnection/information sharing. Draft due 10 days after CFSA sign off on system security plan. **Final due 5 days after CFSA feedback. See section F.3 deliverables.**
- C.5.11.** The contractor shall develop a **Test Plan** consisting of Kofax or comparable software and the EDRMS background, code freeze date, change control, items to be tested, level of testing, features to be tested, test case matrix, features excluded from testing, testing approach, test deliverables, defect tracker setup, release criteria, suspension criteria for failed test, resumption requirements, release to user acceptance test criteria, release to production criteria, and hardware configuration. Draft due 10 days after CFSA sign off on system security plan. **Final due 5 days after CFSA feedback. See section F.3 deliverables.**
- C.5.12.** The contractor shall develop and implement Kofax or comparable software imaging management solution integrated with an electronic document-records management system (IMS/EDRMS) that manages the full lifecycle of the records in accordance with HIPAA/DOD Standards regardless of storage media or other characteristics. **(Included within test plan)**
- C.5.13.** The contractor shall develop the Kofax or comparable software imaging management solution and (IMS/EDRMS) that allow discovery meta-tagging that identifies mandatory record metadata components. **(Included within test plan)**
- C.5.14.** The contractor shall develop Kofax or comparable software imaging management solution and electronic document-records management system (EDRMS) that shall include the capability to provide open standards interfaces in order to integrate into an organization's information technology enterprise. This capability shall include the capability to accept and file records from producing applications and provide support to the organization's workflow. **(Included within test plan)**
- C.5.15.** The contractor shall develop Kofax or comparable software imaging management solution and electronic document-records management system (EDRMS) that allow only authorized individuals to create, edit, and delete file plan components and their identifiers. **(Included within test plan)**
- C.5.16.** The contractor shall develop Kofax or comparable software imaging management solution and EDRMS that will only allow authorized individuals to define the cutoff criteria and, for each

life cycle phase, define the following disposition components for a record category: retention period, disposition action, or time-event dispositions. **(Included within test plan)**

- C.5.17.** The Kofax or comparable software and EDRMS platforms shall provide an audit capability to log the actions, date, time, unique object identifier(s) and user identifier(s) for records related actions performed on the EDRMS objects: user accounts, user groups, records and record folders, all associated metadata elements and file plan components. **(Included within test plan)**
- C.5.18.** The contractor shall develop a central repository govern by the current CFSA file plan policies for records management, the central repository must consist of classification schemas for all CFSA hard copy and electronic records and must consist of triggers within the system based on current CFSA retention and disposition schedules. **(Included within test plan)**
- C.5.19.** The contractor shall develop Kofax or comparable software and EDRMS that will have the capability for links to be labeled to indicate the type and direction of the relationship between the records. **(Included within test plan)**
- C.5.20.** The Kofax or comparable software and EDRMS platforms develop by the contractor shall provide audit analysis functionality whereby an authorized individual can set up specialized reports. **(Included within test plan)**
- C.5.21.** The Kofax or comparable software and EDRMS platforms develop by the contractor shall facilitate reconstruction, review, and examination of the events surrounding or leading to mishandling of records, possible compromise of sensitive information, or denial of service. **(Included within test plan)**
- C.5.22.** The contractor shall develop the EDRMS system with back-up storage and disaster recovery capabilities as required for the operation. **(Included within test plan)**
- C.5.23.** The contractor shall develop the Kofax or comparable software and EDRMS test environment before deployment to the CFSA user community **(Included within test plan)** **See section F.3 deliverables.**
- C.5.24.** Installation of Kofax products or comparable software and the EDRMS software recommended by the contractor shall be performed by the CFSA/CISA IT team in collaboration with the contractor's professional services to setup of the system. **See section F.3 deliverables.**
- C.5.25.** The contractor shall develop an **implementation/transition plan** consisting of technical implementation, i.e., the methodology used to deploy the technology across all of CFSA. Draft due 15 days at time of startup.  
**Final due 5 days after CFSA feedback. See section F.3 deliverables.**
- C.5.26.** The contractor shall develop a **change management approach**, i.e., the strategy to integrate the new technology system into the current process environment and the user community must detail the vendor structured approach to shift or transition off the initiative, and transition CFSA designated RMU staff to hands on of the process. The change management approach must detail how the transition will benefit CFSA current environment and how change management can benefit CFSA future environment. The change management approach must include a change management model in the overall technology implementation strategy. **See section F.3 deliverables**

- C.5.27.** The contractor shall develop a **record management methodology best practices plan**. See **section F.3 deliverables**.
- C.5.28.** The contractor shall develop a **training plan methodology** that will train CFSA staff on the use of imaging management solution (IMS) and electronic document/records management system (EDRMS) focused on documents/records scanning, digitized and indexing, electronic storage (back up storage), develop system user guide and system administration guide.
- C.5.29.** The contractor shall develop, implement and train 50 designated CFSA staff train-the-trainer training on the use of the IMS/EDRMS platform which shall index, capture and verify 100% of the information (**training plan methodology**). The contractor shall develop, implement and provide administration training the records management unit and the DM/RM initiative workgroup totaling 15 staff members. Draft due 10 days after CFSA approval of the implementation/transition plan.  
**Final due 5 days after CFSA feedback. See section F.3 deliverables.**
- C.5.30.** The contractor shall deploy the test environment and begin testing based on the test plan. All testing shall commence within the records management unit.
- C.5.31.** Once the EDRMS software is fully install. The contractor shall integrate the EDRMS to the Kofax or comparable software back file conversion process within the records management unit.  
**See section F.3 deliverables.**
- C.5.32.** The contractor shall deploy and rollout EDRMS to CFSA. **See section F.3 deliverables.**
- C.5.33.** The contractor shall perform post implementation review with designated programs within CFSA . See **section F.3 deliverables**.
- C.5.34.** Weekly Status Reports and meeting shall be held between CFSA staff and the Offeror Friday of every week. **See section F.3 deliverables.**

**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)

**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)

**SECTION F: PERIOD OF PERFORMANCE AND DELIVERABLES**

**F.1 TERM OF CONTRACT**

The term of the contract shall be for a period of one 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 one (1) one option year period, 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 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 2 Years.

**F.3 DELIVERABLES**

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.9 in accordance with the following:

ITEM	Deliverables	Quantity	Due Date
CLIN 0001	Weekly Status Reports and meetings	Open	Friday of every week
CLIN 0001	<b>(Draft)(*)</b> Develop Document Preparation for imaging/scanning	1	Due 10 days after date of award.
CLIN 0001	<b>(Final)</b> Document Preparation for	2	Due 5 days after client feedback.

	imaging/scanning process		
CLIN 0002	Commence five year back file conversion/scanning of hardcopy closed client records		Due 295 days after date of award.
CLIN 0003	(Draft)(*) Develop Taxonomy design <b>items.</b>	1	Due 10 days after client sign off of doc Prep for scanning process.
CLIN 0003	<b>(Final)</b> Develop Taxonomy- <b>Commence back file conversion/scanning of hardcopy closed client records</b>	2	Due 5 days after client feedback.  <b>Open Item</b>
CLIN 0003	<b>Installation of software</b>	1	Open Item
CLIN 0004	(Draft) (*) Develop agency file plan	1	Due 10 days after client sign off of Taxonomy.
CLIN 0004	<b>(Final)</b> Develop agency file plan	2	Due 5 days after client feedback
CLIN 0005	(Draft)(*) Develop System and Configuration Design Documentation-	1	Complete 10 days after client sign off of file plan.
CLIN 0005	<b>(Final)</b> System Design and Configuration Documentation-	2	Due 5 days after Client feedback.

CLIN 0006	(Draft)(*) Develop Workflow design	1	Complete 8 days after client sign off of system design and configuration plan
CLIN 0006	(Final) Develop Workflow design	2	Due 5 days after client feedback.
CLIN 0007	(Draft) (*) Training Plan Methodology	1	Due 10 days after client approval of implementation/transition plan.
CLIN 0007	(Final) Training Plan Methodology	2	Due 5 days after client feedback.
Contract CLIN 0007	(Draft)(*) Develop System Security Plan	1	Due 10 days after client sign off of workflow design and taxonomy design review.
CLIN 0007	(Final) System Security Plan	2	Due 5 days after client feedback.
CLIN 0008	(Draft)(*) Develop test Plan	1	Due 10 days after client sign off of system security Plan.
CLIN 0008	(Final) Test Plan	2	Due 5 days after client feedback.
CLIN 0008	Deployment of Test Environment	1	Due 10 days after client approval of training plan
CLIN 0008	Begin software hardware Testing within test environment and present test results.	1	Due 20 days after client feedback and approval
CLIN 0008	Deployment and Rollout of EDRMS proof of Concept to CFSA RM Unit.		Pending client approval.

CLIN 0009	<b>(Draft)</b> Implementation/ Transition Plan to include RM and CM Plans	2	Due 15 days at the startup of option year one.
CLIN 0009	<b>(Final)</b> Implementation/ Transition Plan to include RM and CM Plans	2	Due 5 days after client feedback.
CLIN 0011	Post Implementation Review with designated programs within CFSA		Pending client approval/Date forward.

**All deliverables shall include all of the requirements enumerated in Section C at a minimum.**

#### **OPTION YEAR I**

<b>Contract CLIN</b>	<b>Deliverables</b>	<b>Due Date</b>
<b>Contract CLIN 0001</b>	Commence Scanning for 1,000,000 pages	Commence scanning 5 days after contract award.
<b>CLIN 0002</b>	Train designated CFSA Staff	Five days after contract award.
<b>CLIN 0003</b>	Continue post implementation review with designated programs within CFSA	Five days after contract award.
<b>CLIN 0004</b>	Deployment and Rollout of EDRMS to general public within CFSA.	Pending client approval/Date forward.

**F.3.1** The Contractor shall submit to the District, as a deliverable, the report described in section H.5.5 that is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement. If the Contractor does not submit the report as part of the deliverables, final payment to the Contractor shall not be paid pursuant to section G.3.2.

**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 30<sup>th</sup> day after receiving a proper invoice from the Contractor.

**G.2 INVOICE SUBMITTAL**

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

Child and Family Services Agency  
Fiscal Operations Office  
200 I Street, S.E., Suite 2030  
Washington, D.C. 20003

- 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** The offeror may also submit invoices by e-mail to: [cfsa.accontspayable@dc.gov](mailto:cfsa.accontspayable@dc.gov)

**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**

#### **G.4.1 PARTIAL PAYMENTS**

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

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

"Payment will be made on completion and acceptance of each percentage or stage of work in accordance with the prices stated in the Schedule in Section B", and

- c. Presentation of a properly executed invoice.

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

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

**G.6.1.2** Any amount of an interest penalty 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 3<sup>rd</sup> day after the required payment date for meat or a meat product;
- b) the 5<sup>th</sup> day after the required payment date for an agricultural commodity; or
- c) the 15<sup>th</sup> day after the required payment date for any other item.

**G.6.2.3** Any amount of an interest penalty 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 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  
Child and Family Services Agency  
200 I Street S.E. 2031  
Washington, D.C. 20003  
[Tara.sigamoni@dc.gov](mailto:Tara.sigamoni@dc.gov)  
(202) 724-5300 (main number)

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

**G.8.1** The CO is the only person authorized to approve changes in any of the requirements of this contract.

**G.8.2** The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the CO.

**G.8.3** 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.9 CONTRACT ADMINISTRATOR (CA)**

**G.9.1** 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 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.9.1.1** 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.9.1.2** Coordinating site entry for Contractor personnel, if applicable;

**G.9.1.3** Reviewing invoices for completed work and recommending approval by the CO if the Contractor's costs are consistent with the negotiated amounts progress is satisfactory and commensurate with the rate of expenditure for services performed and accepted;

**G.9.1.4** 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.9.1.5** Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, equipment) and invoices or vouchers.

**G.9.2** The address and telephone number of the CA is:

James Posey, Supervisory Records  
Management Specialist  
Office of the Deputy Director for Administration  
Child and Family Services Agency  
200 I Street S.E. Office 3033  
Washington, D.C. 20003  
Telephone number: (202) 727-5423

**G.9.3** 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.9.4** 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.

## **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 revision No. 13 dated 6/19/13, 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 10<sup>th</sup> 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](http://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](http://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;
  - (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 offered 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 21<sup>st</sup> 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 DISTRICT RESPONSIBILITIES**

**H.10.1** CFSA will ensure that the Contractor has access to the Contract Administrator or a designee 7 days a week to address concerns or answer questions.

**H.10.2** CFSA will notify the Contractor within 24 hours of any errors or issues with their invoices.

#### **H.11 CONTRACTOR RESPONSIBILITIES**

The contractor shall be responsible for furnishing all items used in performing the work unless otherwise specified or approved by the Contracting Officer. The contractor will act independently and not as an agent of the Government.

#### **H.12 HIPAA PRIVACY COMPLIANCE**

**H.12.1** 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.
- 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 respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and
  - ii. Sale or dispensing of a drug, device, equipment, or other item in accordance with the prescription.
- f. *Health Care Components* means a component or a combination of components of a hybrid entity designated by a hybrid entity. Health Care Components must include non-covered functions that provide services to the covered functions for the purpose of facilitating the sharing of Protected Health Information with such functions of the hybrid entity without business associate agreements or individual authorizations.
- g. *Health Care Operations* shall have the same meaning as the term “health care operations” in 45 C.F.R. § 164.501.
- h. *Hybrid Entity* means a single legal entity that is a covered entity and whose business activities include both covered and non-covered functions, and that designates health care components in accordance with 45 C.F.R. § 164.105(a)(2)(iii)(C). A Hybrid Entity is required to designate as a health care component, any other components of the entity that provide services to the covered functions for the purpose of facilitating the sharing of Protected Health Information with such functions of the hybrid entity without business associate agreements or individual authorizations. The District of Columbia is a Hybrid Covered Entity.
- i. *Record* shall mean any item, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for the Covered Entity.
- j. *Individual* shall have the same meaning as the term "individual" in 45 C.F.R. § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
- k. *Individually Identifiable Health Information* is information that is health information, including demographic information collected from an individual, and;
  - i. Is created or received by a health care provider, health plan, employer, or health care clearinghouse;
  - ii. Relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual; and
  - iii. That identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- l. *National Provider Identifier (NPI) Rule*: "National Provider Identifier" shall mean the Standard Unique Health Identifier for Healthcare Providers; Final Rule at 45 C.F.R. Part 162.
- m. *Privacy and Security Official*. The person or persons designated by the District of Columbia, a Hybrid Entity, who is/are responsible for developing, maintaining,

implementing and enforcing the District-wide Privacy Policies and Procedures, and for overseeing full compliance with the Privacy and Security Rules, and other applicable federal and state privacy law.

- n. *Privacy Officer.* The person designated by the Privacy and Security Official or one of the District of Columbia's designated health care components, who is responsible for overseeing compliance with the Covered Agency's Privacy Policies and Procedures, the HIPAA Privacy Regulations, HIPAA Security Regulations and other applicable federal and state privacy law(s). The Covered Agency's privacy officer shall follow the guidance of the District's Privacy and Security Official, and shall be responsive to and report to the District's Privacy and Security Official on matters pertaining to HIPAA compliance.
- o. *Privacy Rule.* "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.
- p. *Protected Health Information.* "Protected Health Information" (PHI) or "Electronic Protected Health Information" (ePHI) means individually identifiable health information that is created or received by the Business Associate from or on behalf of the Covered Entity, or agency following HIPAA best practices, which is:
- i. Transmitted by, created or maintained in electronic media; or
  - ii. Transmitted or maintained in any other form or medium;
- Protected Health Information does not include information in the records listed in subsection (2) of the definition in 45 C.F.R. §160.103. Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
- q. *Secretary.* "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- r. *Security Officer.* The person designated by the Security Official or one of the District of Columbia's designated health care components, who is responsible for overseeing compliance with the Covered Agency's Privacy Policies and Procedures, the Security Rules, and other applicable federal and state privacy law(s). The Covered Agency's security officer shall follow the guidance of the District's Security Official, as well as the Associate Security Official within the Office of the Chief Technology Officer, and shall be responsive to the same on matters pertaining to HIPAA compliance.
- s. *Security Rule.* "Security Rule" shall mean the Standards for Security of Individually Identifiable Health Information at 45 C.F.R. part 164.
- t. *Workforce.* "Workforce" shall mean employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity or business associate, is under the direct control of such entity, whether or not they are paid by the covered entity or business associate.

## 2.Obligations and Activities of Business Associate

- a. The Business Associate agrees not to use or disclose Protected Health Information or electronic Protected Health Information (hereinafter “PHI” or Protected Health Information”) other than as permitted or required by this HIPAA Compliance Clause or as Required By Law.
- b. The Business Associate agrees to comply with administrative, physical, and technical safeguards requirements in 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316 as required by § 13401 of the HITECH ACT (February 18, 2010), to maintain the security of the Protected Health Information and to prevent use or disclosure of such Protected Health Information other than as provided for by this Clause.
- c. The Business Associate agrees to establish procedures for mitigating, and to mitigate to the extent practicable, any deleterious 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** directed by the District Privacy Official or agency Privacy Officer, or as otherwise mandated by the Privacy Rule or applicable District of Columbia laws, rules and regulations, to Protected Health Information in a Designated Record Set, to the Covered Entity or an Individual, to facilitate the District’s compliance with the requirements under 45 C.F.R. §164.524.
- g. The Business Associate agrees to make any amendment(s) within five business days to the Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 **in a format** 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 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 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.

## 5. Sanctions

Business Associate agrees that its workforce members, agents and subcontractors who violate the provisions of HIPAA or other applicable federal or state privacy law will be subject to discipline in accordance with Business Associate’s Personnel Policy and applicable collective bargaining agreements. Business Associate agrees to impose sanctions consistent with Business Associate’s personnel policies and procedures and applicable collective bargaining agreements with respect to persons employed by it.

Members of the Business Associate Workforce who are not employed by Business Associate are subject to the policies and applicable sanctions for violation of this Compliance Clause as set forth in business associate agreements. In the event Business Associate imposes sanctions against any member of its workforce, agents and subcontractors for violation of the provisions of HIPAA or other applicable federal or state privacy laws, the Business Associate shall inform the District Privacy Official or the agency Privacy Officer of the imposition of sanctions.

## 6. Obligations of the Covered Entity

- a. The Covered Entity shall notify the Business Associate of any limitation(s) in its Notice of Privacy Practices of the Covered Entity in accordance with 45 C.F.R. §

164.520, to the extent that such limitation may affect the use or disclosure of Protected Health Information by the Business Associate.

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

7. Permissible Requests by Covered Entity

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

8. Representations and Warranties

The Business Associate represents and warrants to the Covered Entity:

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

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

## 9. Term and Termination

- a. *Term.* The requirements of this HIPAA Compliance Clause shall be effective as of the date of the contract award, and shall terminate when all of the Protected Health Information provided by the Covered Entity to the Business Associate, or created or received by the Business Associate on behalf of the Covered Entity, is confidentially destroyed or returned to the Covered Entity within five (5) business days of its request. The Protected Health Information shall be returned in a format mutually agreed upon by and between the Privacy Official and/or Privacy Officer or his or her

designee and the appropriate and duly authorized workforce member of the Business Associate.; If it is infeasible to return or confidentially destroy the Protected Health Information, protections shall be extended to such information, in accordance with the termination provisions in this Section and communicated to the Privacy Official or Privacy Officer or his or her designee. The requirement to return Protected Health Information to the District at the end of the contract term or if the contract is terminated applies irrespective of whether the Business Associate is also a covered entity under HIPAA. Where a business associate is also a covered entity, Protected Health Information provided by the District, or created or received by the Business Associate on behalf of the District, a duplicate of the record may be acceptable if mutually agreed.

- b. *Termination for Cause.* Upon the Covered Entity's knowledge of a material breach of this HIPAA Compliance Clause by the Business Associate, the Covered Entity shall either:
- i. Provide an opportunity for the Business Associate to cure the breach or end the violation and terminate the Contract if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
  - ii. Immediately terminate the Contract if the Business Associate breaches a material term of this HIPAA Compliance Clause and a cure is not possible.

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

- c. *Effect of Termination.*
- i. Except as provided in paragraph (ii) of this section, upon termination of the Contract, for any reason, the Business Associate shall return in a **mutually agreed upon format or confidentially destroy** 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.
- h. *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  
200 I Street, S.E, Suite 3620  
Washington, D.C. 20003  
Attention: Dionne M. Bryant  
Fax: 202-727-6333

- l. *Headings.* Headings are for convenience only and form no part of this HIPAA Compliance Clause and shall not affect its interpretation.
- m. *Counterparts; Facsimiles.* This HIPAA Compliance Clause may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.
- n. *Successors and Assigns.* The provisions of this HIPAA Compliance Clause shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns, if any.
- o. *Severance.* In the event that any provision of this HIPAA Compliance Clause is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this HIPAA Compliance Clause will remain in full force and effect. In addition, in the event a Party believes in good faith that any provision of this HIPAA Compliance Clause fails to comply with the then-current requirements of the Privacy Rule, such party shall notify the other Party in writing, in the manner set forth in Section 10. Miscellaneous, Paragraph l k. Notices. Within ten (10) business days from receipt of notice, the Parties shall address in good faith such concern and amend the terms of this HIPAA Compliance Clause, if necessary to bring it into compliance. If, after thirty (30) days, the HIPAA Compliance Clause fails to comply with the Privacy Rule, then either Party has the right to terminate this HIPAA Compliance Clause upon written notice to the other Party.
- p. *Independent Contractor.* The Business Associate will function as an independent contractor and shall not be considered an employee of the Covered Entity for any purpose. Nothing in this HIPAA Compliance Clause shall be interpreted as authorizing the Business Associate workforce, its subcontractor(s) or its agent(s) or

employee(s) to act as an agent or representative for or on behalf of the Covered Entity.

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

Attachments:

Exhibit A      *Identity and Procedure Verification*

## **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](http://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.

**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**

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. 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.

- 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  
Child and Family Services Agency  
200 I Street S.E., Suite 2031  
Washington, D.C. 20003  
Tara.sigamoni@dc.gov

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

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

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

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

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.

**SECTION J: ATTACHMENTS**

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

<b>Attachment Number</b>	<b>Document</b>
<b>J.1</b>	Government of the District of Columbia Standard Contract Provisions for Use with the Supplies and Services Contracts (March 2007) available at <a href="http://www.ocp.dc.gov">www.ocp.dc.gov</a> click on "Solicitation Attachments"
<b>J.2</b>	U.S. Department of Labor Wage Determination No. 2005-2103, Revision No. 13, dated June 19, 2013
<b>J.3</b>	Office of Local Business Development Equal Employment Opportunity Information Report and Mayor's Order 85-85 available at <a href="http://www.ocp.dc.gov">www.ocp.dc.gov</a> click on "Solicitation Attachments"
<b>J.4</b>	Department of Employment Services First Source Employment Agreement available at <a href="http://www.ocp.dc.gov">www.ocp.dc.gov</a> click on "Solicitation Attachments"
<b>J.5</b>	Way to Work Amendment Act of 2006 - Living Wage Notice
<b>J.6</b>	Way to Work Amendment Act of 2006 - Living Wage Fact Sheet
<b>J.7</b>	Tax Certification Affidavit
<b>J.8</b>	Bidder/Offeror Certifications available at <a href="http://www.ocp.dc.gov">www.ocp.dc.gov</a> click on "Solicitation Attachments"
<b>J.9</b>	Case Record Format Document
<b>J.10</b>	Cost/Price Disclosure Certification available at <a href="http://www.ocp.dc.gov">www.ocp.dc.gov</a> click on "Solicitation Attachments"
<b>J.11</b>	Cost/Price Data Requirements available at <a href="http://www.ocp.dc.gov">www.ocp.dc.gov</a> click on "Solicitation Attachments"
<b>J.12</b>	Subcontracting Plan available at <a href="http://www.ocp.dc.gov">www.ocp.dc.gov</a> click on "Solicitation Attachments"

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

**K.1 AUTHORIZED NEGOTIATORS**

The offeror represents that the following persons are authorized to negotiate on its behalf with the District in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**K.2 TYPE OF BUSINESS ORGANIZATION**

**K.2.1** The offeror, by checking the applicable box, represents that

(a) It operates as:

- a corporation incorporated under the laws of the State of: \_\_\_\_\_
- an individual,
- a partnership,
- a nonprofit organization, or
- a joint venture.

(b) If the offeror is a foreign entity, it operates as:

- an individual,
- a joint venture, or
- a corporation registered for business in \_\_\_\_\_  
(Country)

**K.3 CERTIFICATION AS TO COMPLIANCE WITH EQUAL OPPORTUNITY OBLIGATIONS**

Mayor’s Order 85-85, “Compliance with Equal Opportunity Obligations in Contracts”, dated June 10, 1985 and the Office of Human Rights’ regulations, Chapter 11, “Equal Employment Opportunity Requirements in Contracts”, promulgated August 15, 1986 (4 DCMR Chapter 11, 33 DCR 4952) are included as a part of this solicitation and require the following certification for contracts subject to the order. Failure to complete the certification may result in rejection of the offeror for a contract subject to the order. I hereby certify that I am fully aware of the content of the Mayor’s Order 85-85 and the Office of Human Rights’ regulations, Chapter 11, and agree to comply with them in performance of this contract.

Offeror \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_

Offeror \_\_\_\_ has \_\_\_\_ has not participated in a previous contract or subcontract subject to the Mayor’s Order 85-85. Offeror \_\_\_\_ has \_\_\_\_ has not filed all required compliance reports, and representations indicating submission of required reports signed by proposed subofferors. (The above representations need not be submitted in connection with contracts or subcontracts which are exempt from the Mayor’s Order.)

**K.4 BUY AMERICAN CERTIFICATION**

The offeror hereby certifies that each end product, except the end products listed below, is a domestic end product (See Clause 23 of the SCP, “Buy American Act”), and that components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

\_\_\_\_\_ EXCLUDED END PRODUCTS  
\_\_\_\_\_ COUNTRY OF ORIGIN

**K.5 DISTRICT EMPLOYEES NOT TO BENEFIT CERTIFICATION**

Each offeror shall check one of the following:

\_\_\_\_\_ No person listed in Clause 13 of the SCP, “District Employees Not To Benefit” will benefit from this contract.

\_\_\_\_\_ The following person(s) listed in Clause 13 may benefit from this contract. For each person listed, attach the affidavit required by Clause 13 of the SCP.

\_\_\_\_\_  
\_\_\_\_\_

**K.6 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

(a) Each signature of the offeror is considered to be a certification by the signatory that:

1) The prices in this contract have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any offeror or competitor relating to:

- (i) those prices
- (ii) the intention to submit a contract, or
- (iii) the methods or factors used to calculate the prices in the contract.

- 2) The prices in this contract have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before contract opening unless otherwise required by law; and
  - 3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit a contract for the purpose of restricting competition.
- (b) Each signature on the offer is considered to be a certification by the signatory that the signatory:
- 1) Is the person in the offeror's organization responsible for determining the prices being offered in this contract, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
  - 2) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above:

---

***(insert full name of person(s) in the organization responsible for determining the prices offered in this Contract and the title of his or her position in the offeror's organization);***

As an authorized agent, does certify that the principals named in subdivision (b)(2) have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

As an agent, has not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

- (c) If the offeror deletes or modifies subparagraph (a)(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

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

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

The District may award a contract 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**

**L.2.1** One original and two (2) 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. One copy of the Technical Proposal and one copy of the Price Proposal shall be submitted in PDF format on a CD. Each proposal shall be submitted in a sealed envelope conspicuously marked: "Proposal in response to Solicitation No. DCRL-2014-R-0013, "Document/Record Management Services".

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 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 PROPOSAL SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, WITHDRAWAL OR MODIFICATION OF PROPOSALS AND LATE PROPOSALS**

#### **L.3.1 Proposal Submission**

Proposals must be submitted no later than 2:00 pm on January 6, 2014. 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 (5<sup>th</sup>) 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.
- (d) Proposal submissions shall be sent to the following:

D.C. Child & Family Services Agency  
Contract and Procurement Administration  
200 I Street, S.E. Street 2031  
Washington, D.C. 20003  
Attn: Ronald W. Davis Jr.

#### **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.4.3 Late Proposals**

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

#### **L.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.5 PRE-PROPOSAL CONFERENCE**

A pre-proposal conference will be held at the Child and Family Services Agency **200 I Street, S.E., Washington, D.C. 20003 (all visitors enter on the I Street entrance), Conference Room 3676 on 12/10/13 from 1:00 pm. to 3:00 pm.** Prospective offerors will be given an opportunity to ask questions regarding this solicitation at the conference. The purpose of the conference is to provide a structured and formal opportunity for the District to accept questions from offerors on the solicitation document as well as to clarify the contents of the solicitation. Attending offerors must complete the pre-proposal conference Attendance Roster at the conference so that their attendance can be properly recorded.

Impromptu questions will be permitted and spontaneous answers will be provided at the District's Discretion. Verbal answers given at the pre-proposal conference are only intended for general discussion and do not represent the District's final position. All oral questions must be submitted in writing following the close of the pre-proposal conference but no later than five working days after the pre-proposal conference in order to generate an official answer. Official answers will be provided in writing to all prospective offerors who are listed on the official offerors' list as having received a copy of the solicitation. Answers will be posted on the OCP website at [www.ocp.dc.gov](http://www.ocp.dc.gov).

## **L.6 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 person, identified on page one. The prospective offeror should submit questions no later than **five (5) days** prior to the closing date and time indicated for this solicitation. The District may not consider any questions received less than **five (5) days** before the date set for submission of proposals. The District will furnish responses to other 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.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 4<sup>th</sup> 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 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.11 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.12 PROPOSAL COSTS**

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

**L.13 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  
Agency Chief Contracting Officer  
D.C. Child and Family Services Agency

200 I Street S.E., Suite 2031  
Washington, D.C. 20003  
(202) 724-5300 (main number)  
Email: tara.sigamoni@dc.gov

#### **L.14 ACKNOWLEDGMENT OF AMENDMENTS**

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

#### **L.15 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.16 LEGAL STATUS OF OFFEROR**

Each proposal must provide the following information:

**L.16.1** Name, address, telephone number and federal tax identification number of offeror;

**L.16.2** 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.16.3** 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.17 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.18 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.18.1** 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;
- (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.18.2** 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.19 KEY PERSONNEL**

**L.19.1** The District considers the following positions to be key personnel for this contract:

Technical Lead/Chief Architect/Records Manager- Manage the DM/RM Environment.

Application Developer/Trainer(s) - Maintain DM/RM Environment.

System Administrator/Trainer(s)-Maintain DM/RM Technical Environment.

Imaging Specialist/Technicians(s)- Maintain DM/RM Technical Environment.

Lead Trainer(s)- Provide Training methodology and training of designated staff.

**L.19.2** The offeror shall set forth in its proposal the names and reporting relationships of the key personnel 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 AGGREGATE GROUP**

Award if made, will be to a single bidder in the aggregate for those groups of items indicated by "Aggregate Award Group" herein. Bidder must quote unit prices on each item within each group to receive consideration.

**L.21 BRAND NAME OR EQUAL:**

As used in this chapter, the term "brand name" includes identification of products by make and model.

- A. If items called for by this Request for Proposal have been identified in the schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is to indicate the equality and characteristics of products that will be satisfactory. Bid offering "equal" products will be considered for award if such products are clearly identified in the bids and are determined by the government to be equal in all material respects to the brand name products referenced in the Request for Proposal, in accordance with the salient characteristics in section C.
- B. Unless the offeror clearly indicates in his/her proposal that he/her is offering an "equal" product, his/her proposal shall be considered as offering a brand name product referenced in the Request for Proposal.
- C. If the offeror proposes to furnish an "equal" product, the Brand name of the product to be Furnished shall be inserted in the space provided in the Request for Proposal, or such products shall be otherwise clearly identified in the proposal.
- D. The evaluation of the proposals and the determination as to equality of the product offered shall be the responsibility of the government and will be based on information furnished by the bidder or identified in his/her proposal as well as other information

reasonably available to the District. **CAUTION TO OFFERORS:** The District is not responsible for locating or securing any information, which is not identified in the bid and reasonably available to the District.

- E. Accordingly, to insure that sufficient information is available, the offeror must furnish as a part of his/her offer all descriptive material such as (cuts, illustrations, drawings, or other information) necessary for the District to (i) determine the product offered meets the requirements of the Request for Proposal, and (ii) establish exactly what the offeror proposes to furnish and what the government would be binding itself to purchasing by making an award. The information furnished may include specific reference to information previously furnished or to information otherwise available to the District.
- F. If the offeror proposes to modify a product so as to make it conform to the requirements of the Request for Proposal, he/she shall (i) include in he/she proposal a clear description of such proposed modifications, and (ii) clearly mark any descriptive material to show the proposed modifications.
- G. Modification proposed after closing to make a product conform to a brand name product referenced in the Request for Proposal will not be considered.

## 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:

<b><u>Numeric Rating</u></b>	<b><u>Adjective</u></b>	<b><u>Description</u></b>
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 sub factor plus 1/5 of 20 or 4 for the second sub factor, 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 (70 Points Maximum)**

These evaluation factors consider the offeror's knowledge and experience and proposed methodology to be used in performing services the same or similar to the required services as described in Section C. This factor encompasses all components of the offeror's staff and staff related activities including the offeror's organizational structure, the qualifications and expertise of the offeror's proposed staff. This factor considers each staffing component, together and independently, and the importance of the interrelationships of each component toward the contribution of performing the service requirements. This factor encompasses the offeror's technical capacity to perform the required services as described in Section C. This factor examines technical capacity and the overall contribution and utilization of the offeror's techniques and processes in the successful fulfillment of the requirements.

The offeror shall present a written narrative of the offeror's service delivery including appropriate methodologies and approaches to be used to accomplish the technical components of the requirements. The offeror's proposed methodologies and approaches comprehensively cover all technical requirements and recognizing and addressing potential issues associated with performing the services.

The offerors written proposal shall in its service delivery narrative identify specific creative and innovative features of the offeror's service delivery providing logical and realistic rationale for the expected benefits to be derived from the features; and the offeror demonstrates clearly and convincingly that it is capable of providing said services.

These evaluation factors include an examination of the quality of services provided timeliness in service delivery, business practices, and overall satisfaction with the offeror's performance.

Factors	Evaluation Criteria	Points
Factor A	Kofax/EDRMS Expertise	20
Factor B	Proposed Methodology	10
Factor C	Past Performance and Experience	20
Factor D	Project Team	10
Factor E	Proposed Schedules	10
<b>Total</b>		<b>70</b>

**M.3.1.1 Factor A- Kofax or comparable software/EDRMS system ( 20 points maximum)**

**M.3.1.1a** This evaluation factor considers the specific expertise related to deployment of Kofax or comparable software/EDRMS system application in similar projects within the past three (3) years.

**M.3.1.1b** This factor will be evaluated on the toolset, technical approach, and demonstrated viability of the proposed technical solution, based on a clear and thorough understanding of the capabilities of the tools proposed. Offerors with a proven track record of experience with the proposed toolset will be rated higher.

**M.3.1.1.2 Factor B- Proposed Methodology (10 points maximum)**

**M.3.1.1.2a** This evaluation factor considers the proposed methodology proposed for this project, including project management, design, deployment, training, documentation, and ongoing support.

**M.3.1.1.2b** This factor will be evaluated based on the completeness of the proposed methodology and its match to the requirements in Section C. The proposed methodology must demonstrate how the Offeror intends to complete the project and all deliverables successfully, within the desired timeframes. Approaches that minimize the need for custom programming will be rated higher.

**M.3.1.1.3 Factor C – Past Performance and Experience (20 Points maximum)**

**M.3.1.1.3a** Evaluation of past performance and experience allows the District to assess the Offeror’s Ability to perform and relevance of the work performed.

**M.3.1.1.3b** 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

**M.3.1.1.3c** 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.3.1.1.4 Factor D – Proposed Project Team ( 10 Points maximum)**

**M.3.1.1.4a** This evaluation factor considers the education, experience, knowledge, past performance, necessary skills and expertise of the key personnel directly assigned to the project.

**M.3.1.1.4b** This factor will be evaluated on the specific skill sets of the proposed project team. Each Key team member must provide the required specific expertise in Kofax or comparable software/EDRMS system deployments, based on their project role.

**M.3.1.1.5 Factor E – Compliance with Schedule ( 10 Points maximum)**

**M.3.1.1.5a** This evaluation factor considers the proposed schedule. All deliverables shall be met in accordance with the due dates specified in Section F.3.

**M.3.1.1.5b** This factor will be evaluated based on the completeness of the provided project plan, including all major task and subtasks, including dependencies and critical path items. This plan must demonstrate how the Offeror will meet the required schedule to complete the project successfully.

**M.3.2 PRICE CRITERION (30 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:

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

**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.