



**Department of Health Care Finance
Government of the District of Columbia
Office of Contracts and Compliance
825 North Capitol Street NE, Suite 5135
Washington, DC 20002
Phone: 202-442-5988
REQUEST FOR PROPOSALS**

SOLICITATION NO.: DHCF-OMC-2009-P-0003

DATE OF ISSUANCE: July 22, 2009

PRE-PROPOSAL CONFERENCE DATE: August 11, 2009 2:00 P.M. EST

PROPOSAL RECEIPT DATE: Monday, August 24, 2009, by 8:00 A.M. EST

MARKET: Full & Open with 35% Small Business Set-Aside

POINT OF CONTACT: Lillian J. Beavers, Contract Specialist

PH. 202-724-4349 EMAIL: lillian.beavers3@dc.gov

SUBJECT: [Pharmacy Management and Staffing Services \(PMSS\) to develop, implement and manage a pharmacy system](#)

TO: All Offerors

The District of Columbia Department of Health Care Finance (DHCF) seeks a Pharmacy Management and Staffing Services (PMSS) firm/organization to manage, operate and provide staffing services for seven (7) public health pharmacies located in medical facilities throughout the District of Columbia. Detailed information and instructions for proposal submission are described herein.

The enclosed Request for Proposal (RFP) provides the background, requirements, terms and conditions, and acquisition approach for the contemplated procurement. All Offerors are to review this RFP and provide comments and/or clarifications which address the following statements:

- (1) Are the requirements clearly and unambiguously stated?
- (2) Indicate and address the requirements considered to be inappropriate or unnecessarily restrictive.
- (3) Address any additional information required to prepare a response for this procurement.

Indicate specific pages, sections and paragraphs where questions of concern are found and forward by e-mail to **Lillian Beavers** by **8:00 am EST on Wednesday, August 5, 2009**. Response thereto will be addressed and clarified in the Pre-Proposal Conference scheduled for **August 11, 2009**.

This RFP encourages utilization of the District of Columbia Certified Business Enterprises as certified under the authority of the District of Columbia Department of Small and Local Business Development (DSLBD) located at www.dslbd.dc.gov.

All Offerors shall visit the Department of Health Care Finance website www.dhcf.dc.gov and click "Procurement Opportunities" to download solicitation and required compliance documents.

Sincerely,

Genee Unger
Chief Operating Officer
District of Columbia Department of Health Care Finance

SECTION B

SUPPLIES OR SERVICES AND PRICE

B.1 Supplies or Services and Price/Cost

B.2 Contract Type

B.3 Price Schedule - Fixed Price

SECTION B

SUPPLIES OR SERVICES AND PRICE

B.1 Supplies or Services and Price/Cost

B.1.1 The Department of Health Care Finance (DHCF) seeks a single qualified Offeror to provide Pharmacy Management and staffing services for seven (7) public health pharmacies located in medical facilities throughout the District of Columbia.

B.2 Contract Type

B.2.1 The District intends to award a Fixed Price contract.

B.3 Price Schedule – Firm Fixed Price

B.3.1 Offerors shall submit a price proposal that reflects its most competitive rates (and shall set forth both fixed, fully-loaded hourly rates per labor category and its process for pricing certain work on a fixed-fee price basis) for each Task Category/Contract Line Item (CLIN) for which it submits a technical proposal and price proposal. Each CLIN below corresponds with a Task Category described above. For each CLIN in which the Offeror proposes capabilities and expertise thereto, Offerors shall provide: (1) Labor categories; (2) A description of the proposed labor category to include years of experience, education level, and certifications; and (3) “Best Customer Pricing” in the format of fully-loaded, fixed hourly rate. Any exclusions from fully-loaded hourly rates must be expressly stated or will not be considered at any point hereafter). The term “fully-loaded, fixed hourly rate” shall mean an hourly rate that includes the base labor rate, overhead costs, fringe benefits, general and administrative expenses (G&A), and profit.

B.3.2 Offerors shall submit a price proposal that reflects Base Year and four (4) option years.

B.3.2.1 Base Year Price Schedule

Contract Line Item No. (CLIN)	Item Description	Unit	Unit Price	Qty	Total Price
0101	Provide pharmacy management and staffing services for the seven (7) public health pharmacies (Anacostia, Southwest, Hunt	Months		12	

	Place, DC General Campus Center, Congress Heights, Walker Jones and Upper Cardozo).				
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B.3.2.2 Option Year 1 Price Schedule

Contract Line Item No. (CLIN)	Item Description	Unit	Unit Price	Qty	Total Price
0201	Provide pharmacy management and staffing services for the seven (7) public health pharmacies (Anacostia, Southwest, Hunt Place, DC General Campus Center, Congress Heights, Walker Jones and Upper Cardozo).	Months		12	

B.3.2.3 Option Year 2 Price Schedule

Contract Line Item No. (CLIN)	Item Description	Unit	Unit Price	Qty	Total Price
0301	Provide pharmacy management and staffing services for the seven (7) public health pharmacies (Anacostia, Southwest, Hunt Place, DC General Campus Center, Congress Heights, Walker Jones and Upper Cardozo).	Months		12	

B.3.2.4 Option Year 3 Price Schedule

Contract Line Item No. (CLIN)	Item Description	Unit	Unit Price	Qty	Total Price
0401	Provide pharmacy management and staffing services for the seven (7) public health pharmacies (Anacostia, Southwest, Hunt Place, DC General Campus Center, Congress Heights, Walker Jones and Upper Cardozo).	Months		12	

B.3.2.5 Option Year 4 Price Schedule

Contract Line Item No. (CLIN)	Item Description	Unit	Unit Price	Qty	Total Price
0501	Provide pharmacy management and staffing services for the seven (7) public health pharmacies (Anacostia, Southwest, Hunt Place, DC General Campus Center, Congress Heights, Walker Jones and Upper Cardozo).	Months		12	

SECTION C

DESCRIPTION, SPECIFICATION, STATEMENT OF WORK

- C.1** Scope
- C.2** Background
- C.3** Requirements
- C.4** Performance Measures

SECTION C

DESCRIPTIONS, SPECIFICATIONS, STATEMENT OF WORK

C.1 Scope

C.1.1 The District of Columbia, Department of Health Care Finance (DHCF) seeks the services of a single, qualified Offeror to provide Pharmacy Management and Staffing services for seven (7) public health pharmacies located in medical facilities throughout the District of Columbia. The pharmacy benefit is provided exclusively to approximately 52,000 Alliance enrollees.

C.1.2 Purpose

C.1.2.1 This Request for Proposal (RFP) is for:

C.1.2.1.1 A Offeror-owned and operated Point-of-Sale (POS) pharmacy claim and adjudication system (including all media for electronic point of sale claims, paper claims, batched, FTP, etc.);

C.1.2.1.2 Pharmaceutical staffing to support the operation of seven pharmacies;

C.1.2.1.3 Prospective Drug Utilization Review (DUR) services; and

C.1.2.2 The POS system must be capable of interfacing with the Department of Health Care Finance pharmacy benefit manager (PBM). All systems and activities must be HIPAA compliant.

C.1.3 Approach

C.1.3.1 The Department of Health Care Finance (DHCF) is issuing a Request for Proposals. The requested services will serve the administrative, management and claims processing needs of the Alliance Program. The Offeror will be required to record and bill DHCF for all Alliance-related administrative and claims processing services separately from other DHCF programs to ensure accurate claiming for federal financial participation. The selected Offeror will be required to provide DHCF and the Medicaid Management Information System (MMIS) Offeror with encounter data.

C.1.3.2 The contract will be performance based. Performance requirements are detailed in the contract. Performance requirements relate to system performance and customer service. Customers include DHCF and DC Alliance members. The Offeror will be required to demonstrate superior performance to DHCF and its customers at all times. The Offeror may be required to provide additional pharmacy benefits if the Alliance experiences eligibility expansions.

C.1.4 Applicable Documents

C.1.4.1 All documents applicable to this solicitation and the resulting contract are listed in Section J.

C.1.5 Definitions

C.1.5.1 Alliance Enrollee: An individual who is currently enrolled in an MCO participating in the District's Alliance program. Enrollee also refers to the parent, legal guardian or personal representative of the Enrollee in cases where the Enrollee is a minor or incapacitated as determined by court.

C.1.5.2 Alliance Pharmacy Network: A network comprised of the following seven (7) public health pharmacies:

C.1.5.2.1 Anacostia;

C.1.5.2.2 Southwest;

C.1.5.2.3 Hunt Place;

C.1.5.2.4 DC General Campus Center;

C.1.5.2.5 Congress Heights;

C.1.5.2.6 Walker Jones; and

C.1.5.2.7 Upper Cardozo.

C.1.5.3 Alliance Program: The Health Care Safety Net program that provides comprehensive coverage of health care services for residents of the District with incomes up to 200% of the federal poverty guidelines who meet other eligibility requirements.

C.1.5.4 Claim: Form used by a provider to bill for services rendered.

C.1.5.5 Health Insurance Portability and Accountability Act of 1996 (HIPAA): Federal legislation establishing health insurance portability and coverage protections for qualified individuals and authorizing the promulgation of federal regulations related to health information privacy, health information security, administrative simplification, and the transfer of electronic health information among health care payers, plans, and providers and certain third parties. HIPAA also refers to the federal regulations promulgated at 45 C.F.R. §§ 160-164.

C.1.5.6 Health Insurance Portability and Accountability Act Transaction and Code Sets Standards: Federal requirements to standardize the format for electronic transactions between providers and health plans and other entities set forth in the regulations promulgated at 45 C.F.R. §§ 160 and 162.

C.1.5.7 Pharmacy Management Services: Services include the distribution of pharmaceuticals, pharmaceutical storage and pharmaceutical control. The use of a computer based system may be required to perform these services.

C.1.5.8 Pharmacy Staffing Services: Each site is required to have a dedicated pharmacist and appropriate support staff for that location. The required staffing pattern is as follows:

- C.1.5.8.1 Pharmacist;
- C.1.5.8.2 Pharmacist Technician;
- C.1.5.8.3 Pharmacy IT Specialist;
- C.1.5.8.4 Pharmacy Director; and
- C.1.5.8.5 Assistant Pharmacy Director.

C.2 Background

C.2.1 The Health Care Privatization Act of 2001 established the Alliance as a safety net for District of Columbia residents. DC residents with income levels at or lower than 200% of the Federal Poverty Level who are uninsured and not eligible for Medicaid are eligible for this benefit. Pharmacy benefits are provided through a closed distribution network and formulary administered by pharmacists within the District of Columbia.

C.2.2 DC Health Care Alliance Pharmacies

C.2.2.1 The table below indicates the name and location of the seven (7) public health pharmacies that require pharmacy management and staffing services.

DC General Pharmacy DC General Health Campus 1900 Massachusetts Ave., SE Washington, DC 20003	Anacostia Health Center Pharmacy 1328 W Street, SE Washington, DC 20020
Congress Heights Health Center Pharmacy 3720 M.L. King Ave., SE Washington, DC 20032	Hunt Place Health Center Pharmacy 4130 Hunt Place, NE Washington, DC 20019
Northwest One Clinic Pharmacy	Upper Cardozo

(Formerly Walker Jones) 1100 First Street, NW Washington, DC 20001	Health Center Pharmacy 3020 14 th Street, NW Washington, DC 20009
Southwest CHC Pharmacy 850 Delaware Avenue SW Washington, DC 20024	

C.2.3 Current Pharmacy Hours of Operation

C.2.3.1 Current pharmacy hours of operation are subject to adjustment in order to accommodate clinic operations, established workflow patterns and continuity of patient care.

Anacostia:

Tuesday, Thursday, and Friday	8:15 am to 4:45 pm
Monday and Wednesday	8:15 am to 8:00 pm
Saturday	8:00 am to 2:00 pm

Congress Heights:

Monday through Friday	8:15 am to 4:45 pm
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Hunt Place:

Monday through Friday	8:15 am to 4:45 pm
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Walker Jones:

Monday through Friday	8:15 am to 4:45 pm
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Upper Cardozo:

Monday and Wednesday	8:30 am to 8:00 pm
Tuesday, Thursday, and Friday	8:00 am to 5:30 pm
Saturday	8:00 am to 2:00 pm
*Holiday hours (except Christmas)	10:00 am to 2:00 pm

D. C. General:

Monday through Friday	10:00 am to 6:30 pm
Saturday	10:00 am to 4:00 pm
*Holiday hours (except Christmas)	10:00 am to 2:00 pm

C.3 Requirements

C.3.1 The Offeror shall be responsible for:

C.3.1.1 Abiding by all Federal and Local pharmacy licensing requirements;

C.3.1.2 Pharmaceutical dispensing, tracking, storing, and reporting of all prescribed medications at the seven (7) Alliance network pharmacies; and

C.3.1.3 Providing an interface with the current Alliance Pharmacy Benefit.

C.3.2 Pharmacy System

C.3.2.1 The Offeror shall:

C.3.2.2.1 Provide a CMS- approved pharmacy computer system with NCPDP 5.1 compatibility capable of interfacing with a Pharmacy Benefit Manager (PBM) or switch Offeror to adjudicate pharmacy claims.

C.3.2.2.2 Provide online adjudication of pharmacy claims and provide electronic notification to Provider's of claims disposition.

C.3.2.2.3 Ensure processes are in place and implemented to capture and transmit the National Provider Identification (NPI) of all prescribers.

C.3.2.2.4 Provide a pharmacy system capable of network reporting, claims analysis, statistical reporting, and claims resolution reports.

C.3.2.2.5 Provide a pharmacy system capable of generating utilization reports by managed care plan and plan enrollees.

C.3.2.2.6 Provide a pharmacy system capable of generating prior authorization protocols and generate selected reports.

C.3.2.2.7 Provide a pharmacy system with prospective Drug Utilization Review edit and reporting capability.

C.3.2.2.8 Report generating capability, including encounter and utilization data for each pharmacy and additional reports as required by applicable Federal and District pharmacy practice regulations;

C.3.2.2.9 Administrative query capability for ad hoc reporting of pharmacy encounter data.

C.3.3 Pharmacy Access

C.3.3.1 Location

C.3.3.1.1 The Offeror is to provide pharmacy services for seven (7) Alliance network pharmacies located throughout the District of Columbia as described in C.2.2.

C.3.3.2 Hours of Operation

C.3.3.2.1 The Offeror shall provide pharmacy services Monday through Saturday for a minimum of 40 hours and a maximum of 60 hours.

C.3.3.2.2 The Offeror shall publicly display the hours of operation at each Alliance network pharmacy location, as described in C.2.2.

C.3.3.2.3 The Offeror shall designate a centrally-located Alliance network pharmacy or pharmacies with hours of operation that include federal and local holidays.

C.3.3.2.4 Any alteration in the established hours of operation, as described in C.2.3.1, shall be approved by the COTR prior to change.

C.3.3.2.5 Any planned or unplanned occurrence which results in an Alliance network pharmacy closure for any time period other than the hours of operation must be reported to the COTR at the time of occurrence.

C.3.4 Pharmacy Operations

C.3.4.1 Pharmacy Staff

C.3.4.1.1 The Offeror shall provide a sufficient number of dedicated pharmacists licensed to practice in the District of Columbia and certified pharmacy technicians for each location to assure wait times for recipients do not exceed 20 minutes.

C.3.4.1.2 Licensure and Certification

C.3.4.1.2.1 All pharmacists shall possess a current license to practice pharmacy in the District of Columbia. Board of Pharmaceutical Specialties' certification of pharmacists to provide specialty services to patients and selected patient care is encouraged, as applicable.

C.3.4.1.2.2 Technician Certification: Certification of pharmacy technicians by the Pharmacy Technician Certification Board is strongly encouraged and completion of an accredited training program is preferred.

C.3.4.1.3 The Offeror will provide training and technical assistance to all staff and participating providers. Such assistance includes:

C.3.4.1.3.1 Claims submission and resolution of adjudication problems;

C.3.4.1.3.2 Dissemination of policies and procedures;

C.3.4.1.3.3 Responses to both written and telephone inquiries; and

C.3.4.1.3.4 Identification, management, and reduction of provider and recipient problems.

C.3.4.2 Pharmacy Services

C.3.4.2.1 The Offeror shall maintain a refill compliance program at each pharmacy and a prescription refill telephone line for after hours use.

C.3.4.2.2 The Offeror shall provide patient counseling services for all Alliance enrollees filling prescriptions from any pharmacy.

C.3.4.2.3 The Offeror shall provide Spanish and Amharic interpreters in Alliance network pharmacy locations that serve Latino, Eritrean and Ethiopian Alliance enrollees.

C.3.4.2.4 The Offeror shall provide interpretive services for non-English speaking Alliance enrollees.

C.3.5 Pharmaceutical Security

C.3.5.1 All pharmacies shall have an installed security system sufficient to ensure the integrity of the premises at all times.

C.3.5.2 All medications, including scheduled narcotics, should be properly stored in each location in accordance with Federal and local laws and manufacturer requirements.

C.3.5.3 The desired system will have appropriate policies and procedures for pharmacy management and oversight which will include, but not be limited to the following:

C.3.5.3.1 Eliminating unauthorized use of medications by anyone other than the intended Alliance beneficiary.

C.3.5.3.2 Maintaining sufficient on-hand quantity of inventory to prevent or minimize out of stock medication.

C.3.5.3.3 Minimizing and eliminating pilferage.

C.3.5.3.4 Preventing the dispensing of unusually large quantities of medications.

C.3.5.3.5 Maintaining security and dispensing of controlled substances.

C.3.5.3.6 Limiting access of patient's medication records only to the authorized personnel.

C.3.5.3.7 Pharmacist clinical review to ensure patient safety and Drug Utilization Review (DUR) requirements.

C.3.5.3.8 Generation of weekly utilization reports delineating usage by product and location.

C.3.5.3.9 Ability to query claims processing (on a read-only basis).

C.3.5.3.10 Generation of an annual, pharmacy level narcotic usage report for the network.

C.3.5.4 All prescription medications will be purchased by the Department of Health Care Finance. Weekly medication ordering and medication delivery will follow a predetermined schedule set by the District of Columbia.

C.3.6 Administrative Reports

C.3.6.1 The Offer shall submit:

C.3.6.1.1 Weekly drug utilization reports delineating usage by product and location;

C.3.6.1.2 Monthly utilization reports for each Alliance network pharmacy and each managed care plan;

C.3.6.1.3 Monthly report of destruction of unusable or outdated medications; and

C.3.6.1.4 Fiscal year-end and calendar year-end inventory reports.

C.3.6.2 In addition to the reports listed in C.3.6.1, the Offeror shall be responsible for all reports listed in Attachment J.16.

C.3.8 Pharmacy Benefit Management Services

C.3.4.1 The Offeror shall verify eligibility for Alliance enrollees prior to the utilization of any Alliance network pharmacy.

C.3.4.2 The Offeror shall provide a control mechanism for all pharmaceutical products in a cost-effective manner, utilizing best practices in pharmaceutical-control and pharmaceutical-use monitoring.

C.3.4.2.1 The control mechanism shall also foster patient compliance and maintain patient confidentiality for all Alliance enrollees.

C.3.4.2.2 The control mechanism shall have the capability to interface with automated pharmacy technology systems, including NCPDP 5.1.

C.3.4.3 The Offeror shall provide full support for the Alliance Pharmacy and Therapeutics Committee (P&T). This support will include:

C.3.4.3.1 Assistance with clinical activities;

C.3.4.3.2 Prior authorization;

C.3.4.3.3 Therapeutic duplication protocols;

C.3.4.3.4 Non-formulary protocols; and

C.3.4.3.5 Associated reports.

C.3.4.4 The pharmacy benefit management services provided shall comply with HIPAA, as described in Section H.21 and the Privacy and Security rules in 45 C.F.R. Parts 160, 162 and 164, 42 C.F.R. Part 2, and the D.C. Mental Health Information Act (D.C. Code § 6-2001 et seq.).

C.4 Key Personnel

C.4.1 Contractor shall maintain all Key Personnel to carry out essential functions as defined in Section C.3. Key Personnel are considered to be essential to the work being performed under the provisions the Contract.

C.4.2 Contractor shall not reassign Key Personnel or appoint replacements, without written permission from DHCF.

C.4.3 Key Personnel shall include:

C.4.3.1 A Project Manager who shall be responsible for the logistics of transmitting data, project deliverables, and communication with parties for the entire project;

C.4.3.2 Pharmacy Director;

C.4.3.3 Assistant Pharmacy Director;

C.4.3.4 Supervisory Pharmacists; and

C.4.3.5 Pharmacy IT Specialist

C.4.4 Contractor shall identify the individuals who are Key Personnel.

C.5 Performance Measures

C.5.1 Contractor shall meet performance measures established by DHCF for pharmacy management and staffing services and as detailed in Section E.

C.5.1.1 Contractor shall provide evidence that it can:

C.5.1.1.1 Implement a mechanism to receive, record, and report recipient complaints and associated corrective actions for each pharmacy location.

C.5.1.1.2 On an ongoing basis, ensure online adjudication of pharmacy claims and electronic notification to Providers of claims disposition.

C.5.1.1.3 On an ongoing basis, ensure pharmacy system is capable of:

C.4.1.1.3.1 Network reporting, claims analysis, statistical reporting and claims resolution reports;

C.4.1.1.3.2 Generating utilization reports by managed care plan and plan enrollees;

C.4.1.1.3.3 Generating prior authorization protocols and selected reports; and

C.4.1.1.3.4 Prospective Drug Utilization review and reporting.

C.5.1.1.4 Ensure wait times for recipients do not exceed 20 minutes.

C.5.1.1.5 On an ongoing basis, ensure training and technical assistance to all staff and participating providers.

C.5.1.1.6 On an ongoing basis, ensure patient counseling services for all Alliance enrollees filling prescriptions has been provided.

C.5.1.1.7 On an ongoing basis, ensure interpretive services for non-English speaking Alliance enrollees has been provided.

SECTION D

PACKAGING AND MARKING

D.1 Packaging and Marketing

D.1.1 The packaging and marking requirements for the resultant 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.

SECTION E

INSPECTION AND ACCEPTANCE

- E.1** Inspection and Acceptance – Governance
- E.2** Inspection and Acceptance – Destination
- E.3** Inspection and Acceptance – Right to Enter Premises
- E.4** Monitoring of Performance

SECTION E

INSPECTION AND ACCEPTANCE

E.1 Inspection and Acceptance – Governance

E.1.1 The inspection and acceptance requirements for the Contract shall be governed by Clause Number Six (6), Inspection of Services of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated March 2007.

E.2 Inspection and Acceptance – Destination

E.2.1 Inspection and acceptance of the supplies/services to be furnished hereunder shall be made at destination by the Contracting Officer's Technical Representative (COTR) or his or her duly authorized representative.

E.3 Inspection and Acceptance – Right to Enter Premises

E.3.1 The District of Columbia Department of Health Care Finance, Department of Health Care Finance, Office of Contracting and Procurement, or any authorized representative of the District of Columbia, the U.S. Department of Health and Human Services, the U.S. Comptroller General, the U.S. Government Accountability Office, or their authorized representatives shall, at all reasonable times, have the right to enter Contractor's premises or such other places where duties under the Contract are being performed to inspect, monitor, or otherwise evaluate (including periodic systems testing) the work being performed. Contractor and all subcontractors shall provide reasonable access to all facilities. All inspections and evaluations shall be performed in such a manner as will not unduly delay work.

E.4 Monitoring of Performance

E.4.1 The District will utilize a variety of methods to determine compliance with Contract requirements and measure the quality of performance.

E.4.2 The District may employ corrective action, fines, remedies, and sanctions to address issues of non-compliance and performance with Contractor.

E.4.3 Failure to submit timely, accurate deliverables will result in Contractor being out of compliance with the terms of the Contract and may result in sanctions and liquidated damages for this non-compliance as described in Sections G.3.

E.4.4 The District of Columbia will conduct a random site visit, at least annually, to the Alliance Pharmacy Network and generate a report that will be included in the annual performance evaluation of the Offeror.

SECTION F

PERIOD OF PERFORMANCE AND DELIVERABLES

- F.1** Terms of the Contract
- F.2** Option to Extend the Term of the Contract
- F.3** Deliverables

SECTION F

PERIOD OF PERFORMANCE AND DELIVERABLES

F.1 Term of the Contract

F.1.1 The initial term of the Contract shall be for twelve months from Date of Contract Award.

F.2 Option to Extend the Term of the Contract

F.2.1 The District may extend the term of the Contract for a period of four (4) one (1) year Option Periods by written notice to Contractor before the expiration of the Contract; provided that the District shall give the Contractor preliminary written notice of its intent to exercise the option to extend the term of the contract Close. The preliminary notice does not commit the District to an extension. Contractor may waive the thirty (30) day notice requirement by providing a written waiver to the Contracting Office prior to expiration of the Contract.

F.2.2. The price for the Option Period shall be specified in the Contract. The exercise of the option to extend the contract is subject to the availability of funds at the time of the exercise of the option.

F.2.3 The option to extend the term of the contract, as described above in section F.2.1 shall be included for each option period.

F.2.4 The total duration of the contract, including the exercise of any/all options period(s) under Section F.2 shall not exceed five (5) years.

F.3 Deliverables

F.3.1 Contractor shall perform the required services and tasks and develop and submit three (3) hard copies and one (1) electronic copy of the following deliverables to the COTR identified in Section G.6 in accordance with the due dates identified in the Deliverable Schedule, as follows:

F.3.2 Deliverable Schedule

Deliverable Number	Deliverable Name	Due Date
1	Drug Utilization Reports delineating usage by product and location as described in C.3.6.1.1	Weekly
2	Monthly Utilization Reports for each Alliance network pharmacy and each managed care plan as described in C.3.6.1.2	5 th day of each month
3	Monthly Reports on the destruction of unusable	5 th day of each

Deliverable Number	Deliverable Name	Due Date
	or outdated medications as described in C.3.6.1.3	month
4	Fiscal year-end inventory report	November 1 st
5	Calendar year-end inventory report	January 2 nd

F.3.3 Contractor shall prominently label all reports with Contractor’s name and business address, along with the Contract Number, on the cover of the report.

F.3.4 If any documents contain confidential information, the outer and inner contents of the package shall be prominently labeled “Confidential.”

F.3.5 Notice of Disapproval of Deliverables – Resubmission of Deliverables

F.3.5.1 The COTR (or designee) shall provide written notice of disapproval of a Deliverable or report to Contractor within five (5) business days of submission if it is disapproved. Notice of disapproval shall state the reasons for disapproval as specifically as is reasonably necessary and the nature and extent of the corrections required for meeting the Contract requirements.

F.3.5.2 Contractor shall make the corrections and resubmit the Deliverable within ten (10) business days unless otherwise specifically noted in the notice of disapproval.

F.3.6 Any reports required pursuant to Section H.11 of the Fifty One Percent (51%) District Residents New Hires Requirements and First Source Employment Agreement are to be submitted to the District as a deliverable. If the report is not submitted as part of the deliverables, final payment to Contractor shall not be paid.

SECTION G

CONTRACT ADMINISTRATION DATA

- G.1** Invoice Payment
- G.2** Invoice Submittal
- G.3** Payments
- G.4** Liquidated Damages
- G.5** Recoupment
- G.6** Contracting Officer
- G.7.** Contracting Officer Technical Representative (COTR)
- G.8.** Stoppage of Work
- G.9.** Sub-Contracts
- G.10** Patents
- G. 11** Cost & Pricing Data

SECTION G

CONTRACT ADMINISTRATION DATA

G.1 Invoice Payment

G.1.1 The District will make payments to Contractor upon the submission of proper invoices, at the prices stipulated in the Contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in the Contract.

G.1.2 The District will pay Contractor on or before the thirtieth (30th) business day after receiving a proper invoice from Contractor.

G.2 Invoice Submittal

G.2.1 Contractor shall submit proper invoices on a monthly basis or as otherwise specified in Section G.3. Invoices shall be prepared in duplicate and submitted to the agency Chief Financial Officer (CFO) with concurrent copies to the Contracting Officer's Technical Representative (COTR) specified in Section G.7 below. The address of the CFO is:

Darrin Shaffer

Department of Health Care Finance

825 North Capitol St, NE

Suite 5135

Washington, DC 20002

G.2.2 To constitute a proper invoice, Contractor shall submit the following information on the invoice:

G.2.2.1 Contractor's name, federal tax ID and invoice date (Contractor shall date invoices as of the date of mailing or transmittal);

G.2.2.2 Contract number and invoice number;

G.2.2.3 Description, price, quantity and the date(s) that the supplies or services were delivered or performed;

G.2.2.4 Other supporting documentation or information, as required by the Contracting Officer;

G.2.2.5 Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;

G.2.2.6 Name, title, phone number of person preparing the invoice;

G.2.2.7 Name, title, phone number and mailing address of person (if different from the person identified in Section G.2.2.6 above) to be notified in the event of a defective invoice; and

G.2.2.8 Authorized signature.

G.3 Payments

G.3.1 Payment Schedule:

G.3.1.1 The District will pay the Contractor on a monthly basis 1/12th of the total price described in B.3.2.1 in accordance with the terms of the Contract upon presentation of a properly executed invoice and authorized by the COTR.

G.3.2 First Source Agreement Request for Final Payment

G.3.2.1 For contracts subject to the fifty-one percent (51%) District Residents New Hires Requirements and First Source Employment Agreement requirements, final request for payment shall be accompanied by the report or a waiver of compliance discussed in Section H.11.5.2.

G.3.2.2 No final payment will be made to Contractor until the Chief Financial Officer has received the Contracting Officer's final determination or approval of waiver of Contractor's compliance with fifty-one percent (51%) District Residents New Hires Requirements and First Source Employment Agreement requirements.

G.3.3 Assignment of Contract Payments

G.3.3.1 In accordance with 27 D.C.M.R. § 3250, unless otherwise prohibited by the Contract, Contractor may assign funds due or to become due as a result of the performance of the Contract to a bank, trust company, or other financing institution.

G.3.3.2 Any assignment shall cover all unpaid amounts payable under the Contract, and shall not be made to more than one (1) party.

G.3.3.3 Notwithstanding an assignment of contract payments, Contractor, not the assignee, shall prepare invoices. Where such an assignment has been made, the original copy of the invoice shall refer to the assignment and shall 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.3.4 Electronic Payments

G.3.4.1 The District reserves the option to make payments to Contractor by wire, NACHA, or electronic transfer and will provide Contractor at least thirty (30) days notice prior to the effective date of any such change.

G.3.4.2 Where payments are made by electronic funds transfer, the District will not be liable for any error or delay in transfer or indirect or consequential damages arising from the use of the electronic funds transfer process. Any changes or expenses imposed by the bank for transfers or related actions shall be borne by Contractor.

G.3.5 Compliance by Contractor

G.3.5.1 Payments made by the District to Contractor are conditioned upon receipt by the District of applicable, accurate and complete reports, documentation, claims, encounters, and any other information due from Contractor, unless written approval waiving such requirement(s) is obtained from the District. The submission of late deliverables will be subject to a penalty as described in Section G.3.7.2.

G.3.6 Quick Payment Clause

G.3.6.1 Interest Penalties to Contractors

G.3.6.1.1 The District will pay interest penalties on amounts due to 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 the fifteenth (15th) day after the required payment date.

G.3.6.1.2 Any amount of an interest penalty which remains unpaid at the end of any thirty (30) day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

G.3.7 Payments to Sub-contractors

G.3.7.1 Contractor shall take one of the following actions within seven (7) days of receipt of any amount paid to Contractor by the District for work performed by any subcontractor under the Contract:

G.3.7.1.1 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

G.3.7.1.2 Notify the District and the subcontractor, in writing, of Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

G.3.7.1.3 Contractor shall pay any lower-tier subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of one percent (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 the fifteenth (15th) day after the required payment date for any other item.

G.3.7.2 Any amount of an interest penalty which remains unpaid by Contractor at the end of any thirty (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.3.7.3 A dispute between 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 may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

G.3.8 Contractor Obligation to Flow Down Interest Provision

G.3.8.1 The Contractor is required to include in any subcontract a provision that requires each subcontractor to include the payment and interest clauses required under paragraphs (1) and (2) of the Quick Payment Act in each subcontractor's contract with any lower-tier subcontractor or supplier.

G.3.9 Right to Withhold Payment

G.3.9.1 The District reserves the right to withhold or recoup funds from Contractor in addition to any other remedies allowed under the Contract or any policies and procedures.

G.3.9.2 Payment will be withheld for Contractor late submissions of deliverables. Contractor shall receive payment when each deliverable is completed and approved by DHCF. If the deliverable has not been completed and submitted to DHCF by the deliverable due date and/or it is submitted, but DHCF does not approve the submission, DHCF may impose a penalty of 5% per day until deliverable is complete and approved.

G.4 LIQUIDATED DAMAGES

G.4.1 In addition to any other remedies available to the District, the District shall recover any expense accrued from the late submission of a deliverable, or Contractor

poor performance or noncompliance with Contract terms by Contractor or its subcontracted providers. Contractor shall be required to:

G.4.1.1 At the discretion of DHCF, contract with a DHCF-approved contractor to study what has caused Contractor's breach of performance under the contract;

G.4.1.2 Mitigate any further loss of productivity or expense to DHCF by taking corrective action, including implementing a CAP, upon approval by DHCF, as described in Section C.3.8;

G.4.1.3 At the discretion of DHCF, require that, in accordance with Sections G.3 and G.4 Contractor pay a civil monetary penalty and liquidated damages either at a rate of \$1,000.00 per day to a limit of \$25,000 or an amount up to a limit of \$25,000, as applicable to the circumstances, for:

G.4.1.3.1 Failing to adhere to acceptable financial practices and standards for operating claims submittal and related administrative functions for Medicaid in the District of Columbia;

G.4.1.3.2 Failing to ensure that no incorrect payments are discovered at the time of the PERM audit or internal DHCF audit for transactions that move through the ASO system;

G.4.1.3.3 Failing to ensure that deliverables and reports are submitted within the time period specified in the contract;

G.4.1.3.4 Failing to ensure that the help desk, and web portal meet the requirements described in section C.3.9.2.5.2- C.3.9.4.2;

G.4.1.3.5 Failing to coordinate a relationship with the Partner Agencies and maintain effective communication and access to Partner Agencies, during all segments of the contract, including meetings and reporting;

G.4.1.3.6 Failing to provide adequate oversight of the documentation submitted by providers resulting in upfront denied claims;

G.4.1.3.7 Failing to provide adequate oversight of the validity and accuracy of claims for successful processing through the MMIS for payment; and

G.4.1.3.8 Failing to ensure that no incorrect payments are processed through the ASO system.

G.5 RECOUPMENT

G.5.1 Contractor shall be responsible for any fines levied against the District by the Department of Health and Human Services (HHS), the Centers for Medicare and Medicaid Services (CMS) or any other applicable administrative body. Contractor shall also be responsible for the reimbursement of any funds that must be paid back to these bodies as a result of Contractor's performance under the Contract.

G.5.2 Contractor shall be responsible for any recoupment of funds or sanctions imposed by the federal government to the District that are related to Contractor's non-compliance of any part of the Contract.

G.6 Contracting Officer

G.6.1 Contracts may be entered into and signed on behalf of the District Government only by Contracting Officers.

G.6.2 The name, address and telephone number of the Contracting Officer is:

Contracts Compliance Director
Department of Health Care Finance
825 North Capitol St, NE
Suite 5135
Washington, DC 20002

G.6.3 Authorized Changes by the Contracting Officer

G.6.3.1 The Contracting Officer is the only person authorized to approve changes in any of the requirements of the Contract.

G.6.3.2 Contractor shall not comply with any order, directive or request that changes or modifies the requirements of the Contract, unless issued in writing and signed by the Contracting Officer.

G.6.3.3 In the event Contractor effects any change at the instruction or request of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the Contract price to cover any cost increase incurred as a result thereof.

G.7 Contracting Officer Technical Representative

G.7.1 The COTR is responsible for general administration of the Contract and advising the Contracting Officer as to Contractor's compliance or noncompliance with the contract. In addition, the COTR is responsible for the day-to-day monitoring and supervision of the Contract, of ensuring that the work conforms to the requirements of the Contract and such other responsibilities and authorities as may be specified in the contract.

G.7.2 The COTR for the Contract is:

Laurie Rowe

Project Manager

Department of Health Care Finance

2100 Martin Luther King, Jr. Avenue, SE

Washington, DC 20020

G.7.3 The COTR shall not have authority to make any changes in the specifications, scope of work, or terms and conditions of the Contract.

G.7.4 Contractor may be held fully responsible for any changes not authorized in advance, in writing, by the Contracting Officer; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

G.8 Stoppage of Work

G.8.1 If the Contractor fails to abide by any, or all, of the provisions of the contract, the CO reserves the right to stop all the work, or any portion thereof, affected by the Contractor's failure to comply with the contract requirements. This stoppage will remain in effect until the Contractor has taken action to meet the contract requirements, or any separable part thereof. After written notification and work stoppage, the District may terminate the right of the Contractor to proceed as provided in TERMINATION-DELAYS, of Standard Contract Provisions For Use With Supplies and Services Contract.

G.9 Subcontracts

G.9.1 Nothing contained in the contract shall be construed as creating any contractual relationship between any subcontractor and the Government of the District of Columbia.

G.9.2 The divisions or sections of any requirements related herein are not intended to control the Contractor in dividing the work among the subcontractors or to limit the work performed by any trade.

G.9.3 The Contractor shall be as fully responsible to the Government of the District of Columbia for the acts and omissions of subcontractor and of persons employed by them as he is for the acts and omissions of persons directly employed by him.

G.9.4 The Contractor shall coordinate the trades, subcontractor and material persons engaged upon his work.

G.9.5 The Contractor shall, without additional expense to the Government of the District of Columbia, utilize the services of specialty subcontractors for those parts of the work which are specified to be performed by specialty subcontractors.

G.9.6 The Government of the District of Columbia will not undertake to settle any differences between the Contractor and his subcontractors or between subcontractors.

G.9.7 The Contractor shall not subcontract any portion of the contract except with the prior written consent of the CO, or his authorized representatives, and such consent, when given, shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the contract. Request(s) for permission to subcontract any portion of the contract shall be in writing and accompanied by: (a) a showing that the organization which will perform the work is particularly experienced and equipped for such work, and (b) an assurance by the Contractor that the Labor Standards Provisions set forth in this contract shall apply to labor performed on all work encompassed by the request(s). The request(s) also shall provide the following information:

G.9.7.1 Subcontractors name, address, telephone number, and Federal Social Security Number used on the Employers Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

G.9.7.2 Estimated dollar amount of the subcontract.

G.9.7.3 Estimated starting and completion dates of the subcontract.

G.9.7.4 The subcontractor approval request form included herein should be used to request approval of subcontractor on this project. The form should be completed for each subcontractor requested for approval and submitted to the CO. Copies of these forms are available upon request from the COTR.

G.9.8 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.

G.10 Patents

G.10.1 The Contractor shall hold and save the Government, its officers, agents, servants and employees, harmless for liability of, any nature or kind, including cost and

expenses for, or on account of any patented or unpatented invention, article or appliance manufactured or used in the performance of this contract, including their use by the Government of the District of Columbia.

G.11 Cost and Pricing Data (applicable to a Change Order or Modification)

G.11.1 Unless otherwise provided in the solicitation, the Contractor shall, before negotiating any price adjustments pursuant to a change order or modification, submit cost or pricing data and certification that, to the best of the Contractor's knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of the date of negotiation of the change order or modification.

G.11.2 If any price, including profit or fee, negotiated in connection with any change order or contract modification, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified by the Contractor, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified by the Contractor, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

G.11.3 Cost or pricing data includes all facts as of the time of price agreement that prudent buyers and sellers would reasonably expect to affect price negotiations significantly. Cost or pricing data are factual, not judgmental, and are therefore verifiable. While they do not indicate the accuracy of the prospective Contractor's judgment about estimated future costs or projections, cost or pricing data do include the data forming the basis for that judgment. Cost or pricing data are more than historical accounting data; they are all the facts that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of determinations of costs already incurred.

G.11.4 The following specific information should be included as cost or pricing data, as applicable:

- G.11.4.1 Vendor quotations;
- G.11.4.2 Nonrecurring costs;
- G.11.4.3 Information on changes in production methods or purchasing volume;
- G.11.4.4 Data supporting projections of business prospects and objectives and related operations costs;
- G.11.4.5 Unit cost trends such as those associated with labor efficiency;
- G.11.4.6 Make or buy decisions;
- G.11.4.7 Estimated resources to attain business goals;

G.11.4.8 Information on management decisions that could have a significant bearing on costs.

G.11.5 If the Contractor is required to submit cost or pricing data in connection with pricing any change order or modification of this contract, the CO or representatives of the CO shall have the right to examine all books, records, documents and other data of the Contractor (including computations and projections) related to negotiating, pricing, or performing the change order or modification, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. Contractor shall make available at its office at all reasonable times the materials described above for examination, audit, or reproduction until three years after the later of:

G.11.5.1 Final payment under the contract;

G.11.5.2 Final termination settlement; or

G.11.5.3 Final disposition of any appeals under the disputes clause or of litigation or the settlement of claims arising under or relating to the contract.

SECTION H
SPECIAL CONTRACT REQUIREMENTS

- H.1** District Responsibilities
- H.2** Recipients Held Harmless
- H.3** General Subcontract Requirements
- H.4** Conflict of Interest
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- H.10** Hiring of District Residents as Apprentices and Trainees
- H.11** 51% District Residents New Hire Requirements & First Source Employment Agreement
- H.12** Way to Work Amendment Act of 2006
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- H.21** HIPAA Compliance – Business Associate Agreement
- H.22** Key Personnel

SECTION H

SPECIAL CONTRACT REQUIREMENTS

H.1 District Responsibilities

H.1.1 DHCF responsibilities will be identified during contract negotiations.

H.2 Recipients Held Harmless

H.2.1 Contractor shall hold harmless the District government and DHCF against any loss, damage, expense and liability of any kind that arises from any action of the organization or its subcontractors in the performance of the Contract.

H.3 General Subcontract Requirements

H.3.1 Subcontracting

H.3.1.1 Contractor shall ensure that all activities carried out by any subcontractor conform to the provisions of the Contract and are clearly specified in the subcontract.

H.3.1.2 Contractor shall include in all of its contracts and subcontracts a requirement that Contractor or subcontractor look solely to Contractor for payment for services rendered.

H.3.1.3 It is the responsibility of Contractor to ensure its subcontractors are capable of meeting the reporting requirements under the Contract and, if they cannot, Contractor is not relieved of the reporting requirements.

H.3.2 Termination of Subcontract

H.3.2.1 Contractor shall notify the Contracting Officer, in writing, of the termination of any subcontract for the provision or administration of medical services, including the arrangements made to ensure continuation of the services covered by the terminated subcontract, not less than forty-five (45) days prior to the effective date of the termination, unless immediate termination of the Contract is necessary to protect the health and safety of Enrollees or prevent fraud and abuse. In such an event, Contractor shall notify the COTR and Contracting Officer immediately upon taking such action.

H.3.2.2 If the District determines that the termination or expiration of a subcontract materially affects the ability of Contractor to carry out its responsibility under this contract, the District may terminate the Contract.

H.3.3 Review and Approval of Subcontracts

H.3.3.1 Contractor shall submit copies of subcontracted agreements to the Contracting Officer and the COTR prior to execution of the Contract by Contractor.

H.4 Conflict of Interest

H.4.1 In accordance with 45 C.F.R. § 74.42, no employee, officer, or agent of Contractor shall participate in the selection, award, or administration of the Contract if a real or apparent conflict of interest would be involved.

H.4.1.1 A Conflict of Interest arises when the employee, officer, or agent, or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award.

H.4.1.2 The officers, employees, and agents of Contractor shall neither solicit nor accept gratuities, favors, or anything of monetary value from Contractors, or parties to subcontracts. However, Contractor may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employers, or agents of the recipients.

H.4.2 In accordance with the District of Columbia Code § 27-2220, DHCF shall avoid any potential organization conflict of interest by an Offeror that may arise in the award of this procurement.

H.4.2.1 An organizational conflict of interest may result from an actual or potential conflict of interest on an instant contract, or when the nature of the work to be performed on the instant contract creates an actual or potential conflict of interest on a previous or future contract. (Federal Acquisitions Regulation, 45 C.F.R. §9.5).

H.4.2.2 Contractor shall identify any previous management support services; consultant or other professional services; contractor performance of or assistance in technical evaluations; and systems engineering and technical direction work performed by Contractor that are related in any manner to the services, goods, or supplies being acquired in this procurement (CDCR 27-2220).

H.4.2.3 Specifically, Contractor shall not be currently involved with or connected to any Contractor or subcontractor that is contracted by DHCF as an adjudicator of claims or billing agent for DHCF and shall attest to such (See Conflict of Interest Attestation, Attachment J.14).

H.4.3 Contractor represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Contractor further covenants that, in the

performance of the Contract, no person having any such known interests shall be employed.

H.4.4 No official or employee of the District or the federal government who exercises any functions or responsibilities in the review of approval of the undertaking or carrying out of the Contract shall, prior to the termination of the Contract, voluntarily acquire any personal interest, direct or indirect, in the Contract or proposed Contract (D.C. Procurement Practices Act of 1985, D.C. Law 6-85 and Chapter 18 of the D.C. Personnel Regulations).

H.5 Record Retention

H.5.1 Contractor shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Contract for the length of the Contract in addition to a period of three (3) years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report. The only exceptions are the following:

H.5.1.1 If any litigation, claim, financial management review, or audit is started before the expiration of the record retention period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken;

H.5.1.2 Records for real property and equipment acquired with federal funds shall be retained for three (3) years after final disposition; and

H.6 Confidentiality of Information

H.6.1 Contractor shall use and disclose such individually identifiable health information only in accordance with the privacy requirements in 45 C.F.R. Parts 160 and 164, subparts A and E, HIPAA, 42 C.F.R. Part 2, and the Mental Health Information Act to the extent that these requirements are applicable.

H.7 Freedom of Information Act

H.7.1 The District of Columbia Freedom of Information Act (FOIA), 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.

H.7.2 If Contractor receives a request for such information, Contractor shall immediately send the request to the COTR designated in Section G.7 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 Contractor pursuant to the Contract, the COTR will forward a copy to Contractor. In either event, Contractor is

required by law to provide all responsive records to the COTR within the timeframe designated by the COTR. The FOIA Officer for the agency with programmatic responsibility will determine the releasability of the records. The District will reimburse 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.8 Debarment and Suspension (E.O.S 12549 AND 12689)

H.8.1 In accordance with 45 C.F.R. Part 74 (Appendix A), certain contracts shall not be made to parties listed on the non-procurement portion of the General Services Administration's "Lists of Parties Excluded from Federal Procurement or Non-Procurement Programs" in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies and Contractors declared ineligible under statutory authority other than E.O. 12549.

H.8.2 Contractors with awards that exceed the simplified acquisition threshold of one hundred thousand dollars (\$100,000) shall provide the required certification regarding their exclusion status and that of their principals prior to the Date of Award of the Contract.

H.9 Department of Labor Wage Determinations

H.9.1 Contractor shall be bound by the Wage Determination No.: 2005-2103 Rev. No 5, dated May 8, 2008, 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 of this solicitation. Contractor shall be bound by the wage rates for the term of the Contract.

H.9.2 If an option is exercised, Contractor shall be bound by the applicable wage rate at the time of the option. If the option is exercised and the Contracting Officer obtains a revised wage determination, the revised wage determination is applicable for the option periods and Contractor may be entitled to an equitable adjustment.

H.10 Hiring of District Residents as Apprentices and Trainees

H.10.1 For all new employment resulting from this contract or subcontracts hereto, as defined in Mayor's Order 83-265 and implementing instructions, Contractor shall use its best efforts to comply with the following basic goal and objectives for utilization of bona fide residents of the District in each project's labor force:

H.10.1.1 At least fifty-one percent (51%) 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.10.2 Contractor shall negotiate an Employment Agreement with the Department of Employment Services (DOES) for jobs created as a result of this contract. DOES shall be Contractor's first source of referral for qualified applicants, trainees, and other workers in the implementation of employment goals contained in this clause.

H.11 51% District Residents New Hire Requirements and First Source Employment Agreement

H.11.1 Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code, sec. 2-219.01 et seq. (“First Source Act”).

H.11.2 Contractor shall enter into and maintain, during the term of the Contract, a First Source Employment Agreement, (Attachment J.5) in which Contractor shall agree that:

H.11.2.1 The first source for finding employees to fill all jobs created in order to perform this contract shall be the DOES; and

H.11.2.2 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.11.3 Contractor shall submit to DOES, no later than the tenth (10th) of each month following execution of the Contract, a First Source Agreement Contract Compliance Report (contract compliance report) verifying its compliance with the First Source Agreement for the preceding month. The contract compliance report for the Contract shall include the:

H.11.3.1 Number of employees needed;

H.11.3.2 Number of current employees transferred;

H.11.3.3 Number of new job openings created;

H.11.3.4 Number of job openings listed with DOES;

H.11.3.5 Total number of all District residents hired for the reporting period and the cumulative total number of District residents hired; and

H.11.3.6 Total number of all employees hired for the reporting period and the cumulative total number of employees hired, including:

H.11.3.6.1 Name;

H.11.3.6.2 Social Security number;

H.11.3.6.3 Job title;

H.11.3.6.4 Hire date;

H.11.3.6.5 Residence; and

H.11.3.6.6 Referral source for all new hires.

H.11.4 If the Contract amount is equal to or greater than one hundred thousand dollars (\$100,000), Contractor agrees that fifty-one percent (51%) of the new employees hired for the Contract shall be District residents.

H.11.5 With the submission of Contractor's final request for payment from the District, Contractor shall:

H.11.5.1 Document in a report to the Contracting Officer its compliance with Section H.11.4 of this clause; or

H.11.5.2 Submit a request to the Contracting Officer for a waiver of compliance with Section H.11.4 and include the following documentation:

H.11.5.2.1 Material supporting a good faith effort to comply;

H.11.5.2.2 Referrals provided by DOES and other sources;

H.11.5.2.3 Advertisement of job openings listed with DOES and other referral sources; and

H.11.5.2.4 Any documentation supporting the waiver request pursuant to Section H.11.6.

H.11.6 The Contracting Officer may waive the provisions of Section H.11.4 if the Contracting Officer finds:

H.11.6.1 A good faith effort to comply is demonstrated by Contractor;

H.11.6.2 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;

H.11.6.3 Contractor enters into a special workforce development training or placement arrangement with DOES; or

H.11.6.4 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.11.7 Upon receipt of Contractor's final payment request and related documentation pursuant to Sections H.11.5 and H.11.6, the Contracting Officer shall determine whether Contractor is in compliance with Section H.11.4 or whether a waiver of compliance

pursuant to Section H.11.6 is justified. If the Contracting Officer determines that Contractor is in compliance, or that a waiver of compliance is justified, the Contracting Officer shall, within two (2) business days of making the determination forward a copy of the determination to the Agency Chief Financial Officer and the COTR.

H.11.8 Willful breach of the First Source Employment Agreement, or failure to submit the report pursuant to Section H.5.5, or deliberate submission of falsified data, may be enforced by the Contracting Officer through imposition of penalties, including monetary fines of five percent (5%) of the total amount of the direct and indirect labor costs of the contract. Contractor shall make payment to DOES. Contractor may appeal to the D.C. Contract Appeals Board as provided in the Contract any decision of the Contracting Officer pursuant to this Section H.11.8.

H.11.9 The provisions of Sections H.11.4 through H.11.8 do not apply to nonprofit organizations.

H.12 Way to Work Act of 2006

H.12.1 Except as described in Section H.12.8 below, Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 9, 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 one-hundred thousand dollars (\$100,000) or more in a twelve (12) month period.

H.12.2 Contractor shall pay its employees and subcontractors who perform services under the Contract no less than the current living wage published on the OCP website at www.ocp.dc.gov.

H.12.3 Contractor shall include in any subcontract for fifteen thousand dollars (\$15,000) or more a provision requiring the subcontractor to pay its employees who perform services under the Contract no less than the current living wage rate.

H.12.4 DOES may adjust the living wage annually and the OCP will publish the current living wage rate on its website at www.ocp.dc.gov.

H.12.5 Contractor shall provide a copy of the Fact Sheet attached as Attachment J.7 to each employee and subcontractor who performs services under the Contract. Contractor shall also post the Notice attached as Attachment J.6 in a conspicuous place in its place of business. Contractor shall include in any subcontract for fifteen thousand dollars (\$15,000) or more a provision requiring the subcontractor to post the Notice in a conspicuous place in its place of business.

H.12.6 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 fifteen thousand dollars (\$15,000) or more under the Contract.

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

H.12.8 The requirements of the Living Wage Act of 2006 do not apply to:

H.12.8.1 Contracts or other agreements that are subject to higher wage level determinations required by federal law;

H.12.8.2 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;

H.12.8.3 Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;

H.12.8.4 Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;

H.12.8.5 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;

H.12.8.6 An employee under twenty-two (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 twenty-five (25) hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;

H.12.8.7 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;

H.12.8.8 Employees of nonprofit organizations that employ not more than fifty (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));

H.12.8.9 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

H.12.8.10 Contracts or other agreements between MCOs and the DHCF to provide health services.

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

H.13 Publicity

H.13.1 Contractor shall at all times obtain the prior written approval from the Contracting Officer before it, any of its officers, agents, employees or subcontractors, either during or after expiration or termination of the Contract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.

H.14 Protection of Property

H.14.1 Contractor shall be responsible for any damage to the building, interior, or their approaches in delivering equipment covered by this contract.

H.15 Americans with Disabilities Act of 1990 (ADA)

H.15.1 During the performance of the Contract, 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.16 Section 504 of the Rehabilitation Act of 1973, as amended

H.16.1 During the performance of the contract, Contractor and any of its subcontractors shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded program and activities. See 29 U.S.C. 794 *et seq.*

H.17 Clean Air Act and the Federal Water Pollution Control Act

H.17.1 In accordance with 45 C.F.R. § 74 Appendix A, contracts and sub-grants of amount in excess of one-hundred thousand dollars (\$100,000) shall contain a provision that requires Contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, Pollution Control Act, 42 U.S.C. §§ 7401 *et seq.*, and the Federal Water Pollution Control Act, as amended 33 U.S.C. §§ 1251 *et seq.*

H.17.2 Violations shall be reported to the Department of Health and Human Services and the appropriate Regional Office of the Environmental Protection Agency. Contractor shall comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. § 1857(h)), Section 508 of the Clean Water Act (33

U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 C.F.R. § 15).

H.18 Byrd Anti-Lobbying Amendment

H.18.1 In accordance with 45 C.F.R. Appendix A, Contractors who apply or bid for an award of more than one hundred thousand dollars (\$100,000) shall file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress or an employee of a member of Congress in connection with obtaining any federal contract, grant or other award covered by 31 U.S.C. § 1352.

H.18.2 Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to Contractor.

H.19 Intellectual Property

H.19.1 In accordance with 45 C.F.R. § 74, Contractor shall comply with notice of grantor agency requirements and regulations pertaining to reporting and patient rights under any contract involving research development, experimental or demo work with respect to any discovery of invention which arises or is developed in the course of the Contract, and if grantor agency requirements and regulations pertaining to copyrights and rights in data.

H.20 Energy Efficiency

H.20.1 Contractor shall recognize mandatory standards and policies related to energy efficiency which are contained in the District's energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-165, 42 U.S.C. §§ 6-201 *et seq.*).

H.21 HIPAA Compliance – Business Associate Agreement

H.21.1 DHCF is a “Covered Entity” as that term is defined in the Privacy Rule and Security Rules and Contractor, as a recipient of Protected Health Information and/or Electronic Protected Health Information from DHCF, is a “Business Associate” as that term is defined in the Privacy and Security Rules.

H.21.2 Definitions

The following definitions shall apply to this Section:

H.21.2.1 Administrative Safeguards: administrative actions, policies, and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic protected health information and to manage the conduct of the Covered Entity's workforce in relation to the protection of that information.

H.21.2.2 Business Associate: a person or entity, who performs, or assists in the performance of a function or activity on behalf of a Covered Entity or an organized health care organization in which the Covered Entity participates, involving the use or disclosure of individually identifiable health information, other than in the capacity of a workforce member of such Covered Entity or organization. A business associate is also any person or organization that provides, other than in the capacity of a workforce member of such Covered Entity, legal, actuarial, accounting, consulting, data aggregation, management, administration, accreditation, or financial services to or for the Covered Entity and receives individually identifiable health information from a Covered Entity or another business associate on behalf of a Covered Entity. In some instances, a Covered Entity may be a business associate of another Covered Entity.

H.21.2.3 Covered Entity: a health plan, a health care clearinghouse, or a health care provider who transmits any health information in electronic form in connection with a transaction covered by 45 C.F.R. Parts 160 and 164 of the Privacy and Security Rules. Covered Entity is also referred to as Covered Agency within this HIPAA Compliance Clause. With respect to this HIPAA Compliance Clause, Covered Entity shall also include the designated health care components of a hybrid entity.

H.21.2.4 Data Aggregation: with respect to Protected Health Information created or received by a business associate in its capacity as the business associate of a Covered Entity, the combining of such Protected Health Information by the business associate with the Protected Health Information received by the business associate in its capacity as a business associate of another Covered Entity, to permit data analyses that relate to the health care operations of the respective covered entities.

H.21.2.5 Designated Record Set: a group of records maintained by or for the Covered Entity that is:

H.21.2.5.1 The medical records and billing records about individuals maintained by or for a covered health care provider;

H.21.2.5.2 The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or

H.21.2.5.3 Used, in whole or in part, by or for the Covered Entity to make decisions about individuals.

H.21.2.6 HIPAA: the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, codified at 42 USCA 1320d, et.seq. and its implementing regulations at 45 C.F.R. Parts 160, 162, and 164.

H.21.2.7 Electronic Media:

H.21.2.7.1 Electronic storage media including memory devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; or

H.21.2.7.2 Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media, because the information being exchanged did not exist in electronic form before the transmission.

H.21.2.8 Electronic Protected Health Information: Protected Health Information which is transmitted by Electronic Media (as defined herein) or maintained in Electronic Media.

H.21.2.9 Health Care: care services, or services, or supplies related to the health of an individual. Health care includes, but is not limited to, the following:

H.21.2.9.1 Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and

H.21.2.9.2 Sale or dispensing of a drug, device, equipment, or other item in accordance with the prescription.

H.21.2.10 Health Care Components: a component or a combination of components of a hybrid entity designated by a hybrid entity in accordance with 45 C.F.R. § 164.105(a)(2)(iii)(C). Health Care Components must include non-covered functions that provide services to the covered functions for the purpose of facilitating the sharing of Protected Health Information with such functions of the hybrid entity without business associate agreements or individual authorizations.

H.21.2.11 “Health Care Operations: shall have the same meaning as the term “health care operations” in 45 C.F.R. § 164.501.

H.21.2.12 Hybrid Entity: a single legal entity that is a Covered Entity and whose business activities include both covered and non-covered functions, and that designates health care components in accordance with 45 C.F.R. § 164.105(a)(2)(iii)(C). A Hybrid Entity is required to designate as a health care component, any other components of the entity that provide services to the covered functions for the purpose of facilitating the sharing of Protected Health

Information with such functions of the hybrid entity without business associate agreements or individual authorizations.

H.21.2.13 Individual: the person who is the subject of protected health information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

H.21.2.14 Individually Identifiable Health Information: a subset of health information, including demographic information collected from an individual, and:

H.21.2.14.1 Is created or received by a health care provider, health plan, employer, or health care clearinghouse;

H.21.2.14.2 Relates to the past, present, or future physical or mental health or condition of an individual; or the past, present, or future payment for the provision of health care to an individual;

H.21.2.14.3 Identifies the individual; or

H.21.2.14.4 With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

H.21.2.15 National Provider Identifier (NPI) Rule: the Standard Unique Health Identifier for Healthcare Providers; Final Rule at 45 C.F.R. Part 162.

H.21.2.16 Physical Safeguards: security measures to protect a Covered Entity's electronic information systems and related buildings and equipment from natural and environmental hazards and unauthorized intrusion.

H.21.2.17 Privacy Official: person within the Office of Healthcare Privacy and Confidentiality designated by the District of Columbia, a Hybrid Entity, who is responsible for developing, maintaining, implementing and enforcing the District-wide Privacy Policies and Procedures, and for overseeing full compliance with the Privacy Rule, and other applicable federal and District of Columbia privacy laws.

H.21.2.18 Privacy Officer: person designated by the Privacy Official or one of the District of Columbia's designated health care components, who is responsible for enforcing the provisions of the District's Privacy policies and procedures as well as overseeing full compliance with the Covered Agency's Privacy Policies and Procedures, the Privacy Rule, and other applicable federal and District of Columbia privacy laws. The Covered Agency's privacy officer will follow the guidance of the District's Privacy Official, and shall be responsive to and report to the District's Privacy Official.

H.21.2.19 Privacy Rule: Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.

H.21.2.20 Protected Health Information: individually identifiable health information that is:

H.21.2.20.1 Transmitted by electronic media;

H.21.2.20.2 Maintained in electronic media;

H.21.2.20.3 Transmitted or maintained in any other form or medium;

H.21.2.20.4 Limited to the information created or received by the Business Associate from or on behalf of the Covered Entity; and

H.21.2.20.5 Excluding information in the records listed in subsection (2) of the definition in 45 C.F.R. §160.103.

H.21.2.21 Record: any item, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for the Covered Entity.

H.21.2.22 Required By Law: same meaning as the term "required by law" in 45 C.F.R. § 164.103.

H.21.2.23 Secretary: the Secretary of the United States Department of Health and Human Services or his or her designee.

H.21.2.24 Security Incident: attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

H.21.2.25 Security Official: person within the Office of Healthcare Privacy and Confidentiality designated by the District of Columbia, a Hybrid Entity, who is responsible for developing, maintaining, implementing and enforcing the District-wide Security policies and procedures as required by the Security Rule and oversee full compliance the District's Security policies and procedures, as well as other applicable federal and District of Columbia security law.

H.21.2.26 Security Officer: person designated by the Security Official or one of the District of Columbia's designated health care components, who is responsible for enforcing the provisions of the District Security Rule policies and procedures as well as overseeing full compliance with the Covered Agency's Security Policies and Procedures, the Security Rule, and other applicable federal and District of Columbia security law(s). The Covered Agency's security officer will follow the guidance of the District's Security Official, and shall be responsive to and report to the District's Security Official.

H.21.2.27 Security Rule: the Standards for Security of Individually Identifiable Health Information at 45 C.F.R. part 164.

H.21.2.28 Technical Safeguards: the technology and the policies and procedures for its use that protect electronic protected health information and control access.

H.21.2.29 Workforce: employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a Covered Entity or business associate, is under the direct control of such entity, whether or not they are paid by the Covered Entity or business associate.

H.21.3 Obligations and Activities of Business Associate

H.21.3.1 The Business Associate agrees not to use or disclose Protected Health Information and Electronic Protected Health Information other than as permitted or required by this HIPAA Compliance Clause or as Required by Law.

H.21.3.2 The Business Associate agrees to use commercially reasonable efforts and appropriate safeguards to maintain the security of the Protected Health Information and Electronic Protected Health Information and to prevent use or disclosure of such Protected Health Information other than as provided for by this Compliance Clause.

H.21.3.3 The Business Associate agrees to establish procedures for mitigating, and to mitigate to the extent practicable, any deleterious effects that are known to the Business Associate of a use or disclosure of Protected Health Information and Electronic Protected Health Information by the Business Associate in violation of the requirements of this Compliance Clause.

H.21.3.4 The Business Associate agrees to report to Covered Entity, in writing, any use or disclosure of the Protected Health Information and Electronic Protected Health Information not permitted or required by this HIPAA Compliance Clause to the District Privacy Official or the DHCF Privacy Officer immediately, but no later than (10) days from the time the Business Associate becomes aware of such unauthorized use or disclosure.

H.21.3.5 The Business Associate agrees to ensure that any workforce member or any agent, including a subcontractor, agrees to the same restrictions and conditions that apply through this Compliance Clause with respect to Protected Health Information and Electronic Protected Health Information received from the Business Associate, Protected Health Information and Electronic Protected Health Information created by the Business Associate, or Protected Health Information and Electronic Protected Health Information received by the Business Associate on behalf of the Covered Entity.

H.21.3.6 The Business Associate agrees to provide access, at the request of the Covered Entity or an Individual, at a mutually agreed upon location, during normal business hours, and in a format as directed by the District Privacy Official or the DHCF Privacy Officer, or as otherwise mandated by the Privacy Rule or applicable District of Columbia laws, rules and regulations, to Protected Health

Information in a Designated Record Set, to the Covered Entity or an Individual, in compliance with applicable portions of the Department of Health Care Finance Privacy Policy Operations Manual, Policy Number IV.14. Individual's Information Rights - Access, attached hereto as Exhibit A and incorporated by reference, and within five (5) business days of the request to facilitate the District's compliance with the requirements under 45 C.F.R. §164.524.

H.21.3.7 The Business Associate agrees to make any amendment(s) to the Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 in a format or as directed by the District Privacy Official or the DHCF Privacy Officer, or as otherwise mandated by the Privacy Rule or applicable District of Columbia laws, in compliance with applicable portions of the Department of Health Care Finance Privacy Policy Operations Manual, Policy Number IV.15 Individual's Information Rights, attached hereto as Exhibit B and incorporated by reference, and within five (5) business days of the directive in order to facilitate the District's compliance with the requirements under 45 C.F.R. §164.526.

H.21.3.8 The Business Associate agrees to use the standard practices of the Covered Entity to verify the identification and authority of an Individual who requests the Protected Health Information in a Designated Record Set of a recipient of services from or through the Covered Entity. The Business Associate agrees to comply with the applicable portions of the Department of Health Care Finance Privacy Policy Operations Manual, Policy Number VII.25 Standard Procedure, attached hereto as Exhibit C and incorporated by reference.

H.21.3.9 The Business Associate agrees to record authorizations and log such disclosures of Protected Health Information and Electronic Protected Health Information and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528 and applicable District of Columbia laws, rules and regulations. The Business Associate agrees to comply with the applicable portions of the Department of Health Care Finance Administration Privacy Policy Operations Manual, Policy Number VII.27 Standard Procedures attached hereto as Exhibit D and incorporated by reference.

H.21.3.10 The Business Associate agrees to provide to the Covered Entity or an Individual, within five (5) business days of a request at a mutually agreed upon location, during normal business hours, and in a format designated by the District Privacy Official or the DHCF 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 and Electronic Protected Health Information in accordance with 45 C.F.R. § 164.528, and applicable District of Columbia laws, rules and regulations. The Business Associate agrees to comply with the applicable portions of the

Department of Health Care Finance Privacy Policy Operations Manual, Policy Number IV.16 Individual's Information Rights - attached hereto as Exhibit E and incorporated by reference.

H.21.3.11 The Business Associate agrees to make internal practices, books, and records, including policies and procedures, and Protected Health Information, relating to the use and disclosure of Protected Health Information received from the Business Associate, or created, or received by the Business Associate on behalf of the Covered Entity, available to the Covered Entity, or to the Secretary, within five (5) business days of their request and at a mutually agreed upon location, during normal business hours, and in a format designated by the District Privacy Official or the DHCF 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 and Security Rule.

H.21.3.12 The Business Associate may aggregate Protected Health Information in its possession with the Protected Health Information of other Covered Entities that Business Associate has in its possession through its capacity as a Business Associate to said other Covered Entities provided that the purpose of such aggregation is to provide the Covered Entity with data analyses to the Health Care Operations of the Covered Entity. Under no circumstances may the Business Associate disclose Protected Health Information of one Covered Entity to another Covered Entity absent the explicit written authorization and consent of the Privacy Officer or a duly authorized workforce member of the Covered Entity.

H.21.3.13 Business Associate may de-identify any and all Protected Health Information provided that the de-identification conforms to the requirements of 45 C.F.R. § 164.514(b). Pursuant to 45 C.F.R. § 164.502(d)(2), de-identified information does not constitute Protected Health Information and is not subject to the terms of this HIPAA Compliance Clause.

H.21.4 Permitted Uses and Disclosures by the Business Associate

H.21.4.1 Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in the Contract, provided that such use or disclosure would not violate the Privacy Rule or the Security Rule if same activity were performed by the Covered Entity or would not violate the minimum necessary policies and procedures of the Covered Entity.

H.21.4.2 Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may use Protected Health Information and Electronic Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

H.21.4.3 Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may disclose Protected Health Information and Electronic 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 and security of the information has been breached.

H.21.4.4 Except as otherwise limited in this HIPAA Compliance Clause, the Business Associate may use Protected Health Information and Electronic Protected Health Information to provide Data Aggregation services to the Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

H.21.4.5 Business Associate may use Protected Health Information and Electronic Protected Health Information to report violations of the Law to the appropriate federal and District of Columbia authorities, consistent with 45 C.F.R. § 164.502(j)(1).

H.21.5 Additional Obligations of the Business Associate

H.21.5.1 Business Associate shall submit a written report to the Covered Entity that identifies the files and reports that constitute the Designated Record Set of the Covered Entity. Business Associate shall submit said written report to the Privacy Officer no later than thirty (30) days after the commencement of the HIPAA Compliance Clause. In the event that Business Associate utilizes new files or reports which constitute the Designated Record Set, Business Associate shall notify the Covered Entity of said event within thirty (30) days of the commencement of the file's or report's usage. The Designated Record Set file shall include, but not be limited to the identity of the following:

H.21.5.1.1 Name of the Business Associate of the Covered Entity;

H.21.5.1.2 Title of the Report/File;

H.21.5.1.3 Confirmation that the Report/File contains Protected Health Information (Yes or No);

H.21.5.1.4 Description of the basic content of the Report/File;

H.21.5.1.5 Format of the Report/File (Electronic or Paper);

H.21.5.1.6 Physical location of Report/File;

H.21.5.1.7 Name and telephone number of current member(s) of the workforce of the Covered Entity or other District of Columbia

Government agency responsible for receiving and processing requests for Protected Health Information; and

H.21.5.1.8 Supporting documents if the recipient/personal representative has access to the Report/File.

H.21.5.2 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:

H.21.5.2.1 The Business Associate agrees to develop, maintain, implement and use 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.

H.21.5.2.2 The Business Associate agrees to ensure that any agents or subcontractors of the Business Associate also agree to implement the appropriate security safeguards.

H.21.5.2.3 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.

H.21.5.2.4 This Business Associate Agreement may be terminated if the Covered Entity determines that the business associate has materially breached this Compliance Clause, consistent with the terms and conditions outlined in Section 9, Term and Termination.

H.21.5.2.5 The Business Associate agrees to make all policies and procedures, and documents relating to security, available to the Covered Entity or Secretary of HHS for the purposes of determining the Covered Entity's compliance with the Privacy and Security Rules. Notwithstanding the above, Business Associate has identified some security policies and procedures as confidential and which do not get distributed to third parties. In the event the Covered Entity or Secretary of HHS makes a request for such security policies and procedures, Business Associate will work with the Covered Entity and the Secretary of HHS to arrange a meeting at the Business Associate's premises, at a time and place mutually agreeable to the parties involved, to view such security policies and procedures.

H.21.5.2.6 This Compliance Clause continues in force for as long as the Business Associate retains any access to the Covered Entity's EPHI.

H.21.6 Sanctions

H.21.6.1 Business Associate agrees that its workforce members, agents and subcontractors who violate the provisions of the Privacy Rule, the Security Rule or other applicable federal or District of Columbia privacy law will be subject to discipline in accordance with Business Associate's disciplinary rules 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 its workforce members, agents, employees and subcontractors.

H.21.6.2 Members of the Business Associate Workforce who are not employed by Business Associate are subject to the policies and applicable sanctions for violation of District of Columbia Privacy and Security policies and procedures as set forth in this Compliance Clause.

H.21.6.3 In the event Business Associate imposes sanctions against any member of its workforce, agents and subcontractors for violation of the provisions of the Privacy and Security Rules or other applicable federal or District of Columbia Privacy and Security laws, regulations, and policies and procedures, the Business Associate shall inform the District Privacy and Security Officials or the DHCF Privacy and Security Officers of the imposition of sanctions.

H.21.7 Obligations of the Covered Entity

H.21.7.1 The Covered Entity shall notify the Business Associate of any limitation(s) in its Notice of Privacy Practices of the Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect the use or disclosure of Protected Health Information and Electronic Protected Health Information by the Business Associate.

H.21.7.2 The Covered Entity shall notify the Business Associate of any changes in, or revocation of, permission by the Individual to the use or disclosure of Protected Health Information and Electronic Protected Health Information, to the extent that such changes may affect the use or disclosure of Protected Health Information by the Business Associate.

H.21.7.3 The Covered Entity shall notify the Business Associate of any restriction to the use or disclosure of Protected Health Information and Electronic 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 and Electronic Protected Health Information by the Business Associate.

H.21.8 Permissible Requests by Covered Entity

H.21.8.1 Covered Entity shall not request the Business Associate to use or disclose Protected Health Information and Electronic Protected Health Information in any manner that would not be permissible under the Privacy Rule and the Security Rule if done by the Covered Entity.

H.21.9 Representations and Warranties

H.21.9.1 The Business Associate represents and warrants to the Covered Entity:

H.21.9.1.1 That it is duly organized, validly existing, and in good standing under the laws of the jurisdiction in which it is organized or licensed, it has the full power to enter into this HIPAA Compliance Clause and it, its employees, agents, subcontractors, representatives and members of its workforce are licensed and in good standing with the applicable agency, board, or governing body to perform its obligations hereunder, and that the performance by it of its obligations under this HIPAA Compliance Clause has been duly authorized by all necessary corporate or other actions and will not violate any provision of any license, corporate charter or bylaws;

H.21.9.1.2 That it, its employees, agents, subcontractors, representatives and members of its workforce are in good standing with the District of Columbia, that it, its employees, agents, subcontractors, representatives and members of its workforce will submit a letter of good standing from the District of Columbia, and that it, its employees, agents, subcontractors, representatives and members of its workforce have not been de-barred from being employed as a contractor by the federal government or District of Columbia;

H.21.9.1.3 That neither the execution of this HIPAA Compliance Clause, nor its performance hereunder, will directly or indirectly violate or interfere with the terms of another agreement to which it is a party, or give any governmental entity the right to suspend, terminate, or modify any of its governmental authorizations or assets required for its performance hereunder. The Business Associate represents and warrants to the Covered Entity that it will not enter into any agreement the execution or performance of which would violate or interfere with this HIPAA Compliance Clause;

H.21.9.1.4 That it is not currently the subject of a voluntary or involuntary petition in bankruptcy, does not currently contemplate filing any such voluntary petition, and is not aware of any claim for the filing of an involuntary petition;

H.21.9.1.5 That all of its employees, agents, subcontractors, representatives and members of its workforce, whose services may be used to fulfill obligations under this HIPAA Compliance Clause are or shall be appropriately informed of the terms of this HIPAA Compliance Clause and are under legal obligation to the Business Associate, by contract or otherwise, sufficient to enable the Business Associate to fully comply with all provisions of this HIPAA Compliance Clause.

Modifications or limitations that the Covered Entity has agreed to adhere to with regard to the use and disclosure of Protected Health Information and Electronic Protected Health Information of any individual that materially affects or limits the uses and disclosures that are otherwise permitted under the Privacy Rule and Security Rule will be communicated to the Business Associate, in writing, and in a timely fashion;

H.21.9.1.6 That it will reasonably cooperate with the Covered Entity in the performance of the mutual obligations under this Agreement;

H.21.9.1.7 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:

H.21.9.1.7.1 The neglect or abuse of a patient;

H.21.9.1.7.2 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;

H.21.9.1.7.3 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;

H.21.9.1.7.4 The unlawful, manufacture, distribution, prescription or dispensing of a controlled substance, or

H.21.9.1.7.5 Interference with or obstruction of any investigation into any criminal offense described in H.21.9.1.7.1 through H.21.9.1.7.4 above.

H.21.9.2 The Business Associate further agrees to notify the Covered Entity immediately after the Business Associate becomes aware that any of the foregoing representations and warranties may be inaccurate or may become incorrect.

H.21.10 Term and Termination

H.21.10.1 Term

H.21.10.1.1 The requirements of this HIPAA Compliance Clause shall be effective as of the date of the contract award.

H.21.10.1.2 The requirements of this HIPAA Compliance Clause shall terminate when:

H.21.10.1.2.1 All of the Protected Health Information and Electronic Protected Health Information provided by the Covered Entity to the Business Associate, or created or received by the Business Associate on behalf of the Covered Entity, is confidentially destroyed or returned to the Covered Entity within five (5) business days of its request, with the Protected Health Information returned in a format mutually agreed upon by and between the Privacy and Security Officials and/or Privacy and Security Officers or their designees, when applicable, and the appropriate and duly authorized workforce member of the Business Associate; or,

H.21.10.1.2.2 If it is infeasible to return or confidentially destroy the Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section and communicated to the appropriate District personnel, whether the Privacy and Security Officials and/or Privacy and Security Officers or their designees, when applicable.

H.21.10.2 Termination for Cause

H.21.10.2.1 Upon the Covered Entity's knowledge of a material breach of this HIPAA Compliance Clause by the Business Associate, the Covered Entity shall either:

H.21.20.2.1.1 Provide an opportunity for the Business Associate to cure the breach or end the violation and terminate the Contract if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity;

H.21.20.2.1.2 Immediately terminate the Contract if the Business Associate breaches a material term of this HIPAA Compliance Clause and a cure is not possible; or

H.21.20.2.1.3 If neither termination nor cure is feasible, the Covered Entity shall report the violation to the Secretary.

H.21.10.3 Effect of Termination

H.21.10.3.1 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 and Electronic Protected Health Information in any media form.

H.21.10.3.2 In the event that the Business Associate determines that returning or destroying the Protected Health Information and Electronic 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.

H.21.10.3.3 Upon determination by the DHCF Privacy and Security 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 Electronic Protected Health Information and limit further uses and disclosures of such Protected Health Information and Electronic Protected Health Information to those purposes that make the return or confidential destruction infeasible, for so long as the Business Associate maintains such Protected Health Information and Electronic Protected Health Information. The obligations outlined in Section 2, Obligations and Activities of Business Associate, will remain in force to the extent applicable.

H.21.11 Miscellaneous

H.21.11.1 Regulatory References

H.21.11.1.1 A reference in this HIPAA Compliance Clause to a section of HIPAA, including the Privacy Rule or the Security Rule means the section as in effect or as amended.

H.21.11.2 Amendment

H.21.11.2.1 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, the Security Rule and HIPAA.

H.21.22.2.2 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 (1) 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.21.11.3 Survival

H.21.11.3.1 The respective rights and obligations of the Business Associate under Section 9, Term and Termination, of this HIPAA Compliance Clause and Sections 9 and 20 of the Standard Contract Provisions for use with the District of Columbia Government Supply and Services Contracts, effective April 2003, shall survive termination of the Contract.

H.21.11.4 Interpretation

H.21.11.4.1 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 Security 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 and Security 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 and Electronic Protected Health Information than those of HIPAA and its Privacy Rule and Security Rule.

H.21.11.4.2 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.

H.21.11.4.3 In the event of any conflict between the provisions of the Contract (as amended by this HIPAA Compliance Clause) and the Privacy Rule and Security Rule, the Privacy Rule and Security Rule shall control.

H.21.11.5 No Third-Party Beneficiaries

H.21.11.5.1 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.

H.21.11.5.2 Except for the rights of Individuals, as defined herein, to access to and amendment of their Protected Health Information and Electronic Protected Health Information, and to an accounting of the uses and disclosures thereof, in accordance with Paragraphs (2)(f), (g) and (j), nothing in the HIPAA Compliance Clause gives, is intended to give, or shall be construed to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this HIPAA Compliance Clause.

H.21.11.6 Compliance with Applicable Law

H.21.11.6.1 The Business Associate shall comply with all federal, District of Columbia laws, regulations, executive orders and ordinances, as they may be amended from time to time during the term of this HIPAA Compliance Clause and the Contract; to the extent they are applicable to this HIPAA Compliance Clause and the Contract.

H.21.11.7 Governing Law and Forum Selection

H.21.11.7.1 The Contract shall be construed broadly to implement and comply with the requirements relating to the Privacy Rule, the Security Rule and other applicable laws and regulations. All other aspects of this Contract shall be governed under the laws of the District of Columbia.

H.21.11.7.2 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.

H.21.11.7.3 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.21.11.8 Indemnification

H.21.11.8.1 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:

H.21.11.8.1.1 Any misrepresentation, breach of warranty or non-fulfillment of any undertaking of the Business Associate under this HIPAA Compliance Clause; and

H.21.11.8.1.2 Any claims, demands, awards, judgments, actions and proceedings made by any person or organization, arising out of or in any way connected with the performance of the Business Associate under this HIPAA Compliance Clause.

H.21.11.9 Injunctive Relief

H.21.11.9.1 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 and Electronic Protected Health Information by the Business Associate, its workforce, any of its subcontractors, agents, or any third party who has received Protected Health Information and Electronic Protected Health Information from the Business Associate.

H.21.11.10 Assistance in litigation or administrative proceedings

H.21.11.10.1 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, Electronic Protected Health Information or other laws relating to security and privacy, except where the Business Associate or its agents, affiliates, subsidiaries, subcontractors or its workforce are a named adverse party.

H.21.11.11 Notices

H.21.11.11.1 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.

H.21.11.11.2 Any notice being address 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:
_____	Department of Health Care Finance
_____	825 North Capitol St., NE Suite 5135
_____	Washington, DC 20002
Attention: _____	Attention: DHCF General Counsel
Fax: _____	Fax: 202-442-4790

H.21.11.12 Headings

H.21.11.12.1 Headings are for convenience only and form no part of this HIPAA Compliance Clause and shall not affect its interpretation.

H.21.11.13 Counterparts; Facsimiles

H.21.11.13.1 This HIPAA Compliance Clause may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

H.21.11.14 Successors and Assigns

H.21.11.14.1 The provisions of this HIPAA Compliance Clause shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns, if any.

H.21.11.15 Severance

H.21.11.15.1 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.

H.21.11.15.2 In addition, in the event a Party believes in good faith that any provision of this HIPAA Compliance Clause fails to comply with the then-current requirements of the Privacy Rule, such party shall notify the other Party in writing, in the manner set forth in Section 10. Miscellaneous, Paragraph k. Notices.

H.21.11.15.3 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 and the Security Rule, then either Party has the right to terminate this HIPAA Compliance Clause upon written notice to the other Party.

H.21.11.16 Independent Contractor

H.21.11.16.1 The Business Associate will function as an independent contractor and shall not be considered an employee of the Covered Entity for any purpose.

H.21.11.16.2 Nothing in this HIPAA Compliance Clause shall be interpreted as authorizing the Business Associate workforce, its subcontractor(s) or its agent(s) or employee(s) to act as an agent or representative for or on behalf of the Covered Entity.

H.21.11.17 Entire Agreement

H.21.11.17.1 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 Medical Assistance Administration 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 Security Rule, and any rules, regulations, requirements, rulings, interpretations, procedures, or other actions related thereto that are promulgated, issued or taken by or on behalf of the Secretary.

H.21.11.18 Attachments:

H.21.11.18.1 Exhibit A, Department of Health Care Finance Privacy Policy Operations Manual, Policy Number IV.14.a) Individual's Information Rights – Access

H.21.11.18.2 Exhibit B, Department of Health Care Finance Privacy Policy Operations Manual, Policy Number IV.15.a) Individual's Information Rights - Amendment

H.21.11.18.3 Exhibit C, Department of Health Care Finance Privacy Policy Operations Manual, Policy Number VII.25 Standard Procedures - Identity and Procedure Verification

H.21.11.18.4 Exhibit D, Department of Health Care Finance Privacy Policy Operations Manual, Policy Number VII.27 Standard Procedures - Logging Disclosures for Accounting

H.21.11.18.5 Exhibit E, Department of Health Care Finance Privacy Policy Operations Manual, Policy Number IV.16.a) Individual's Information Rights - Disclosure Accounting

H.22 Key Personnel

H.22.1 Contractor shall notify the Contracting Officer at least thirty (30) days in advance and submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact upon the Contract.

H.22.2 Contractor shall obtain written approval from the Contracting Officer for any proposed substitution of Key Personnel.

SECTION I
STANDARD CONTRACT CLAUSES

- I.1** Applicability of Standard Contract Provisions
- I.2** Contracts that Cross Fiscal Years
- I.3** Confidentiality of Information
- I.4** Time
- I.5** Rights in Data
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SECTION I

STANDARD CONTRACT CLAUSES

I.1 Applicability of Standard Contract Provisions

I.1.1 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 resulting from this solicitation. (Attachment J.1)

I.2 Contracts That Cross Fiscal Years

I.2.1 Continuation of this contract beyond the current fiscal year is contingent upon future fiscal appropriations.

I.3 Confidentiality of Information

I.3.1 All information obtained by Contractor relating to any employee or customer of the District will be kept in absolute confidence and shall not be used by Contractor in connection with any other matters, nor shall any such information be disclosed to any other person, firm, or corporation, in accordance with the District and Federal laws governing the confidentiality of records.

I.4 Time

I.4.1 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. 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. 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. Contractor agrees not to assert any rights in common law or in equity in such data. 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 the data is marked by Contractor with the following legend:

I.5.7.1 RESTRICTED RIGHTS LEGEND

Use, duplication, or disclosure is subject to restrictions stated in Contract No. _____

With _____ (Contractor's Name);
and,

I.5.7.2 If the data is computer software, the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. 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 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, 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 Contractor, in any work of authorship prepared for or acquired by the District under this contract. Unless written approval of the Contracting Officer is obtained, 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 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, 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 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, 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 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 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, for:

I.5.11.1 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,

I.5.11.2 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 Contractor by the District and incorporated in the work furnished under contract, provided that such incorporated material is identified by Contractor at the time of delivery of such work.

I.6 Other Contractors

I.6.1 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

I.7.1 Contractor hereunder shall not subcontract any of Contractor's work or services to any subcontractor without the prior written consent of the Contracting Officer. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District will have the right to review and approve prior to its execution by Contractor. Any such subcontract shall specify that Contractor and the subcontractor shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by the District, Contractor shall remain liable to the District for all Contractor's work and services required hereunder.

I.8 Insurance

I.8.1 Contractor shall procure and maintain, during the entire period of performance under the Contract, the types of insurance specified below. Contractor shall submit a certificate of insurance giving evidence of the required coverage prior to commencing work. All insurance shall be written with responsible companies licensed by the District of Columbia's Department of Insurance, Securities and Banking. Contractor shall require all subcontractors to carry the insurance required herein, or Contractor may, at its option, provide the coverage for any or all subcontractors, and if so, the evidence of insurance submitted shall so stipulate.

I.8.1.1 All insurance provided by Contractor as required by this section, except comprehensive automobile liability insurance, shall set forth the District as an additional insured. All insurance shall be written with responsible companies licensed by the District with a duplicate copy to be sent to the District. In no event shall work be performed until the required certificates of insurance have been furnished. The insurance shall provide for 30 days' prior written notice to be given to the District in the event coverage is substantially changed, canceled or non-renewed.

I.8.1.2 If the insurance provided is not in compliance with all the requirements herein, the District maintains the right to stop work until proper evidence is provided. The successful Offeror at its expense shall obtain the minimum insurance coverage set forth below within five (5) calendar days after being called upon by the District to do so and keep such insurance in force throughout the contract period.

I.8.2 Public Liability and Property Damage Insurance

I.8.2.1 Insurance against liability for personal and bodily injury and property damage and machinery insurance in the amount of at least one hundred thousand dollars (\$100,000) for each individual and five hundred thousand dollars (\$500,000) in the aggregate (liability) and two hundred fifty thousand dollars (\$250,000) (property).

I.8.3 Worker's Compensation

I.8.3.1 Contractor shall carry workers compensation insurance covering all of its employees employed upon the premises and in connection with its other operations pertaining to this agreement, and Contractor agrees to comply at all times with the provisions of the workers compensation laws of the District.

I.8.4 Employer's Liability

I.8.4.1 Contractor shall carry employment practices liability of at least one hundred thousand dollars (\$100,000).

I.8.4.2 Comprehensive Automobile Liability Insurance (applicable to owned, non-owned and hired vehicles) Contractor shall carry comprehensive automobile liability insurance applicable to owned, non-owned and hired vehicles against liability for bodily injury and property damage and in the amount not less than that required by the District's Compulsory/No-Fault Vehicle Insurance Act of 1982, as amended, and in 27 D.C.M.R. § 2712.6.

I.9 Equal Employment Opportunity

I.9.1 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 Attachment J.7. An award cannot be made to any Offeror who has not satisfied the equal employment requirements.

I.10 Order of Precedence

I.10.1 Any inconsistency in this solicitation shall be resolved by giving precedence in the following order:

I.10.1 Specifications/Work Statement (Section C);

I.10.2 Supplies or Services and Price/Cost Section (Section B);

I.10.3 Deliveries and Performance (Section F);

I.10.4 Special Contract Requirements (Section H);

I.10.5 Contract Clauses (Section I);

I.10.6 Inspection and Acceptance (Section E);

I.10.7 Contract Administration (Section G);

I.10.8 Contract Attachments (Section J) in the order that they appear.

I.11 Contracts In Excess Of One Million Dollars (\$1,000,000.00)

I.11.1 Any contract in excess of one million dollars (\$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 Contracting Officer.

I.12 Estimated Quantities

I.12.1 It is the intent of the District to secure a Contract for all of the needs of the designated agencies for items specified herein which may occur during the Contract term. The District agrees that it will purchase its requirements of the articles or services included herein from Contractor. Articles or services specified herein have a history of repetitive use in the District agencies. The estimated quantities stated in the RFP reflect

the best estimates available. They shall not be construed to limit the quantities which may be ordered from Contractor by the District or to relieve Contractor of his obligation to fill all such orders. Orders will be placed from time to time if and when needs arise for delivery, all charges prepaid, to the ordering agency. The District does not guarantee to order any specific quantities of any item(s) or work hours of service.

I.13 Laws And Regulations Incorporated by Reference

I.13.1 The provision of the following Acts and of representations and stipulations required by the said Acts, together with the provision of acceptable regulations that are made pursuant to these said Acts, are hereby incorporated by reference and, to the extent applicable, these are incorporated by reference in this Competitive Sealed Proposal (CSP)/Request for Proposal (RFP) and any resulting Contract; together with the laws of the District of Columbia, Title 27 (DCMR), or as amended:

I.13.1.1 Contract Work Standards Act of August 13, 1062, also known as the Contract Work Hours and Safety Standards Act of 1962, 76 Stat. 357-360.

I.13.1.2 Buy American Act of March 3, 1933, c212, Title III, 47 Stat. 1520, as amended.

I.13.3 Walsh-Healy Public Contracts Act of June 30, 1936. (Applies only when a contract is \$10,000 or more).

I.13.4 Inspection of Supplies, Fixed Price.

I.13.5 Inspection of Services, Fixed Price.

I.13.6 Responsibility of Supplies (D.C. Code 28.2-602).

I.13.7 Stop Work Order (50 U.S.C. App. 20620).

I.13.8 F.O.B. Destination (49 U.S.C. 107021); (D. C. Code 1-1551).

I.13.9 Freedom of Information Act (5 U.S.C. 552 and as amended).

I.13.10 Prompt Payment Act and the Master Business License Program.

I.13.11 Employment of Illegal Aliens (Section 275-A,4a; USC; Section 1324 and 1101-1503).

I.13.12 Copeland (Anti-Kickback) Act (18 U.S.C. 874 and 40 U.S.C. 276c).

I.13.13 Miller Act (40 U.S.C. 270a-270f); (D.C. Law 6-85).

I.13.14 Drug Free Work Place (P.L. 100-690).

- I.13.15 Employment Standards (Wage and Hour 29 C.F.R. 541).
- I.13.16 Equal Employment Opportunity Obligations (Mayor's Order 85-85 and D. C. Form 2640): (D.C. Code 1-242 and Commissioner's Order No. 73-51). Government of District of Columbia Standard Contract Provisions, Specifications for District of Columbia Government Construction Projects, and Program Fraud Civil Remedies Act of 1986 (Public Law 99-509, 31 U.S.C. 3801-3812).
- I.13.17 First Source Employment Agreement (Mayor's Order 83-26, and D. C. Law 5-93, dated May 9, 1984).
- I.13.18 Privacy and Disclosure Act (P.L. 93-579; U.S.C. 552A)
- I.13.19 Certified Business Enterprises Act (D.C. Act 9-223 and 12-268).
- I.13.20 Service Contract Act of 1965 (P.L. 89-286, as amended by P.L. 92-473), and the Davis Bacon Act/CWHSSA, enacted 1962, the DBA/DBRA, enacted 1931, as amended in 1935 and 1964: Title 40 U.S.C.
- I.13.21 Contract Termination/Default Provisions.
- I.13.22 Apprenticeship Program for Contracts \$500,000.00 or more, D.C. Law 2-156, as amended by D.C. Law 13-257, effective April 3, 2001; Fitzgerald Act, as amended by P.L. 75-308 and U.S.C. Title 50, 50a, and 50b.
- I.13.23 Rehabilitation Act of 1973, Public Law 93-112, Section 504, as amended and Family Medical Leave Act (FMLA), P.L. 104-199, dated September 21, 1996

I.14 Pre-Award Approval

I.14.1 The award and enforceability of the contract is contingent upon the approval of the District of Columbia Department of Health Care Finance. The award and enforceability of this contract is contingent upon Council Approval, in accordance with the Council of the District of Columbia Contract Review Criteria Amendment Act of 1999, D.C. Code 1-1181.5a, the Mayor must submit to the Council for approval any contract action over one million dollars.

I.15 Acceptability of Insurance

I.15.1 Insurance is to be placed with insurers with a Best's rating of no less than A. This requirement will be waived for workers' compensation coverage for those contractors whose workers' compensation coverage is placed with the District of Columbia Workers Compensation Corporation.

I.16 Verification of Insurance Coverage

I.16.1 Contractor shall furnish the DHCF with Certificates of Insurance affecting coverage required by this clause. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be on forms provided, or approved, by the DHCF and are to be received and approved by the DHCF before work commences. The DHCF reserves the right to require complete, certified copies of all required insurance policies, at any time.

SECTION J

LIST OF ATTACHMENTS

The following list of attachments are incorporated into the RFP by reference and made a part of the RFP in the order of priority described in Section I.11. Listed attachments are documents herein included in the RFP and/or found on website www.dhcf.dc.gov under “Procurement Opportunities”. Sections J.4, J.5, J.6, and J.8 through J-16 are to be completed and submitted with proposal. All listed documents can be downloaded from the www.dhcf.dc.gov website.

Attachment Number	Document
J.1	Government of the District of Columbia Standard Contract Provisions for Use with the Supply and Service Contract, dated March 2007
J.2	U.S. Department of Labor Wage Determination No.2005-2104, Revision No. 10 Dated May 26, 2009
J.3	HIPAA Security and Privacy Regulations
J.4	Certification as to Compliance with Equal Opportunity Obligations including (Equal Employment Opportunity Information Report and Mayor’s Order 85-85)
J.5	Government of the District of Columbia Department of Employment Services First Source Employment Agreement
J.6	Office of Tax and Revenue Tax Certification Affidavit (Including 2848 Power of Attorney and Declaration of Representation)
J.7	District of Columbia Living Wage Notice and Fact Sheet
J.8	Drug Free Workplace Certification

Attachment Number	Document
J.9	Past Performance Evaluation Form
J.10	Cost/Price Data Package
J.11	Certification of Eligibility
J.12	Certification Regarding Debarment Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction
J.13	Payment to Subcontractor and Supplies Certificate
J.14	Subcontracting Plan
J.15	Certification of Independent Price Determination
J.16	Processing Report Requirements

SECTION K

REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS

As part of their offers in response to this RFP, all offers shall provide the following statements:

- K.1** Authorized Negotiators
- K.2** Type of Business Organization
- K.3** Certification as to Compliance with Equal Opportunity Obligations
- K.4** District Employees Not To Benefit Certification
- K.5** Certification of Independent Price Determination
- K.6** Tax Certification
- K.7** Certification Regarding a Drug-Free Workplace
- K.8** Certificate of Eligibility
- K.9** Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusive-Lower Tier Covered Transaction
- K.10** Payment to Subcontractor and Suppliers Certification
- K.11** Subcontracting Plan

SECTION K

REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS

K.1 AUTHORIZED NEGOTIATORS

K.1.1 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 it operates as:

A corporation incorporated under the laws of the State of: _____;

An individual;

A partnership;

A nonprofit organization; or

A joint venture.

K.2.2 The Offeror, by checking the applicable box, represents that 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

K.3.1 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.

Date, Name, Title, Signature.

K.3.2 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 DISTRICT EMPLOYEES NOT TO BENEFIT CERTIFICATION

K.4.1 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.5 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

K.5.1 Each signature of the Offeror is considered to be a certification by the signatory that:

K.5.1.1 The prices in the 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:

K.5.1.1.1 Those prices;

K.5.1.1.2 The intention to submit a contract; or

K.5.1.1.3 The methods or factors used to calculate the prices in the Contract.

K.5.1.2 The prices in the 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

K.5.1.3 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.

K.5.2 Each signature on the offer is considered to be a certification by the signatory that the signatory:

K.5.2.1 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 Section K.5.1 above; or

K.5.2.2 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 Section K.5.1 above:

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

K.5.2.3 As an authorized agent, does certify that the principals named in subdivision:

K.5.2.3.1 Have not participated, and will not participate, in any action contrary to Section K.5.1 above; and

K.5.2.3.2 As an agent, has not participated, and will not participate, in any action contrary to Section K.5.1 above.

K.5.3 If the Offeror deletes or modifies Section K.5.1.2 above, the Offeror shall furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

K.6 TAX CERTIFICATION

K.6.1 Each Offeror shall submit with its offer, a sworn Tax Certification Affidavit, found in Attachment J.6.

K.7 CERTIFICATION REGARDING A DRUG-FREE WORKPLACE (JULY 1990)

K.7.1 Each Offeror shall submit with its offer a sworn Drug Free Workplace Act Certification found in Attachment J.8.

K.8 CERTIFICATION OF ELIGIBILITY

K.8.1 Each Offeror shall submit with its offer a completed form entitled Certification of Eligibility found in Attachment J.11.

K.9 CERTIFICATION REGARDING DEBARMENT SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTION

K.9.1 Each Offeror shall submit with its offer a completed form entitled “Certification Regarding Department Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transaction” found in J.12.

K.10 PAYMENT TO SUBCONTRACTOR AND SUPPLIERS CERTIFICATE

K.10.1 Each Offeror shall submit with its offer a completed form entitled “Payment to Subcontractor and Suppliers Certificate” listed in J.13.

K.11 SUBCONTRACTING PLAN

K.11.1 Each Offeror shall submit with its offer a completed “Subcontracting Plan” listed in J.14.

K.12. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

K.12.1 Each Offeror agrees hereto that each signature of the Offeror is considered to be a certification by the signatory in accordance with the requirements found in “Certification of Independent Price Determination” listed in J.15.

SECTION L

INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

- L.1** Contract Award
- L.2** General Proposal Submission Requirements
- L.3** Proposal Content and Organization
- L.4** Proposal Submission Date and Time, Late Submissions, Late Modifications, Withdrawal or Modification of Proposals, and Late Proposals
- L.5** Explanation to Prospective Offerors
- L.6** Failure to Submit Offer
- L.7** Restriction on Disclosure and Use of Data
- L.8** Proposal Protests
- L.9** Signing of Offers
- L.10** Retention of Proposals
- L.11** Proposal Costs
- L.12** Electronic Copy of Proposals for Freedom of Information Act Requests
- L.13** Certificates of Insurance
- L.14** Acknowledgment of Amendments
- L.15** Best and Final Offers
- L.16** Legal Status of Offeror
- L.17** Familiarization with Conditions
- L.18** Standards of Responsibility
- L.19** Pre-Proposal Conference
- L.20** Reference Library
- L.21** Key Personnel
- L.22** Acceptance Period

SECTION L

INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

L.1 CONTRACT AWARD

L.1.1 Most Advantageous to the District

L.1.1.1 The District intends to award one (1) contract resulting from this solicitation to the responsible Offeror whose offer conforming to the solicitation will be the best value to the District, cost or price, technical and other factors, specified elsewhere in this solicitation considered.

L.1.1.2 A description of evaluation factors is found in Section M.

L.1.2 Initial Offers

L.1.2.1 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 GENERAL PROPOSAL SUBMISSION REQUIREMENTS

L.2.1 Offerors shall provide **one (1) original and seven (7) copies** of the written proposal and one electronic CD. The proposal shall be prepared and submitted in two (2) separate volumes, Volume I Technical and Volume II Cost and Price. Each volume of the proposal shall be submitted in a sealed envelope conspicuously marked:

“Proposal in Response to Solicitation No. XXX”

L.2.2 The Technical and Cost and Price Volumes shall contain written narratives and attachments as described in Section L.3, Proposal Content and Organization. The narrative sections of each volume shall be formatted as follows:

L.2.2.1 Typewritten (8.5” by 11” bond paper);

L.2.2.2 Single spaced;

L.2.2.3 One (1) sided;

L.2.2.4 Pages of each proposal volume shall be numbered and identified with the Offeror's name, RFP number, and date (Subsequent revisions, if any, shall be similarly identified to show revision number and date);

L.2.2.5 One (1)-inch (or greater) margins;

L.2.2.6 Six (6) lines (or less) per inch, the equivalent of twelve (12) point font (or larger), charts and graphics may be no less than eight (8) point font;

L.2.2.7 Technical Proposal narratives shall not exceed seventy five (75) pages. The Cost and Price Proposal narratives shall not exceed twenty-five (25) pages. Each proposal shall be submitted in two (2) separate volumes;

L.2.2.8 Attachments are not included in the page limits for the narrative and shall be attached in the Appendix to Volume I; and

L.2.2.9 Proposal narratives shall be logically ordered and provide cross-references to the requirement being addressed.

L.2.3 The Offeror shall prepare a Cover Letter to accompany its Technical Proposal and Price Proposal. The Cover Letter shall state the Offeror's address and phone number for a contact person, and a statement regarding acceptance of the Contract provisions as described in Sections A – K of the solicitation. The Cover Letter shall be signed by an authorized representative of the Offeror's organization. The Cover Letter is not included in the total page count of the technical and price proposal narrative limits described in Section L.2.2.7.

L.2.4 The Offeror shall prepare a Table of Contents for each volume indicating the location of the title of the subheadings and page numbers for each subheading. The Table of Content pages are not included in the total page count of the technical and price proposal narrative limits described in Section L.2.2.7.

L.2.5 Offerors are directed to Section M of this solicitation, Evaluation Factors and Sections M.1, Evaluation For Award, M.2, Technical Rating Scale, M.3, Evaluation Standards and M.4 Evaluation Criteria and the interdependent relationship that exists between the Evaluation Factors described in Section M, the requirements described in Section C of the solicitation and the instructions to Offerors that follow in Section L.3. 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 delivery thereof. The information requested below for the technical proposal shall facilitate evaluation and greatest value source selection for all proposals. The technical proposal must contain sufficient detail to provide a clear and concise representation of the requirements described in Section C, Specifications/Work Statement.

L.2.6 The information requested in Section L.3 has been determined to be essential and will allow the District to assess the Offeror's knowledge, capabilities, and capacity to perform the requirements of the Contract as described in Section C in accordance with Section M of the solicitation. The Offeror shall respond in a comprehensive manner to each evaluation factor by submitting the information described below in Section L.3 in a logical order consistent with the RFP, providing reference to the requirement being addressed.

L.2.7 Proposal Information Submission

L.2.7.1 When responding to the instructions in Section L.3, below, Offeror shall provide information, as applicable, regarding services provided by the Offeror similar in size and scope as those described in the relevant section of Section C

L.3 PROPOSAL CONTENT AND ORGANIZATION

L.3.1 Volume I - Technical Proposal Content Instructions

The Offeror's Technical Proposal shall be organized and presented in the following clearly marked separate sections:

L.3.1.1 Technical Capability

The information contained in this section shall facilitate the evaluation of the Offeror's technical capability. The Offeror shall provide at a minimum the following information described below.

L.3.1.1.1 Technical Capability Narratives

The Offeror shall provide the following narratives:

L.3.1.1.1.1 Describe the Offeror's understanding of the District's requirements found in Section C.3 and the Offeror's overall technical approach and methodology to complete the required tasks described in C.3.

L.3.1.1.1.2 Describe the Offeror's knowledge of federal and local pharmacy licensing requirements as described in C.3.1.1.

L.3.1.1.1.3 Describe the Offeror's approach to pharmaceutical dispensing, tracking and reporting as described in C.3.1.2.

L.3.1.1.1.4 Describe how the Offeror will interface with the current Alliance Pharmacy Benefit as described in C.3.1.3.

L.3.1.1.1.5 Describe the Offeror's pharmacy computer system with NCPDP 5.1 compatibility as described in C.3.2.2.1.

L.3.1.1.1.6 Describe how Offeror will perform online adjudication of pharmacy claims and provide electronic notification to Providers of claims disposition as described in C.3.2.2.2.

L.3.1.1.1.7 Describe how the Offeror will capture and transmit the National Provider Identification (NPI) of all prescribers as described in C.3.2.2.3.

L.3.1.1.1.8 Describe the Offeror's pharmacy system's capability to provide network reporting, claims analysis, statistical reporting and claims resolution reporting as described in C.3.2.2.4.

L.3.1.1.1.9 Describe the Offeror's pharmacy system's capability to generate utilization report by managed care plan and plan enrollees as described in C.3.2.2.5.

L.3.1.1.1.10 Describe the Offeror's pharmacy system's capability to generate prior authorization prior authorization protocols and selected reports described in C.3.2.2.6.

L.3.1.1.1.11 Describe the Offeror's pharmacy system's capability to provide prospective Drug Utilization Review edit and reporting as described in C.3.2.2.7.

L.3.1.1.1.12 Describe the Offeror's schedule to provide pharmacy services as described in C.3.3.2.1.

L.3.1.1.1.13 Describe the Offeror's approach to staff the seven (7) Alliance network pharmacies with a sufficient number of dedicated pharmacists and certified technicians for each location to ensure wait times for recipients do not exceed 20 minutes as described in C.3.4.1.

L.3.1.1.1.14 Describe how the Offeror will provide training and technical assistance to all staff and participating providers as described in C.4.1.3.

L.3.1.1.1.15 Describe how the Offeror will maintain a refill compliance program at each pharmacy and a prescription refill telephone line for after hours use as described in C.3.4.2.1.

L.3.1.1.1.16 Describe the Offeror's experience in providing patient counseling services for all Alliance enrollees as described in C.3.4.2.2.

L.3.1.1.1.17 Describe how the Offeror will provide Spanish and Amharic interpreters in Alliance network pharmacy locations that serve Latino, Eritrean and Ethiopian Alliance enrollees as described in C.3.4.2.3.

L.3.1.1.1.18 Describe the Offeror's approach to providing interpretative services for all non-English speaking Alliance enrollees as described in C.3.4.2.4.

L.3.1.1.1.19 Describe the Offeror's security system to ensure the integrity of the premises at all times as described in C.3.5.1.

L.3.1.1.1.20 Describe the Offeror's experience in storing all medications, including scheduled narcotics, in accordance with all Federal and local laws and manufacturer requirements as described in C.3.5.2.

L.3.1.1.1.21 Describe the Offeror's policies and procedures for pharmacy management and oversight as described in C.3.5.3.

L.3.1.1.1.22 Describe the Offeror's plan for providing accurate and timely reporting as described in Section C.3.6.

L.3.1.1.1.23 Describe the Offeror's experience in verifying eligibility for Alliance enrollees as described in C.3.4.1.

L.3.1.1.1.24 Describe the Offeror's experience in and approach to utilizing a control mechanism for all pharmaceutical products in a cost-effective manner in addition to utilizing best practices in pharmaceutical-control and pharmaceutical-use monitoring as described in C.3.4.2.

L.3.1.1.1.25 Describe how the Offeror's control mechanism will interface with automated pharmacy technology systems, including NCPDP 5.1 as described in C.3.4.22

L.3.1.1.1.26 Describe the Offeror will provide full support for the Alliance Pharmacy and Therapeutics (P&T) Committee as described in C.3.4.3.

L.3.1.1.1.27 Describe the Offeror's approach to maintaining compliance with HIPAA, the Privacy and Security rules in 45 C.F.R. Parts 160, 162, and 164, 42 C.F.R. Part 2, and the D.C. Mental Health Information Act as described in Section C.3.4.4

L.3.1.1.2 Technical Capability Attachments

L.3.1.1.2.1 Screenshots of pharmacy systems that the Offeror has used in the past.

L.3.1.2 Corporate Qualifications

The information requested in this section shall facilitate the evaluation of the Offeror's Corporate Qualifications, including Offeror's Past Performance and Previous Experience to perform the required services as described in Section C and Section H.

L.3.1.2.1 Past Performance

L.3.1.2.1.1 Past Performance Narratives

L.3.1.2.1.1.1 Describe the extent of the Offeror's demonstrated expertise and quality of performance in pharmacy management and staffing services and how Offeror gained such expertise.

L.3.1.2.1.1.2 Describe the number of the Offeror's years of experience pharmacy management and staffing services as describe in C.3.

L.3.1.2.1.1.3 Describe the scope of the Offeror's previous or current contracts relating to pharmacy management and staffing services as described in C.3.

L.3.1.2.1.2 Past Performance Attachments

L.3.1.2.1.2.1 List three (3) references related to the Offeror's experience performing pharmacy management and staffing services.

L.3.1.2.1.2.2 List the following information for contracts and subcontracts under which the Offeror has performed work similar to that identified in this RFP (please list in order of largest to smallest contract or subcontract value):

L.3.1.2.1.2.2.1 Name of contracting activity;

L.3.1.2.1.2.2.2 Contract number;

L.3.1.2.1.2.2.3 Contract type;

L.3.1.2.1.2.2.4 Contract duration (or Period);

L.3.1.2.1.2.2.5 Total contract value;

L.3.1.2.1.2.2.6 Type of work performed;

L.3.1.2.1.2.2.7 Contracting Officer's Name, Address and Telephone;

L.3.1.2.1.2.2.8 Project Manager's Name, Address and Telephone; and

L.3.1.2.1.2.2.9 A description of any major problems encountered in performing the contract and corrective actions taken/

L.3.1.2.1.2.3 Offeror shall request that each business reference listed in Section L.3.1.2.1.2.1 complete the Past

Performance Evaluation Form attached in Section J.12 and forward the completed to the Contact Person identified in Section L.2 prior to the closing date established for the solicitation and described in Section L.4.

L.3.1.2.2 Organization and Staffing

Offeror shall provide a narrative to describe the Offeror's proposed staffing plan and staffing pattern to fulfill the required services described in Section C.3.

L.3.1.2.2.1 Organizational Structure Narratives

This section requests information about the Offeror's organizational and management structure

L.3.1.2.2.1.1 Include an overview of the organizational structure in the proposal narrative, indicating the responsibilities of each department for the functions delineated in this statement of work.

L.3.1.2.2.1.2 Describe the Offeror's process for project management and identify the expected level of on-site involvement.

L.3.1.2.2.2 Organization and Staffing Attachments:

L.3.1.2.2.2.1 An organizational chart showing:

L.3.1.2.2.2.1.1 The names and positions of the Offeror's employees who will provide or contribute to the services to be performed under the Contract, including, at a minimum;

L.3.1.2.2.2.1.2 Subcontractors that will be performing services for the Offeror under the Contract; and

L.3.1.2.2.2.1.3 The reporting lines and accountability among the Offeror's staff and subcontractors as applicable.

L.3.1.2.2.2.2 The resume of the Key Personnel as described in Section C.4. If a Key Personnel position is currently vacant, please provide a job description.

L.3.1.2.2.2.3 The resumes of the staff and subcontractors Offeror considers to be relevant additional personnel. If a position is currently vacant, provide a job description.

L.3.1.2.2.2.4 A list of all members of the Board of Directors and current officers of the corporation and list any financial interests in the corporation.

L.3.1.2.2.2.5 Documentation of judgments and licensing actions involving Offeror in other states or jurisdictions

L.3.1.2.3 Representations and Certifications

Offeror shall complete the following representations and certifications:

L.3.1.2.3.1 Completed information in the Equal Employment Opportunity Forms, Attachment J.4;

L.3.1.2.3.2 First Source Employment Agreement, Attachment J.5.;

L.3.1.2.3.3 Tax Certification, Attachment J.11; and

L.3.1.2.3.4 Completed information in Section K, Representations, Certification and Other Statements of Offerors.

L.3.2 Volume II: Price Proposal

L.3.2.1 Offeror's Price Proposal shall be organized and presented in the following clearly marked separate sections.

L.3.2.1.1 Table of Contents

L.3.2.1.2 Contract Budget and Cost and Price Data

L.3.2.1.3 Offeror may provide their total budget worksheets in whatever formats they believe will convey the data clearly, so long as the specified minimum level of detail in the Cost/Price tables in Attachment J.15 is met. This pro-forma contract budget will show the "total costs" that Offeror anticipates incurring in the performance of the contract requirements

L.3.2.1.4 Price Proposal Narrative

Offeror shall provide a narrative of the Price Proposal to include at a minimum the following;

L.3.2.1.4.1 Cost and price justifications to support the Contract Pricing and Contract Budget information provided in Section L.3.2.2.;

L.3.2.1.4.2 Description of Offeror's plans to maintain sufficient financial resources to perform the required services and contingency plans should costs be greater than expected

L.3.2.1.5 Cost/Price Data and Certification

L.3.2.1.5.1 Offeror shall complete and provide the Cost/Price Data Certification provided in Attachment J.15.

L.4 Proposal Submission Date and Time, Late Submissions, Late Modifications, Withdrawal or Modification of Proposals and Late Proposals

L.4.1 Proposal Submission

L.4.1.1 Proposals must be submitted no later than by 8:00 a.m. Eastern Standard Time on Monday, August 24, 2009. Proposals are to be mailed and/or hand delivered to:

Department of Health Care Finance

Office of Contracts and Compliance

825 North Capitol Street, NE, Suite 5135

Washington, DC 20002

Attention: Lillian Beavers, Contracts Office

Solicitation No. DHCF-OMC-2009-P-0003

Pharmacy Management and Staffing Services (PMSS)

L.4.1.2 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:

L.4.1.2.1 The proposal or modification was sent by registered or certified mail not later than the fifth (5th) day before the date specified for receipt of offers;

L.4.1.2.2 The proposal or modification was sent by mail and it is determined by the Contracting Officer that the late receipt at the location specified in the solicitation was caused by mishandling by the District, or

L.4.1.2.3 The proposal is the only proposal received.

L.4.2 Withdrawal or Modification of Proposals

L.4.2.1 An Offeror may modify or withdraw its proposal upon written, telegraphic notice, or facsimile transmission if received at the location designated in the solicitation for submission of proposals, but not later than the closing date for receipt of proposals.

L.4.3 Postmarks

L.4.3.1 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.

L.4.3.2 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 Offeror can furnish evidence from the postal authorities of timely mailing.

L.4.4 Late Modifications

L.4.4.1 A late modification of a successful proposal, which makes its terms more favorable to the District, shall be considered at any time it is received and may be accepted.

L.4.5 Late Proposals

L.4.5.1 A late proposal, late modification or late request for withdrawal of an offer that is not considered shall be held unopened, unless opened for identification, until after award and then retained with unsuccessful offers resulting from this solicitation.

L.5 Explanation to Prospective Offerors

L.5.1 If a prospective Offeror has any questions relative to this solicitation, the prospective Offeror shall submit the question in writing to the contact person, identified on page one (1).

L.5.2 The prospective Offeror shall submit questions no later than fifteen (15) days prior to the closing date and time indicated for this solicitation. The District will not consider any questions received less than fifteen (15) days before the date set for submission of proposals.

L.5.3 The District will furnish responses promptly to all other prospective Offerors. An amendment to the solicitation will be issued if that information is necessary in submitting offers, or if the lack of it would be prejudicial to any other prospective

Offerors. Oral explanations or instructions given before the award of the Contract will not be binding.

L.6 Failure to Submit Offer

L.6.1 Recipients of this solicitation not responding with an offer should not return this solicitation. Instead, they should advise the Contracting Officer identified in Section G, by letter or postcard whether they want to receive future solicitations for similar requirements.

L.6.2 It is also requested that such Recipients advise the Contracting Officer of the reason for not submitting a proposal in response to this solicitation. If a Recipient does not submit an offer and does not notify the Contracting Officer that future solicitations are desired, the Recipient's name may be removed from the applicable mailing list.

L.7 Restriction on Disclosure and Use of Data

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

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

L.7.1.1 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 Proposal Protests

L.8.1 Any actual or prospective Offeror who is aggrieved in connection with the solicitation or award of a contract must file with the District of Columbia 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.

L.8.2 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.

L.8.3 The protest shall be filed in writing, with the Contract Appeals Board, 717 14th Street, N.W., Suite 430, Washington, D.C. 20004. The aggrieved person shall also mail a copy of the protest to the Contracting Officer for the solicitation.

L.9 Signing of Offers

L.9.1 Offeror shall sign the offer and print or type its name on the proposal.

L.9.2 Offers signed by an Agent shall be accompanied by evidence of that Agent's authority, unless that evidence has been previously furnished to the Contracting Officer.

L.10 Retention of Proposals

L.10.1 All proposal documents will be the property of the District and retained by the District, and therefore will not be returned to Offerors.

L.11 Proposal Costs

L.11.1 The District is not liable for any costs incurred by Offerors in submitting proposals in response to this solicitation or in implementing a contract awarded under this solicitation.

L.12 Electronic Copy of Proposals for Freedom of Information Act Requests

L.12.1 In addition to other proposal submission requirements, Offeror must submit an electronic copy of its proposal, including all narratives and attachments for Volumes 1 and 2, redacted in accordance with any applicable exemptions from disclosure in D.C. Official Code § 2-534, for the District to comply with Section 2-536(b) that requires the District to make available electronically copies of records that must be made public.

L.12.2 The District's policy is to release documents relating to District proposals following award of the Contract, subject to applicable FOIA exemption under Section 2-534(a)(1).

L.13 Certificates of Insurance

L.13.1 The Offeror shall submit certificates of insurance giving evidence of the required coverage as specified in Section I.8 prior to commencing work.

L.13.2 Evidence of insurance shall be submitted within fourteen (14) days of Contract award to:

Contracting Officer
Department Health Care Finance
Office of Contracts & Compliance
825 North Capitol Street, NE
Suite 5135
Washington, DC 20002

L.14 Acknowledgement of Amendments

L.14.1 Offeror shall acknowledge receipt of any amendment to this solicitation by the following:

L.14.1.1 Signing and returning the amendment;

L.14.1.2 Identifying the amendment number and date in the space provided for this purpose in Section A, Solicitation, Offer and Award form; or

L.14.1.3 Letter.

L.14.2 The District must receive the acknowledgment by the date and time specified for receipt of offers. Offeror's failure to acknowledge an amendment may result in rejection of the offer.

L.15 Best and Final Offers

L.15.1 If, subsequent to receiving original proposals, negotiations are conducted, all Offerors within the competitive range will be so notified and will be provided an opportunity to submit written best and final offers at the designated date and time. Best and Final Offers will be subject to the Late Submissions, Late Modifications and Late Withdrawals of Proposals provision of the solicitation.

L.15.2 After receipt of best and final offers, no discussions will be reopened unless the Contracting Officer determines that it is clearly in the District's best interest to do so, e.g., it is clear that information available at that time is inadequate to reasonably justify Broker selection and award based on the best and final offers received. If discussions are reopened, the Contracting Officer shall issue an additional request for best and final offers to all Offerors still within the competitive range.

L.16 Legal Status of Offeror

L.16.1 Each proposal must provide the following information:

L.16.1.1 Name, address, telephone number and federal tax identification number of Offeror;

L.16.1.2 A copy of each District of Columbia license, registration or certification that the Offeror is required by law to obtain. This mandate also requires the Offeror to provide a copy of the executed “Clean Hands Certification” that is referenced in D.C. Official Code §47-2862 (2001), if the Offeror is required by law to make such certification. If the Offeror is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the offer shall certify its intent to obtain the necessary license, registration or certification prior to Contract award or its exemption from such requirements; and

L.16.1.3 If Offeror is a partnership or joint venture, the names and addresses of the general partners or individual Recipients of the joint venture, and copies of any joint venture or teaming agreements.

L.17 Familiarization with Conditions

L.17.1 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.

L.17.2 Brokers 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 Standards of Responsibility

L.18.1 Offeror must demonstrate to the satisfaction of the District the capability in all respects to perform fully the Contract requirements; therefore, the Offeror must submit the documentation listed below, within five (5) days of the request by the District. Any Offeror that fails to submit the documentation will be deemed non-responsible and ineligible to receive a contract under this RFP.

L.18.1.1 Evidence of adequate financial resources, credit or the ability to obtain such resources as required during the performance of the Contract.

L.18.1.2 Evidence of the ability to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.

L.18.1.3 Evidence of the necessary organization, experience, accounting and operational control, technical skills or the ability to obtain them.

L.18.1.4 Evidence of compliance with the applicable District licensing and tax laws and regulations.

L.18.1.5 Evidence of a satisfactory performance record, record of integrity and business ethics.

L.18.1.6 Evidence of the necessary technical equipment and facilities or the ability to obtain them.

L.18.1.7 Evidence that Offeror does not have any judgments against it that may negatively affect or preclude satisfactory performance.

L.18.1.8 Evidence that Offeror maintains a license (if applicable) and is in good standing in the other jurisdictions where Offeror operates.

L.18.2 If Offeror fails to supply the information requested, the Contracting Officer shall make the determination of responsibility or non-responsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the Contracting Officer shall determine the prospective Offeror to be non-responsible.

L.19 Pre-Proposal Conference

L.19.1 Prospective Offerors will be given an opportunity to ask questions regarding this solicitation at the conference on **Tuesday, August 11, 2009 at 2:00 p.m. at 825 North Capitol Street, NE Room 4131**. 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.

L.19.2 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 Department's final position. All oral questions will be submitted in writing following the close of the pre-proposal conference but no later than five business 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 DHCF website at www.dhcf.dc.gov.

L.20 Reference Library

L.20.1 This solicitation will not contain or utilize a reference library.

L.20.2 Additional program background information will be available electronically via the websites included throughout the RFP or as documents attached to the RFP.

L.21 Key Personnel

L.21.1 The District considers the positions described in Sections C.4 and H.22 as Key Personnel for this Contract.

L.21.2 In accordance with this RFP, Offeror shall set forth in its proposal the names and reporting relationships of the Key Personnel identified in Section H.22 that Offeror will use to perform the work under the Contract. Offeror shall attach their resumes and describe the hours that each will devote to the Contract, in total and broken down by task.

L.22 Acceptance Period

L.22.1 The Offeror agrees that its offer remains valid for a period of 120 calendar days from the submission of proposal date of **August 24, 2009**. However, if for administrative reasons, the District is unable to make an award within this time period, the Contracting Officer will request the Contractor and his/her surety to extend the proposal guarantee for an additional thirty (30) days.

SECTION M

EVALUATION FACTORS FOR AWARD

- M.1** Evaluation for Award
- M.2** Technical Rating Scale
- M.3** Evaluation Standards
- M.4** Evaluation Criteria
- M.5** Open Market Clauses with No Subcontracting Set-Aside

SECTION M

EVALUATION FACTORS FOR AWARD

M.1 Evaluation for Award

M.1.1 The Contract will be awarded to the responsible Offeror whose offer is most advantageous to the District, based upon the evaluation criteria specified below. Thus, while the points in the evaluation criteria indicate their relative importance, the total scores will not necessarily be determinative of the award. Rather, the total scores will guide the District in making an intelligent award decision based upon the evaluation criteria.

M.2 Technical Rating Scale

M.2.1 The Offeror's technical proposal response for each technical factor will be evaluated by the District and assigned a technical rating based on the quality of the Offeror's response.

M.2.2 The Technical Rating Scale follows:

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

M.2.3 The technical rating is a weighting mechanism that will be applied to the point value for each evaluation factor and significant subfactor 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 of zero (0) to forty (40) points, utilizing the Technical Rating Scale above the District evaluates the Offeror's response as "Good," the score for that evaluation factor is 4/5 of 40 or 32.

M.3 Evaluation Standards

M.3.1 In accordance with Section M.1, the District will make a best value award to the responsible Offeror(s) whose offer conforms to the solicitation and is most advantageous to the District, cost or price and technical factors listed below considered.

M.3.2 Proposals will be evaluated based on the following technical evaluation factors which are listed in descending order of importance:

M.3.2.1 Technical Capability

M.3.2.2 Corporate Qualifications

M.3.2.2.1 Past Performance

M.3.2.2.2 Organization and Staffing

M.4 Evaluation Criteria

M.4.1 The technical evaluation criteria set forth below have been developed by agency technical personnel and have been tailored to the requirements of this particular solicitation. Contractor is informed that these criteria will serve as the standard against which all proposals will be evaluated and serve to establish the evaluation criteria including the evaluation factors and significant sub factors which Contractor should specifically address in complying with the requirements of the solicitation as described in Section C and instructions and notices to Offerors described in Section L.

M.4.2 The relative probabilities of the Offeror to accomplish the requirements of the solicitation will be evaluated based on the specific information requested in Section L.3 in accordance with the evaluation factors described below. Contractor should respond to each factor and significant sub factor in a way that will allow the District to evaluate Contractor's response. The scoring for each evaluation factor will be based on the District's determination of the degree to which the Offeror satisfies the requirements within the evaluation factor and significant sub factors. Deficiencies and weaknesses identified in the proposal as well as the District's risk will also be considered.

M.4.3	Factor 1 – Technical Capability	55 Points
	Factor 2 – Past Performance	20 Points

Factor 3 – Organization and Staffing 15 Points

Factor 4 - Price 10 Points

M.4.4 Price Criteria

M.4.4.1 Price evaluations will account for up to ten (10) points of the total score. Unlike the technical evaluation, the price evaluation will be objective. Hence, the Offeror with the lowest price within an acceptable range will receive the maximum points. All other proposals will receive a proportionately lower total score.

M.4.4.2 Actual points assigned to each Offeror in this category will be based on the Offeror’s total price as provided in the Offeror’s Price Proposal (Section L.3.2 and information the Offeror provides in the Table in Section B.5) in accordance with the following formula.

$$\frac{\text{Lowest Price Proposal} \times (20)}{\text{Price of Proposal Being Evaluated}} = \text{Evaluated Price Score}$$

M.4.5 Preference Points will be awarded in accordance with Section M.5 below for a total six (6) preference points on a one hundred point (100) point scale.

M.4.6 Total Points

M.4.6.1 The total points awarded under the solicitation are one hundred.

Technical Evaluation Factors		
0 – 100 Points		
Evaluation Factor/ Significant Subfactor	Point Value	Point Assigned
Factor 1 - Technical Capability	0 - 55	
Scoring of this factor will be based on the overall technical capabilities relative to sub-factors as described in each segment of L.3.1.1. a) Offeror’s understanding, technical		

<p>approach, methodology, experience and proven capability in pharmaceutical dispensing, tracking, storing and reporting of all prescribed medications.</p> <p>b) Offeror’s understanding, technical approach, methodology, experience and proven capability of its pharmacy system including but not limited to: online adjudication, reporting, generating prior authorization protocols and prospective Drug Utilization Review edits.</p> <p>c) Offeror’s understanding, technical approach, methodology, experience and proven capability of pharmacy access, including, but not limited to: scheduling of services and hours of operations.</p> <p>d) Offeror’s understanding, technical approach, methodology, experience and proven capability of pharmacy operations, including, but not limited to: pharmacy staffing, licensure, staff training and technical assistance, counseling and interpretative services, pharmaceutical security, administrative reports, and pharmacy benefit management services.</p>		
Factor 2 - Past Performance	0 - 20	
<p>Scoring of this factor will be based on the Offeror’s expertise and past performance and Letters of Reference using the following subfactors as described in Section L.3.1.2.1.</p> <p>a) Offeror’s demonstrated expertise and quality of performance in pharmacy management and staffing services.</p> <p>b) Three (3) letters of reference from the</p>		

<p>most recent clients with respect to similar services that the Offeror has provided. Offeror letters should be formatted to communicate the Offeror’s specialized experience in understanding and executing the proposed services to exemplify the Offeror’s approach to pharmacy management and staffing services. Letters should reflect the following:</p> <ol style="list-style-type: none"> 1. Project Name; 2. Project Location; 3. Nature or Type of System Development and/or implementation; 4. Project Estimate or Completed Price; 5. Current Project Status (Completed or on-going); 6. Project Owner’s Name, Address & Contact Phone Number; and 7. Summation of Offeror’s overall performance. 		
<p>Factor 3 - Organization and Staffing</p>	<p>0 - 15</p>	
<p>Scoring of this factor will be based on the Offeror’s organization and proposed staffing to subfactors as described in Section L.3.1.2.2.</p> <ol style="list-style-type: none"> a) Overview of Offeror’s organizational structure (including an organizational chart); b) Team/Staffing Structure (including labor categories to include years of experience, education level and certifications); c) Resumes of Key Personnel as described in 		

H.22; and d) Skill level and expertise of proposed staffing.		
Price Evaluation		
0 – 10 Points		
Price	0 - 10	
Preference Points		
0 – 12 Points		
Preference Points	0 - 12	Preference Points as described in M.5.1.2
Small Business Enterprise (SBE)	3	
Resident Owned Business (ROB)	3	
Longtime Resident Business (LRB)	10	
Local Business Enterprise (LBE)	2	
Disadvantaged Business Enterprise located in an Enterprise Zone	2	
Disadvantaged Business Enterprise (DBE)	2	

M.5 Open Market Clauses with No Subcontracting Set-Aside (Supplies and Services)

M.5.1 Preferences for Local Businesses, Disadvantaged Businesses, Resident-owned Businesses, Small Businesses, Longtime Resident Businesses, or Local Businesses with Principal Offices Located in an Enterprise Zone

M.5.1.1 Under the provisions of the “Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005” (the Act), Title II, Subtitle

N, of the “Fiscal Year 2006 Budget Support Act of 2005”, D.C. Law 16-33, effective October 20, 2005, the District shall apply preferences in evaluating bids or proposals from businesses that are small, local, disadvantaged, resident-owned, longtime resident, or local with a principal office located in an enterprise zone of the District of Columbia.

M.5.1.2 General Preferences

For evaluation purposes, the allowable preferences under the Act for this procurement are as follows:

M.5.1.2.1 Three percent (3%) reduction in the bid price or the addition of three (3) points on a one hundred (100) point scale for a small business enterprise (SBE) certified by the Small and Local Business Opportunity Commission (SLBOC) or the Department of Small and Local Business Development (DSLBD), as applicable;

M.5.1.2.2 Three percent (3%) reduction in the bid price or the addition of three (3) points on a one hundred (100) point scale for a resident-owned business enterprise (ROB) certified by the SLBOC or the DSLBD, as applicable;

M.5.1.2.3 Ten percent (10%) reduction in the bid price or the addition of ten (10) points on a one hundred (100) point scale for a longtime resident business (LRB) certified by the SLBOC or the DSLBD, as applicable;

M.5.1.2.4 Two percent (2%) reduction in the bid price or the addition of two (2) points on a one hundred (100) point scale for a local business enterprise (LBE) certified by the SLBOC or the DSLBD, as applicable;

M.5.1.2.5 Two percent (2%) reduction in the bid price or the addition of two (2) points on a one hundred (100) point scale for a local business enterprise with its principal office located in an enterprise zone (DZE) and certified by the SLBOC or the DSLBD, as applicable; and

M.5.1.2.6 Two percent (2%) reduction in the bid price or the addition of two (2) points on a one hundred (100) point scale for a disadvantaged business enterprise (DBE) certified by the SLBOC or the DSLBD, as applicable.

M.5.2 Application of Preferences

M.5.2.1 The preferences shall be applicable to prime Contractors as follows:

M.5.2.1.1 Any prime Contractor that is an SBE certified by the SLBOC or the DSLBD, as applicable, will receive a three percent (3%) reduction in the bid price for a bid submitted by the SBE in response to an Invitation

for Bids (IFB) or the addition of three (3) points on a one hundred (100) point scale added to the overall score for proposals submitted by the SBE in response to a Request for Proposals (RFP).

M.5.2.1.2 Any prime Contractor that is an ROB certified by the SLBOC or the DSLBD, as applicable, will receive a three percent (3%) reduction in the bid price for a bid submitted by the ROB in response to an IFB or the addition of three (3) points on a one hundred (100) point scale added to the overall score for proposals submitted by the ROB in response to an RFP.

M.5.2.1.3 Any prime Contractor that is an LRB certified by the SLBOC or the DSLBD, as applicable, will receive a ten percent (10%) reduction in the bid price for a bid submitted by the LRB in response to an IFB or the addition of ten (10) points on a one hundred (100) point scale added to the overall score for proposals submitted by the LRB in response to an RFP.

M.5.2.1.4 Any prime Contractor that is an LBE certified by the SLBOC or the DSLBD, as applicable, will receive a two percent (2%) reduction in the bid price for a bid submitted by the LBE in response to an IFB or the addition of two (2) points on a one hundred (100) point scale added to the overall score for proposals submitted by the LBE in response to an RFP.

M.5.2.1.5 Any prime Contractor that is a DZE certified by the SLBOC or the DSLBD, as applicable, will receive a two percent (2%) reduction in the bid price for a bid submitted by the DZE in response to an IFB or the addition of two (2) points on a one hundred (100) point scale added to the overall score for proposals submitted by the DZE in response to an RFP.

M.5.2.1.6 Any prime Contractor that is a DBE certified by the SLBOC or the DSLBD, as applicable, will receive a two percent (2%) reduction in the bid price for a bid submitted by the DBE in response to an IFB or the addition of two (2) points on a one hundred (100) point scale added to the overall score for proposals submitted by the DBE in response to an RFP.

M.5.3 Maximum Preference Awarded

M.5.3.1 Notwithstanding the availability of the preceding preferences, the maximum total preference to which a certified business enterprise is entitled under the Act for this procurement is twelve percent (12%) for bids submitted in response to an IFB or the equivalent of twelve (12) points on a one hundred (100) point scale for proposals submitted in response to an RFP.

M.5.3.2 There will be no preference awarded for subcontracting by the prime Contractor with certified business enterprises.

M.5.4 Preferences for Certified Joint Ventures

M.5.4.1 When the SLBOC or the DSLBD, as applicable, 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.5.5 Vendor Submission for Preferences

M.5.5.1 Any vendor seeking to receive preferences on this solicitation must submit at the time of, and as part of its bid or proposal, the following documentation, as applicable to the preference being sought:

M.5.5.1.1 Evidence of the vendor's or joint venture's certification by the SLBOC as an SBE, LBE, DBE, DZE, LRB, or RBO, to include a copy of all relevant letters of certification from the SLBOC; or

M.5.5.1.2 Evidence of the vendor's or joint ventures provisional certification by the DSLBD as an SBE, LBE, DBE, DZE, LRB, or RBO, to include a copy of the provisional certification from the DSLBD.

M.5.5.2 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: LSDBE Certification Program

441 Fourth Street, NW, Suite 970N

Washington, DC 20001

M.5.5.3 All vendors are encouraged to contact the DSLBD at 202-727-3900 if additional information is required on certification procedures and requirements.