
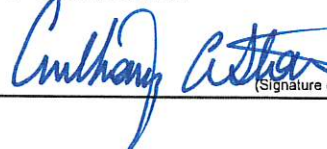


<b>AWARD/CONTRACT</b>		1. Solicitation Number: <b>CFOPD-19-R-032</b>	Page of Pages 1      70			
2. Contract Number <b>CFOPD-20-C-011</b>		3. Effective Date See 20C	4. Requisition/Purchase Request/Project No.			
5. Issued By <b>Office of the Chief Financial Officer Office of Contracts 1100 - 4th Street, SW., Suite E620 Washington, DC 20024</b>		Code	6. Administered By (If other than line 5)			
7. Name and Address of Contractor (No. Street, city, country, state and ZIP Code) <b>Gartner, Inc. 56 Top Gallant Road, Stamford, CT 06902 Tel: 917-862-4573 Richard Nessel, Senior Managing Partner richard.nessel@gartner.com</b>		8. Delivery <input checked="" type="checkbox"/> FOB Destination <input type="checkbox"/> Other (See Schedule Section F)		9. Discount for prompt payment		
Code		Facility		10. Submit Invoices in accordance with Section G.3    Item		
11. Ship to/Mark For <b>Office of the Chief Financial Officer Office of the Chief Information Officer Suite W350 1101 4th Street, S.W. Washington, DC 20024</b>		Code	12. Payment will be made by <b>Office of the Chief Financial Officer Office of Management and Administration Financial Operations/Accounts Payable 1100 4th Street, SW Suite E600 Washington, DC 20024</b>			
13. Contract Type: Requirements with NTE Ceiling		14. Accounting and Appropriation Data				
15A. Item	15B. Supplies/Services	15C. Qty	15D. Unit	15E. Unit Price	15F. Amount	
1	<b>Independent Verification and Validation Services (IV&amp;V) Services (Base Year)</b>					
	<b>* Enterprise Financial System (EFS)</b>	1	Lot	NTE \$1,921,338.00	\$1,921,338.00	
	<b>* Treasury Management System (TMS)</b>	1	Lot	NTE \$853,713.00	\$853,713.00	
	<b>* Ariba Cloud System</b>	1	Lot	NTE \$567,090.00	\$567,090.00	
Total Amount of Contract					<b>NTE \$3,342,141.00</b>	
16. Table of Contents						
(X)	Section	Description	Pages	(X)	Section      Description      Pages	
	PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES	
	A	Solicitation/Contract Form	1	I	Contract Clauses	45
	B	Supplies or Services and Price/Cost	2	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS		
	C	Description/Specifications/Work Statement	4	J	List of Attachments	69
	D	Packaging and Marking	25	PART IV - REPRESENTATIONS AND INSTRUCTIONS		
	E	Inspection and Acceptance	26	K	Representations, Certifications and Other Statements of Offerors	
	F	Deliveries or Performance	30	L	Instructions, conditions & notices to offerors	
	G	Contract Administration Data	31	M	Evaluation factors for award	
	H	Special Contract Requirements	36			
Contracting Officer will Complete Item 17 or 18 as Applicable						
17 <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return <u>1 pdf</u> copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)			18 <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary.			
19A. Name and Title of Signer (Type or print) <i>GREGORY PAERINGTON, Dir. GOVERNMENT CONTRACTS</i>			20A. Name of Contracting Officer Anthony A. Stover, CPPO or Dorothy Whisler Fortune, Esq., CPPO			
19B. Name of Contractor <i>GARTNER, INC.</i>		19C. Date Signed <i>25 OCT 2019</i>	20B. District of Columbia		20C. Date Signed <i>12-2-19</i>	
 (Signature of person authorized to sign)			 (Signature of Contracting Officer)			

**SECTION B****CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE****B.1 GENERAL INFORMATION**

The District of Columbia Office of the Chief Financial Officer, Office of the Chief Information Officer (OCIO) (the "District") requires the Contractor to provide Independent Verification and Validation (IV&V) services for the implementation of the new Enterprise Financial System (EFS), Treasury Management System (TMS) and Office of Contracting and Procurement (OCP)'s plan to implement ARIBA Cloud. The Contractor shall assist the District and the strategic partners in minimizing risk associated with implementing Oracle Cloud Financials, ARIBA Cloud and a SaaS based Treasury Management System. IV&V's scope shall include review of the software configuration and change management processes, procedures and output for early detection of risks and issues and provide the District with recommendations for proactive strategies to mitigate such risks. The enhanced management insight will result in additional confidence by the District that the implemented solutions will satisfy the business needs and associated requirements for security, availability, change management, quality, and maintainability.

**B.2 CONTRACT TYPE**

This is a Requirements Contract.

**B.3 ALL-INCLUSIVE PRICING**

The stated Price Per Unit for each Contract Line Item Number (CLIN) shall be fixed, inclusive of all of the Contractor's direct cost, indirect cost, and profit; including travel, material, and delivery costs. The price shall include all cost associated with the services described in and required by the Contract. The Total Estimated Price shall represent the price ceiling, fixed fee, or not to exceed amount of the Contract.

**B.4 REQUIREMENTS CONTRACT**

The District will purchase its requirements of the articles or services included herein from the Contractor. The estimated quantities stated herein reflect the best estimates available. The estimate shall not be construed as a representation that the estimated quantity will be required or ordered, or that conditions affecting requirements will be stable. The estimated quantities shall not be construed to limit the quantities which may be ordered from the Contractor by the District or to relieve the Contractor of its obligation to fill all such orders.

**B.5 PRICE SCHEDULE – REQUIREMENTS**

- B.5.1 The pricing worksheets for the requirements are set forth in Attachment J.17, IVV - Pricing Schedule.

B.5.2 Pricing Summary

Contract Line Item (CLIN)	Description	Base	Option Year 1	Option Year 2	Option Year 3	Option Year 4	Option Year 5	Option Year 6	Total
001	EFS IV&V Services	\$1,921,338	\$1,921,338	\$1,689,028	\$1,722,809	\$831,881	\$848,519	\$865,489	\$9,800,402.00
002	TMS IV&V Services	\$853,713	\$853,713						\$1,707,426.00
003	ARIBA Cloud IV&V Services	\$567,090	\$567,090	\$263,211					\$1,397,391.00
<b>Total</b>									<b>\$12,905,219.00</b>

The CLIN 001 services (EFS) shall begin upon award of the contract. When required, the District will purchase CLINs 002 (TMS) and 003 (ARIBA Cloud) via modification to the contract. The price proposed for CLINSs 002 and 003 will be prorated in accordance with the terms of the contract at the time of modification issuance.

*[End of Section B]*

**SECTION C****DESCRIPTION/SPECIFICATIONS/WORK STATEMENT****C.1 SCOPE**

- C.1.1 The Office of the Chief Financial Officer (OCFO) for the District of Columbia (District), Office of the Chief Information Officer (OCIO) requires the Contractor to provide Independent Verification & Validation (IV&V) for implementation of a new Enterprise Financial System (EFS), a Treasury Management System (TMS) and a new contract management system. The new EFS will be an Oracle Cloud solution including ERP and EPM components. The District seeks to deploy functionality to support business processes for Financial Management, Grants and Project Accounting, Purchasing and Planning and Budgeting. The Treasury Management System will be one of the SaaS based solution such as Kyriba, Sungard/FIS, Raval, *etc.* The contracting system will be a refresh of the existing Procurement Automated Support System (PASS) solution, an on-premise Ariba system, to implement ARIBA's cloud solution. Since there will be a significant integration requirement between Oracle Financials Cloud and ARIBA Cloud, which will create significant risk to each of these projects, the District will have a single Contractor provide IV&V services. Additionally, the District will have the same Contractor provide IV&V services for the implementation of the District's Treasury Management System.
- C.1.2 The new EFS solution shall replace the District's mainframe-based financial System of Accounting and Reporting (SOAR, but better known commercially as R\*STARS) as well as replacing other legacy District systems.
- C.1.3 The Office of Contracting and Procurement (Mayor's Office) is in the process of implementing the ARIBA cloud-based on-demand integrated source-to-settle solution. This will enable enhanced capabilities relative to the current on-premise version that is reaching the end of supplier support in 2020. The refresh will also enable and support the District's expanded use of the world's largest business network (over \$2 trillion in transactions annually) which will enable the District to capture additional value from the transaction efficiencies and supplier discovery capabilities. The District's goals include:
- Greater levels of efficiencies and transparency by reducing manual processes.
  - Ensure a level of compliance providing the ability to author and track contracts in the system, drive orders from electronic catalogs, and enhance reporting of procurement actions.
  - Reduce actions performed outside the system, which may be engineered to bypass asset safeguards and regulatory controls.
  - The improvement of automation and the introduction of self-service capabilities for the collection of supplier information which will support compliance, manage performance and risk, and achieve supplier metrics and spend visibility.
  - Support diversity goals simply and effectively through outreach and visibility coupled with an improved experience for agency requestors, buyers and suppliers.
  - Improve the agility of the District's procurement professionals with the ability to keep things moving from a mobile device.
  - Improved risk monitoring and reporting capabilities allowing more spend analytics.

- Better integration capabilities to other systems and information utilizing modern application program integration capability (API's).
- C.1.4 The District has awarded a contract for a Treasury Management System (TMS) that would automate the standard, day-to-day treasury transactions. Automation reduces the risk of errors due to human involvement in the payments and reconciliation processes. The objective is to move away from manual, labor intensive processes, to improve operating efficiency and provide personnel with the opportunity to have a more strategic role within the Office of Finance and Treasury. Additionally, the TMS will automate the standard, day-to-day treasury transactions, drive improved workflow and reporting capabilities across the following functional areas:
- Cash Management (cash position, bank polling, and managing bank accounts);
  - Cash Forecasting;
  - Investment Management;
  - Electronic Funds Transfer;
  - G/L Accounting; and
  - Compliance and Risk Management, including the ability to monitor real-time Treasury Management compliance with new regulations and accounting standards.

## C.2 DEFINITIONS

See **Attachment J.21** for the glossary of relevant terms contained herein.

## C.3 BACKGROUND

- C.3.1 In 1999 the District implemented the R\*STARS system as the District's official accounting and reporting system of record, SOAR. Interface files from agency systems are uploaded to SOAR each night allowing the SOAR system to record financial transactions, make payments to vendors for services and goods provided, record and depreciate assets, manage fund transfers for payments and refunds, record journal adjustments, and at the end of the fiscal year create the Comprehensive Annual Financial Report (CAFR) and the accompanying Popular Annual Financial Report (PAFR).
- C.3.2 The District is reaching the end of on-premise support for its ARIBA-based Enterprise Procurement System, PASS, by the end of December 2020. The District requires a strategy to address the end of on-premise support from the software developer.
- C.3.3 The Office of Finance and Treasury (OFT) performs specific treasury tasks related to cash and liquidity management, payments (electronic funds transfer), investment management and cash forecasting. Cash flows come in from a variety of sources (such as: property and income taxes, federal grant drawdowns, the DC Lottery, agency fees, delinquent collections and other sources). Currently, OFT staff retrieve on-line banking information and manually reconcile cash flows on Excel spreadsheets to determine cash balances and/or liquidity requirements. Payment requests are received from various DC Government Agencies via email and are entered into the cash positioning worksheet (CPW) and loaded into the appropriate bank portal for processing. The average quarterly wire transfer volume and dollar amount is 1,150 transactions and \$5.4 billion, respectively. Cash is transferred through multiple proprietary

bank portals and manually recorded in Excel spreadsheets for subsequent entry into the legacy general ledger system, R\*STARS, also known as the System of Accounting and Reporting (SOAR). Short-term investments are increased or decreased to reflect the day's liquidity needs. Longer term investments are determined by analysis of the cash forecast, which is updated daily.

- C.3.4 There are various interfaces to SOAR from other systems, such as Ariba for procurement, PeopleSoft for Payroll, the Budget Formulation Application (BFA) for budgetary controls on spending and obligations, and GenTax for tax data.

#### **C.4 REQUIREMENTS**

- C.4.1 The Contractor shall serve as an independent entity that will primarily evaluate the performance and work products generated by the EFS, TMS and ARIBA cloud implementation and change management contractors. The Contractor shall confirm that the EFS, TMS, and ARIBA Cloud development, change management and implementation efforts conform to industry standards as well as to identify and mitigate any risks and issues as early in these three programs as possible to minimize their impact across these programs. While the implementation and/or change management contracts will be responsible for executing each phase of the program, the Contractor shall have a comprehensive understanding of Financial, Contracting and Treasury systems development and change management processes that enables them to anticipate vendors' behavior and provide the District with an independent assessment as to the quality of work produced by the implementation and change management contractors. There will be significant integration between the EFS and the ARIBA Cloud solution to support Contracting and Procure to Pay processes, which will create significant risk to the success of both programs.
- C.4.2 RESERVED
- C.4.3 RESERVED
- C.4.4 The Contractor shall provide all services and deliverables as required, described, and detailed by this Scope of Work ("SOW") and shall meet all service and delivery timelines. A project schedule with delivery timelines shall be established within thirty (30) days of the date of the award.
- C.4.5 The Contractor shall provide an objective assessment of the quality, completeness, and effectiveness of implementation processes and deliverables during the EFS, TMS and ARIBA Cloud deployments; facilitate early detection and correction of cost and schedule variances; and assist Project Management and Executive Leadership in identifying risks and in developing mitigation plans for these risks. The Contractor shall provide independent oversight and improve the outcome of these critical projects by providing regular and periodic assessment of the projects as they progress through the system development lifecycle. Since the cost and complexity of correcting system problems increases as the timetable progresses, it is important to identify and eliminate or minimize risks before they become unmanageable and costly.
- C.4.6 The Contractor shall provide the District with an independent assessment of the quality and appropriateness of the work performed the EFS and TMS Implementation Contractors, and the EFS and TMS Organizational Change Management (OCM) Contractors and the ARIBA Cloud

contractor -- including their work products/deliverables in accordance with the provisions of this statement of work.

- C.4.7 The Contractor shall aid in the early detection and recommend solutions/mitigations of problems, risks and issues associated with the project lifecycle activities. The focus is on assessing and managing risks and providing quality assurance throughout the entire lifecycles of the EFS, TMS and ARIBA Cloud projects.
- C.4.8 The Contractor shall provide independent weekly written reports as directed/necessary assessing the progress towards attainment of project objectives. The reports shall include: the risk areas, priorities, description, proposed mitigation, status update, risk types, and stakeholder impacts.
- C.4.9 The Contractor shall function independently from the Implementation Contractors and Organization Change Management (OCM) Contractors; however, the Contractor will have timely access to the Implementation teams' interim and final products, outputs and deliverables. The Contractor shall attend and monitor meetings and presentations regarding project status, planning, risk and issue management, system design/configuration, and deliverable walk-throughs.
- C.4.10 The Project Manager (PM) shall report to the Contracting Officer Technical Representative (COTR) and notify the COTR of any contractual, billing, or staffing issues regarding the contract. The Contractor shall report any issues or conflicts that occur with the Implementation Contractors, the OCM Contractors and/or District staff to the COTR and/or the Contracting Officer for resolution. The COTR and the Contracting Officer shall make any final determination on any conflicts between the Contractor, the Implementation Contractors, the OCM teams and/or District staff.
- C.4.11 The Contractor shall provide independent weekly written reviews and assessments of all project artifacts and deliverables created by the Implementation Contractors, Hosting/SaaS Providers, OCM Contractors and by District staff. These written reviews and assessments can include but are not limited to:
- a. Proposals
  - b. Program/project plans
  - c. Program/project schedules
  - d. Project Estimation and Scheduling
  - e. Project Staffing
  - f. Functional and Technical Requirements specifications
  - g. Requirements traceability matrices
  - h. Conversion test plans
  - i. System integration test plans
  - j. User acceptance test plans
  - k. Performance test plans
  - l. Load test plans
  - m. Cutover plans
  - n. Backup and Recovery plans
  - o. Test results
  - p. Test scripts and results

- q. Change management plan
- r. Risk and issue registers
- s. Risk analyses and mitigation plans
- t. Cost analyses and mitigation plans
- u. Schedule analyses and mitigation plans
- v. System design/configuration documentation
- w. Business Gap Analyses and mitigation plans
- x. System Security Plan
- y. System Test and Evaluation Results
- z. POA&M reports
- aa. Interface development, testing and implementation plans
- bb. Workflow
- cc. Configuration Control plans
- dd. Quality Assurance Plan
- ee. Communication plans
- ff. Data conversion/creation plan
- gg. Training Plan
- hh. User training and documentation
- ii. Third Party Agreements
- jj. Organizational Change Management plan and associated deliverables
- kk. Business Process Re-Engineering plan and associated deliverables
- ll. Any other processes, programs or issues as directed by the OCFO Director, Office of Contracts

C.4.12 Tasks shall include, but are not limited to, the following detailed activities and tasks typical of standard IV&V projects:

**a. Project Management**

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
PM1	Evaluate the project management plans and procedures to verify that they are developed, communicated, implemented, monitored and completed.	EFS, TMS and ARIBA Cloud
PM2	Initial evaluation of project reporting plan and actual project reports to verify project status is accurately traced using project metrics.	EFS, TMS and ARIBA Cloud
PM3	Verify milestones and completion dates are planned, monitored, and met.	EFS, TMS and ARIBA Cloud
PM4	Verify the existence and communication of an appropriate project issue tracking mechanism that documents issues as they arise, enables communication of issues to proper stakeholders, documents a mitigation strategy as appropriate, and tracks the issue to closure. This should include but is not limited to technical and development efforts.	EFS, TMS and ARIBA Cloud



***b. Risk Management***

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
RM1	Evaluate the project's risk management plans and procedures to verify that risks are identified and quantified and that mitigation plans are developed, communicated, implemented, monitored, and completed.	EFS, TMS and ARIBA Cloud
RM2	Interview stakeholders to identify additional risks and work with project team to identify risk mitigation strategy.	EFS, TMS and ARIBA Cloud
RM3	Develop and maintain an independent risk management log for each project of risks identified by IV&V not identified by the Implementation and/or OCM teams. Present the IV&V risk log at each Executive Steering Committee meeting, tracking progress made in mitigating the risks identified by IV&V, closing risks as they are remediated, and identifying residual risks that cannot be remediated.	EFS, TMS and Ariba Cloud

***c. Project Estimating and Scheduling***

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
PE1	Evaluate and make recommendations on the estimating and scheduling process of the project to ensure that the project budget and resources are adequate for the work breakdown structure and schedule.	EFS, TMS and ARIBA Cloud
PE2	Review schedules to verify that adequate time and resources are assigned for planning, development, review, testing and rework.	EFS, TMS and ARIBA Cloud

***d. Project Staffing***

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
PS1	Verify that the project's organizational structure supports training, process definition, independent Quality Assurance, Configuration Management, product evaluation, Change Management and any other functions critical for the project success.	EFS, TMS and ARIBA Cloud
PS2	Verify that the obligations of sub-contractors and external staff (terms, conditions, statement of work, requirements, standards, development milestones, acceptance criteria, delivery dates, etc.) are clearly defined.	EFS

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
PS3	Verify that the subcontractor has and maintains the required skills, personnel, plans, resources, procedures and standards to meet their commitment.	EFS
PS4	Verify that District oversight is provided in the form of periodic status reviews and technical interchanges by the appropriate stakeholders.	EFS, TMS and ARIBA Cloud
PS5	Verify that the District has defined the technical and managerial inputs the contractor(s) need (reviews, approvals, requirements and clarifications, etc.) and has the resources to supply them on schedule.	EFS, TMS and ARIBA Cloud
PS6	Verify that the appropriate staff has the ultimate responsibility for monitoring project cost and schedule across the whole program.	EFS, TMS and ARIBA Cloud

*e. Configuration Management*

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
CM1	Review and evaluate the configuration management (CM) plans and procedures associated with the development process.	EFS, TMS and ARIBA Cloud
CM2	Verify that all critical development documents, including but not limited to requirements, design, and code are maintained under an appropriate level of control.	EFS, TMS and ARIBA Cloud
CM3	If code development is required, verify that the processes and tools are in place to identify code versions and to rebuild system configurations from source code.	EFS, TMS and ARIBA Cloud
CM4	If code development is required, verify that appropriate source code is maintained for training, testing, and production and that formal sign-off procedures are in place for approving work products.	EFS, TMS and ARIBA Cloud
CM5	Verify that appropriate processes and tools are in place to manage system changes, including formal logging of change requests and the review, prioritization and timely scheduling of maintenance actions.	EFS, TMS and ARIBA Cloud
CM6	Verify that mechanisms are in place to prevent unauthorized changes being made to the system and to prevent authorized changes from being made to the wrong version.	EFS, TMS and ARIBA Cloud
CM7	Review the use of CM information (such as the number and type of corrective maintenance actions over time) in project management.	EFS, TMS and ARIBA Cloud

*f. Quality Assurance*

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
QA1	Evaluate and make recommendations on the project's Quality Assurance plans, procedures and organization.	EFS, TMS and ARIBA Cloud
QA2	Verify that the QA function has an appropriate level of independence from project management.	EFS, TMS and ARIBA Cloud
QA3	Verify that the QA function monitors the fidelity of all defined processes in all phases of the project.	EFS, TMS and ARIBA Cloud
QA4	Verify that the quality of all products produced by the project is monitored by formal reviews and sign-offs.	EFS, TMS and ARIBA Cloud
QA5	Verify that project self-evaluations are performed and that measures are continually taken to improve the process.	EFS, TMS and ARIBA Cloud
QA6	Monitor the performance of the QA function by reviewing its processes and reports and performing spot checks of system documentation; assess findings and performance of the processes and reports.	EFS, TMS and ARIBA Cloud
QA7	Verify that QA has an appropriate level of independence; evaluate and make recommendations on the project's Quality Assurance plans, procedures and organization.	EFS, TMS and ARIBA Cloud
QA8	Evaluate if appropriate mechanisms are in place for project self-evaluation, stakeholder feedback and process improvement.	EFS, TMS and ARIBA Cloud

*g. Project Quality Management: Process Definition and Technology Standards*

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
PD1	Review and make recommendations on all defined processes and product standards associated with the system development.	EFS, TMS and ARIBA Cloud
PD2	Verify that all major development processes are defined and that the defined and approved processes and standards are followed in development.	EFS, TMS and ARIBA Cloud
PD3	Verify that the processes and standards are compatible with each other and with the system development methodology.	EFS, TMS and ARIBA Cloud
PD4	Verify that all process definitions and standards are complete, clear, up-to-date, consistent in format, and easily available to project personnel.	EFS, TMS and ARIBA Cloud

***h. Organization Change Management***

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
OC1	Review and make recommendations on the change management project plan provided by contractors.	EFS, TMS and ARIBA Cloud
OC2	Evaluate and provide recommendation about the effectiveness of change management effort.	EFS, TMS and ARIBA Cloud
OC3	Review and provide feedback on Change Management Strategy and management Plan, stakeholder analysis report, change management assessment, communication strategy and plan and other documents created by contractors.	EFS, TMS and ARIBA Cloud
OC3	Review and provide feedback on Change Management Strategy and management Plan, stakeholder analysis report, change management assessment, communication strategy and plan and other documents created by contractors.	EFS, TMS and ARIBA Cloud
OC4	Review and provide feedback on lessons learned report developed during each wave of the project.	EFS, TMS and ARIBA Cloud
OC5	Review and provide feedback on Competency Framework, Job Impact Analysis report, effectiveness of Leadership action plan, and new Organization Structure to support new system.	EFS, TMS and ARIBA Cloud

***i. Training***

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
TR1	Review and make recommendations on the training provided to system users. Verify sufficient knowledge transfer for maintenance and operation of the new system.	EFS, TMS and ARIBA Cloud
TR2	Verify that training for users is instructor-led and hands-on and is directly related to the business process and required job skills.	EFS, TMS and ARIBA Cloud
TR3	Verify that user-friendly training materials and help desk services are easily available to all users.	EFS, TMS and ARIBA Cloud
TR4	Verify that all necessary policy and process and documentation are easily available to users.	EFS, TMS and ARIBA Cloud
TR5	Verify that all training is given on-time and is evaluated and monitored for effectiveness, with additional training provided, as needed.	EFS, TMS and ARIBA Cloud

**j. Requirements Management**

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
RQ1	Evaluate and make recommendations on the project's process and procedures for managing requirements.	EFS and TMS
RQ2	Verify that system requirements are well-defined, understood and documented.	EFS, TMS and ARIBA Cloud
RQ3	Evaluate the allocation of system requirements to hardware, security and software requirements.	EFS, TMS and ARIBA Cloud
RQ4	Verify that software requirements can be traced through design, code and test phases to verify that the system performs as intended and contains no unnecessary software elements.	EFS, TMS and ARIBA Cloud
RQ5	Verify that requirements are under formal configuration control.	EFS, TMS and ARIBA Cloud

**k. Security Requirements**

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
SR1	Evaluate and make recommendations on project policies and procedures for ensuring that the system is secure, and that the privacy of client data is maintained.	EFS, TMS and ARIBA Cloud
SR2	Evaluate the project's restrictions on system and data access.	EFS, TMS and ARIBA Cloud
SR3	Evaluate the project's security and risk analysis.	EFS, TMS and ARIBA Cloud
SR4	Verify that processes and equipment are in place to back up client and project data and files and archive them safely at appropriate intervals.	EFS, TMS and ARIBA Cloud

**l. Requirements Analysis**

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
RA1	Verify that an analysis of District's needs and objectives has been performed to verify that requirements of the system are well understood, well defined, and satisfy federal and state-local regulations.	EFS and TMS
RA2	Verify that stakeholders have been consulted to the desired functionality of the system, and that users have been involved in prototyping of the system.	EFS and TMS
RA3	Verify that stakeholders have bought-in to all changes which impact project objectives, cost, or schedule.	EFS and TMS
RA4	Verify that performance requirements (e.g. timing, response time and throughput) satisfy user needs.	EFS and TMS

*m. Interface Requirements*

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
IR1	Verify that system interfaces are exactly described, by function, including input/output data format and frequency.	EFS, TMS and ARIBA Cloud
IR2	Verify those approved interface documents are available and that appropriate relationships (such as interface working groups) are in place with all agencies and organizations supporting the interfaces.	EFS, TMS and ARIBA Cloud
IR3	Verify the critical interfaces between EFS and ARIBA Cloud are meeting the requirements of District	EFS and ARIBA Cloud

*n. Requirements Allocation and Specification*

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
RS1	Verify that all system requirements have been allocated to either a software or hardware subsystem.	EFS, TMS and ARIBA Cloud
RS2	Verify that requirements specifications have been developed for all hardware and software subsystems in a sufficient level of detail to ensure successful implementation.	EFS, TMS and ARIBA Cloud

*o. Operating Environment System Capacity*

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
OE1	Evaluate the existing processing capacity of the system and verify that new system will meet the needs for both batch, real time and on-line processing.	EFS, TMS and ARIBA Cloud
OE2	Evaluate the results of any volume testing or stress testing.	EFS, TMS and ARIBA Cloud

*p. Design Documentation*

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
DD1	Evaluate the design products for adherence to the project design methodology and standards.	EFS, TMS and ARIBA Cloud
DD2	Evaluate the design and analysis process used to develop the design and make recommendations for improvements. Evaluate design standards, methodology and tools used and make recommendations.	EFS, TMS and ARIBA Cloud

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
DD3	Verify that requirements listed in the design documents can be traced back to system requirements.	EFS, TMS and ARIBA Cloud
DD4	Evaluate the design and analysis process used to develop the design and make recommendations for improvements made.	EFS, TMS and ARIBA Cloud
DD5	Verify that all design products are under configuration control and formally approved.	EFS, TMS and ARIBA Cloud
DD6	Evaluate batch jobs for appropriate scheduling, timing and internal and external dependencies.	EFS, TMS and ARIBA Cloud

*q. Code Documentation*

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
CD1	Evaluate Code documentation quality, completeness and accessibility and make recommendation.	EFS, TMS and ARIBA Cloud
CD2	Evaluate the coding standards and guidelines and the projects compliance with these standards and guidelines and make recommendation.	EFS, TMS and ARIBA Cloud
CD3	Verify that developed code is kept under appropriate configuration control and is easily accessible by developers.	EFS, TMS and ARIBA Cloud
CD4	Evaluate the project's use of software metrics in management and quality assurance.	EFS, TMS and ARIBA Cloud

*r. Unit Testing*

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
UT1	Evaluate the plans, requirements, environment, tools, and procedures used for unit testing system modules.	EFS, TMS and ARIBA Cloud
UT2	Evaluate the level of test automation and provide recommendations.	EFS, TMS and ARIBA Cloud
UT3	Verify that the test process achieves an appropriate level of test coverage, that test results are verified, that the correct code configuration has been tested, and that the tests are appropriately documented.	EFS, TMS and ARIBA Cloud

*s. System Integration Testing*

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
SI1	Evaluate the plans, requirements, environment, tools, and procedures used for integration testing of system modules.	EFS, TMS and ARIBA Cloud

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
SI2	Evaluate the level of automation and the availability of the system test environment.	EFS, TMS and ARIBA Cloud
SI3	Verify that the test process achieves an appropriate level of test coverage, that test results are verified, that the correct code configuration has been tested, and that the tests are appropriately documented, including formal logging of errors found in testing.	EFS, TMS and ARIBA Cloud
SI4	Verify that the test organization has an appropriate level of independence from the development organization.	EFS, TMS and ARIBA Cloud
SI5	Evaluate project plans for each implementation to ensure that deliverables and critical paths are aligned to meet each project major deadlines and milestones.	EFS, TMS and ARIBA Cloud

*t. Interface Testing*

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
IT1	Evaluate interface testing plans and procedures for compliance with industry standards.	EFS, TMS and ARIBA Cloud

*u. Acceptance and Turnover*

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
AT1	Acceptance procedures and acceptance criteria for each product must be defined, reviewed, and approved prior to test and the results of the test must be documented. Acceptance procedures must also address the process by which any software product that does not pass acceptance testing will be corrected.	EFS, TMS and ARIBA Cloud
AT2	Verify that appropriate acceptance testing based on the defined acceptance criteria is performed satisfactorily before acceptance of software products.	EFS, TMS and ARIBA Cloud
AT3	Verify that the acceptance test organization has an appropriate level of independence from the contractor.	EFS, TMS and ARIBA Cloud
AT4	Verify that training in using the contractor-supplied software is on-going throughout the development process, especially if the software is to be turned over to the District's staff for operation.	EFS, TMS and ARIBA Cloud
AT5	Review and evaluate testing implementation plan.	EFS, TMS and ARIBA Cloud



v. *Data Conversion*

<b>Task #</b>	<b>Task Description</b>	<b>Program Requiring Service</b>
DC1	Evaluate the proposed plans, procedures and software for data conversion.	EFS, TMS and ARIBA Cloud
DC2	Verify that procedures are in place and are being followed to review the completed data for completeness and accuracy and to perform data cleanup as required.	EFS, TMS and ARIBA Cloud
DC3	Determine conversion error rates and if the error rates are manageable.	EFS, TMS and ARIBA Cloud
DC4	Provide recommendations on making the conversion process more efficient and on maintaining the integrity of data during the conversion.	EFS, TMS and ARIBA Cloud

- C.4.13 The Contractor shall review these work products for quality, accuracy, completeness, and adherence to contractual and functional/technical requirements. The written review shall identify schedule, cost and technical inconsistencies, errors, or other issues that may present a risk to the programs/projects and shall recommend acceptance or rejection of deliverables based upon the above criteria (*e.g.*, quality, accuracy, completeness, and adherence to requirements).
- C.4.14 The Contractor shall conduct IV&V on all aspects of the District's progress and the District's oversight and management of the Implementation and OCM Contractors.
- C.4.15 The Contractor shall conduct IV&V of deliverables provided by the Implementation and OCM Contractors and report findings per the requirements of the Scope of Work and established project schedule.
- C.4.16 The Contractor shall conduct IV&V in parallel with program activities and shall include independent evaluation to validate that the systems are likely to perform required business functions at the correct time in each project's life cycle.
- C.4.17 The Contractor shall establish and document in writing a set of IV&V guidelines that will be utilized to validate Implementation and OCM contractor(s) compliance with user, contract, program, and functional requirements. Additionally, deliverables shall be reviewed to ensure that they satisfy the standards, practices, and convention of the program "stage" and that they establish the proper basis for initiating next "stage" activities.
- C.4.18 The Contractor's reviews, assessments, recommendations, and actions shall be based on professional evaluations of lifecycle cost, best business practices, and applicable standards such as Control Objectives for Information and related Technology (COBIT) and PMI's Project Management Body of Knowledge (PMBOK).
- C.4.19 The Contractor shall review the program risk register and the risk management plan and provide an assessment to the COTR on at least a monthly basis; or as directed by the COTR.

Additionally, the Contractor shall review the risk management strategies developed by the District and Implementation and OCM Contractor(s) for risks with a medium to high probability of occurrence, or for risks with a high impact if realized and provide recommendations for mitigation.

## **C.5 PERSONNEL QUALIFICATIONS REQUIREMENTS**

### **C.5.1 Project Manager (PM)**

- C.5.1.1 The Contractor shall provide the project manager and all team members. Any change in the Contractor's staff shall be approved by the COTR.
- C.5.1.2 The Contractor shall provide a highly skilled experienced team of IV&V professionals to ensure effective IV&V processes and monitoring activities and appropriate staffing for administrative support of Contractor requirements including reporting, correspondence, record keeping, and personnel support. The key positions include the IV&V PM and Subject Matter Expert(s).
- C.5.1.3 The Contractor shall clearly specify who is the PM and who are the IV&V Subject Matter Experts.
- C.5.1.4 In addition, the following qualification is required of the PM:
- a. Knowledge of project management (including PMBOK and the SDLC PM methodology) and the creation and evaluation of complex, integrated project plans.
- C.5.1.5 The PM shall provide all formal reports to the EFS Steering Committee. This position is considered key personnel and, as such, shall be identified by name in the proposal. The PM shall be available during the District's normal working hours and shall respond within one hour of notification by the COTR regarding any areas affecting performance of the contract.
- C.5.1.6 In addition to the qualification cited in C.5.1.4 above, the PM shall meet the qualifications as required by the District listed below:
- Mandatory Minimum Qualifications:
1. At least five (5) years of demonstrated experience in providing leadership and oversight of quality assurance services for large scale, mission critical system development and deployment efforts. It is preferred that some (or all) of this experience pertain to a project with similar scope to the EFS Project or to providing IV&V services for an ERP financial and/or contracting system-- such as Oracle or SAP -- implementation in the Public Sector.
  2. Project Management Professional (PMP) Certification from the Project Management Institute (PMI) or equivalent Industry Certification.
- C.5.1.7 The PM shall manage and oversee all work efforts associated with the IV&V services requirements. This function includes a full range of management and administrative duties including but not limited to planning; scheduling; preparing reports; establishing and maintaining records; performing liaison role with OCM and Implementation Contractors; resolving complaints; and ensuring quality control. The PM shall establish management

processes that effectively support the completion of assigned work within established timelines. The Contractor shall provide appropriate staffing for administrative support of contractor requirements including reporting, correspondence, record keeping, personnel support.

### **C.5.2 Subject Matter Experts (SMEs)**

C.5.2.1 The IV&V SMEs shall possess the requisite skills, experiences, and certifications for the roles they are filling. The District requires the following qualifications of the SMEs:

- a. Be technologically qualified and knowledgeable in system requirements definition and analysis, system design, project management, change control, requirements management, test plan definition and execution, and performance measurement.
- b. Experience with best practices regarding quality, quality assurance, and quality control principles and techniques such as Six Sigma, CMM, CoBIT and/or ITIL.
- c. Possess exceptional interpersonal and communication skills and the ability to work effectively in a fast-paced, team-oriented environment.
- d. EFS Specific Requirements:
  - o Prior experience as a functional or technical implementation team member working with Oracle EBS Financial or Oracle Financials Cloud.
  - o Prior experience as a functional implementation team member working with Hyperion or Oracle Planning and Budgeting.
- e. TMS Specific Requirements:
  - o Prior experience as a functional implementation team member working with Treasury Management Systems such as Kyriba, FIS/Sungard, Reval, etc.,
- f. ARIBA Cloud Specific Requirements:
  - o Prior experience as a functional or technical implementation team member working with ARIBA or ARIBA Cloud.

### **C.6 DELIVERABLES**

C.6.1 The Contractor shall not later than thirty (30) days from the date of award meet with the COTR to establish a timeline for all deliverables.

- a. The Contractor shall submit a Comprehensive Work Plan listing the steps necessary to conform to the requirements stipulated in this Statement of Work.
- b. The Contractor shall submit an IV&V Management Plan, which includes the following:
  - Narrative of work products, expected formats, project lifecycle tools (*i.e.*, checklists) and content to be developed and delivered during the first two IV&V review cycles.
  - Communications plan, including required communications, meeting, and reporting requirements as well as additional communication, meetings, or reporting mechanisms

- the Contractor recommends to ensure effective collaboration among and/or between the Contractor, District, other contractors, and other relevant organizations.
- Project Schedule and Timeline that is derived from the approved Integrated Project Management Plan. The Contractor shall provide a preliminary work plan and timeline that addresses the scope areas and all associated components
  - IV&V Checklists and Tools: These are IV&V tools/checklists for elements to be reviewed, observed, monitored and commented on, regarding all aspects of industry standards for Project Management, Change Management, Software and Systems Development as per industry standards. These tools/checklists shall be developed and delivered on an ongoing basis, with the first being delivered and reviewed as part of the Initial Review of the management plan. All checklists shall be made available prior to any review being performed. As the Initial IV&V review is performed and results delivered, it is required that subsequent areas for review shall be adjusted based upon the priorities and output results. As such, checklists and such tools shall be delivered for review prior to the commencement of each IV&V Review period.
- c. Conduct Initial IV&V Review: The Initial IV&V review shall be conducted within twenty (20) calendar days from contract award. This review shall require the following items from the Contractor to be provided to District:
- Schedule of Review activities;
  - Interviews to be performed;
  - List of Project Documentation required to review;
  - List of Project Meetings, events to be attended and observed by the Contractor
- Based upon these project artifacts, meetings and events, the Contractor shall analyze materials, observations and draft an initial report.
- d. Develop Initial IV&V Review Report (Draft and Final): To be delivered, thirty (30) days from the commencement of the Initial IV&V review period. The District will review the Draft and provide comments to the Contractor for inclusion in the Final Report. Report format and content requirements shall include, but not be limited to, the following for each area reviewed:
- Current status of the process
  - Measurable progress in the process area
  - Standards being followed and/or recommended for use.
  - Quantifiable results/metrics whenever possible
  - Recommendations in each area specifying opportunities for improvement (short and long term) that take into consideration the unique constraints of the EFS program.
  - A critical component of this Initial Review shall be the identification of prioritized project tasks/activities for IV&V Reviews moving forward that will have the greatest impact on the overall success of the Program.
- e. Conduct Ongoing IV&V Reviews: Ongoing IV&V Reviews will be conducted monthly. It is expected that this Review will require the following items from the Contractor to be provided to District:
- Schedule of Review activities;
  - Interviews to be performed;
  - List of Project Documentation required to review;

- List of Project Meetings, events to be attended and observed by the Contractor;
  - Based upon these project artifacts, meetings and events, the Contractor shall analyze materials, observations and draft monthly IV&V Reports;
  - Note that monthly reviews may focus on a specific artifact, work process or product identified in the Initial Review Report. This may include specific observations to be made on the testing process (*i.e.*, inconsistencies or deficiencies identified during testing) and the provision of recommendations/prioritization for moving forward based upon industry best practices.
- f. Each Thursday, no later than close of business, the Contractor shall submit a Weekly Status Report to the COTR. Weekly status report that identifies Contractor personnel, work products, as well as availability of project team members, documentation and other such artifacts required for IV&V reviews.
- g. Prepare and Deliver Briefings of IV&V Results: Prepare and deliver project debriefing related to the latest IV&V Review Report's results (*i.e.*, Initial or monthly) to stakeholders as requested. Debriefing audiences are expected to be District Leads and the Executive Steering Committee.
- h. Not later than the last working day of each month, the Contractor shall submit a Status Report to each of the Executive Steering Committees covering any integration issues that impact any other project. Each report shall contain, at a minimum, the following:
- i. Project Schedule. The Contractor shall provide a monthly written assessment of the progress of the Project against planned tasks, duration, resources, completion dates, and milestones, and issues impacting the schedule as stated within the EFS Implementation contract. The Contractor may include recommendations specifying what can be done immediately versus long-term to remediate variations and deviations from schedule.
  - ii. Risk Assessment. The Contractor shall report on the identified risks to a successful EFS implementation and the potential level of severity of these risks. The Contractor shall recommend mitigation and/or resolution strategies to manage and/or eliminate the identified risks. If a risk is identified or if a risk probability or risk impact changes in mid-month, the Contractor shall communicate this fact to the Executive Steering Committee representative immediately after it is known.
  - iii. Project Phase Assessments. The Contractor shall provide an assessment of the activities and progress of the Project every quarter, and also at the completion of every major Milestone of the Project Life-Cycle (*e.g.*, completion of Requirements Definition, System Integration testing, or User Acceptance Testing). The Contractor shall provide recommendations as necessary, for addressing any issues relative to the successful completion of the Project phases; including detailed recommendations in each area of the Project phases specifying what can be done immediately and in the long-term for improvement in the identified area. These recommendations shall address the readiness of the Project to move to the next phase in the lifecycle.

- i. The Contractor shall establish and maintain "Project Binder(s)" which shall contain copies of project materials, minutes of meetings, and deliverables generated in this project both in hard copy and electronic format. The Project Binder shall be available for review by the Executive Steering Committee representative at any time and shall be delivered to the Executive Steering Committee(s) at the completion of the project. The Project Binder may be in electronic form with access as determined by the Executive Steering Committee(s).

**C.7 RESERVED**

**C.8 NON-DISCLOSURE AND NON-COMPETE REQUIREMENTS**

Prior to the start of work, the Contractor's Staff and Subcontractors shall sign the OCFO Non-Disclosure Agreement covering all information obtained during the IV&V project. Disclosure of information relating to the services in this RFP to any person not entitled to receive it is not authorized. Neither the Contractor nor any of its employees shall disclose or cause to be disseminated any information covered under the Privacy Act (*e.g.*, home addresses, social security numbers, or personal telephone numbers of personnel) to which the Contractor may have access.

**C.9 LOCATION OF PERFORMANCE**

The Contractor shall provide the services identified in this RFP at any District location as appropriate.

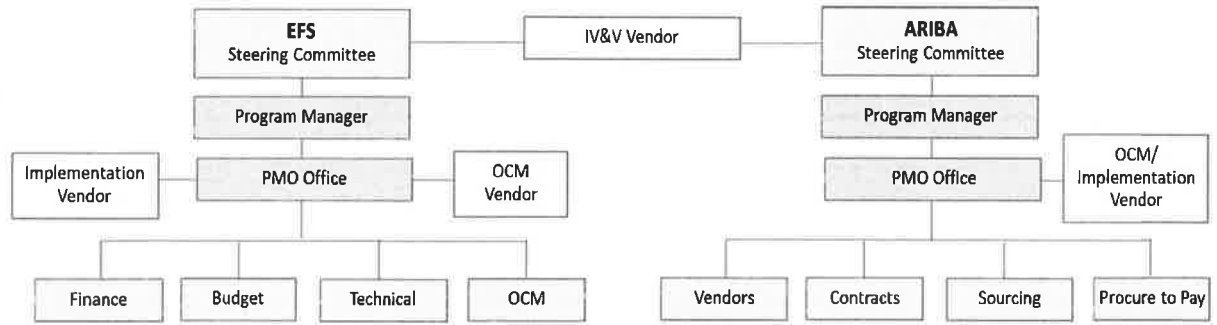
**C.10 DISTRICT PROVIDED RESOURCES**

The District will provide the following resources:

- a. Adequate workspace
- b. Telephone service with voice mail
- c. Internet access
- d. Workstations for on-site Contractor personnel
- e. Day-to-day operating supplies

**C.11 ANTICIPATED PROJECT TEAM ORGANIZATION**

- C.11.1 The following chart provides a high-level governance and anticipated organizational structure for the District IV&V Project Team.



- C.11.2 The District will follow standard project management principles to secure executive sponsorship, system setup and configuration decisions, to-be business process approval, and to ensure effective planning of project activities and utilization of resources.
- C.11.3 The Program Sponsor will be responsible for executive communications on project- related matters, providing executive input to the Steering Committee, and setting the high-level strategy for the project. The Program Sponsor will negotiate and determine the availability of District project resources as required.
- C.11.4 The Steering Committee members will be responsible for communications on project- related matters, providing input to the Project Management Office, disseminating project information within their organizations, and advocating for the implementation of approved standardized business processes and data across all agencies and departments. The Steering Committee will forward to the Contracting Officer any requests to approve all significant modifications to designed business processes and other significant changes to the system as delivered.

**C. 12 KEY PROJECT ASSUMPTIONS**

The following are key project assumptions:

- a. The EFS, TMS and ARIBA Cloud projects are a high priority of the District with corresponding commitment and support by all levels of management to include allocation of available resources and timely consensus and deadline-based decisions.
- b. The District is committed to updating its business processes and expects to use Oracle’s delivered Business Processes as the starting point for business process workshop activities for the EFS Project; the SaaS delivered Business Processes for TMS; and the SAP delivered Business Processes for Ariba Cloud.
- c. Strong project governance standards will be applied equitably and fairly in a manner that ensures the opportunity for input by all District stakeholders.
- d. The District will establish a project management team with appropriate levels of experience and authority.
- e. The District will establish senior project leadership with the authority to make timely policy-level decisions to meet project needs and deadlines.
- f. There will be District FTEs and Contractor leads for each major functional/process areas and technical area identified within the project team organization.
- g. The District will assign fully (100%) dedicated staff to critical roles on these projects.

- h. The District will commit sufficiently skilled District staff resources to the Projects as reflected in the agreed upon work plans and staffing plans.
- i. The District can reach agreement on critical decisions such as business process configuration and whether gaps in functionality can be addressed through means other than software extensions.
- j. The existing legacy systems at the District-wide level will continue to operate as required throughout the deployment period.

*[End of Section C]*



**SECTION D****PACKAGING AND MARKING****D.1 PACKAGING**

All reports and deliverables that are in “hard copy” and physically transported through the U.S. mail or private courier services are to be securely packaged using the Contractor’s best practices.

**D.2 MARKING**

- D.2.1 Unless otherwise specified herein, all reports and deliverables delivered under this contract must be plainly marked, stating the Contractor’s name, contract number and addressed to the recipient, including the name of the office or floor, and the recipient’s office telephone number as noted in the contract.
- D.2.2 In case of carload lots, the Contractor shall tag the car, stating Contractor’s name and contract number. Any failure to comply with these instructions will place the material at the Contractor’s risk.
- D.2.3 Deliveries by rail, water, truck or otherwise, must be within the working hours and in ample time to allow for unloading and if necessary, the storing of the materials or supplies before closing time. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the contact person identified in the contract at the delivery point.

*[End of Section D]*

**SECTION E****INSPECTION, ACCEPTANCE AND WARRANTY OF SERVICES****E.1 INSPECTION**

E.1.1 All supplies and services provided by the Contractor under this contract shall be subject to inspection by the Contracting Officer's Technical Representative ("COTR") identified in Section G.1 (b).

**E.1.2 Inspection of Supplies**

- (a) **Definition.** "Supplies," as used in this clause, includes, but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.
- (b) The Contractor shall be responsible for the materials or supplies covered by this contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notification of rejection. Upon the Contractor's failure to cure within ten (10) days after date of notification, the District may return the rejected materials or supplies to the Contractor at the Contractor's risk and expense.
- (c) The Contractor shall provide and maintain an inspection system acceptable to the District covering supplies under this contract and shall tender to the District for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the District during contract performance and for as long afterwards as the contract requires. The District may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under this contract.
- (d) The District has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The District will perform inspections and tests in a manner that will not unduly delay the work. The District assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in the contract.
- (e) If the District performs inspection or test on the premises of the Contractor or subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the District will bear the expense of District inspections or tests made at other than Contractor's or subcontractor's premises; provided, that in case of rejection, the District will not be liable for any reduction in the value of inspection or test samples.
  - (1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.

- (2) Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes re-inspection or retest.
- (f) The District has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or otherwise not in conformity with contract requirements. The District may reject nonconforming supplies with or without disposition instructions.
  - (g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and when required, shall disclose the corrective action taken.
  - (h) If the Contractor fails to remove, replace, or correct rejected supplies that are required to be replaced or corrected within ten (10) days, the District may either (1) by contract or otherwise, remove, replace or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.
  - (i) If this contract provides for the performance of District quality assurance at source, and if requested by the District, the Contractor shall furnish advance notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract, and (ii) when the supplies will be ready for District inspection.
  - (j) The District request shall specify the period and method of the advance notification and the District representative to whom it shall be furnished. Requests shall not require more than 2 business days of advance notification if the District representative is in residence in the Contractor's plant, nor more than 7 business days in other instances.
  - (k) The District will accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. District failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability upon the District, for non-conforming supplies.
  - (l) Inspections and tests by the District do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.
  - (m) If acceptance is not conclusive for any of the reasons in subparagraph (l) hereof, the District, in addition to any other rights and remedies provided by law, or under provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or noncompliance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the

Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the District will have the right to return the rejected materials at Contractor's risk and expense or contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the District thereby.

### E.1.3 Inspection of Services

- (a) Definition. "Services" as used in this clause includes services performed, workmanship, and material furnished or utilized in the performance of services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the District covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the District during contract performance and for as long afterwards as the contract requires.
- (c) The District has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The District will perform inspections and tests in a manner that will not unduly delay the work.
- (d) If the District performs inspections or tests on the premises of the Contractor or subcontractor, the Contractor shall furnish, without additional charge, all reasonable facilities and assistance for the safety and convenient performance of these duties.
- (e) If any of the services do not conform to the contract requirements, the District may require the Contractor to perform these services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by performance, the District may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect value of services performed. If the Contractor fails to promptly perform the services again or take the necessary action to ensure future performance in conformity to contract requirements, the District may (1) by contract or otherwise, perform the services and charge the Contractor any cost incurred by the District that is directly related to the performance of such services, or (2) terminate the contract for default.

## E.2 ACCEPTANCE

Acceptance of all products and services provided under this contract shall be performed by the COTR. Acceptance means approval by the COTR of specific services as partial or complete performance of the contract.

## E.3 WARRANTY OF SERVICES

E.3.1 The time period for this warranty provision is the life of the contract plus all active options and extensions.

E.3.2 Warranty Provision:

- (a) Notwithstanding inspection and acceptance by the District or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Contracting Officer shall give written

notice of any defect or nonconformance to the Contractor within 30 days from the date of discovery. This notice shall state either:

- (1) That the Contractor shall correct or re-perform any defective or nonconforming services; or
  - (2) That the District does not require correction or reperformance.
- (b) If the Contractor is required to correct or reperform, it shall be at no cost to the District, and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the District thereby, or make an equitable adjustment in the contract price.
- (c) If the District does not require correction or reperformance, the Contracting Officer shall make an equitable adjustment in the contract price.

*[End of Section E]*

**SECTION F****PERIOD OF PERFORMANCE AND DELIVERABLES****F.1 TERM OF CONTRACT**

The term of the contract shall be for a period of one year from the Contract Effective Date.

**F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT**

F.2.1 The District may extend the term of this contract for a period of six (6) one-year option periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the District will give the Contractor preliminary written notice of its intent to extend before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option.

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

F.2.3 The price for the option period shall be as specified in the Section B of the contract.

**F.3 DELIVERABLES**

F.3.1 The Contractor shall perform the activities required to successfully complete the District's requirements and submit each deliverable to the COTR identified in Section G in accordance with Section C.

F.3.2 The Contractor shall submit to the District, as a deliverable, the report described in Section I.31 that is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement. If the Contractor does not submit the report as part of the deliverables, final payment to the Contractor shall not be paid pursuant to Section G.6.

*[End of Section F]*

**SECTION G****CONTRACT ADMINISTRATION****G.1 CONTRACT ADMINISTRATORS****(a) Contracting Officer**

- i. The Contracting Officer (or "CO") for this contract is:

Anthony A. Stover, CPPO  
Contracting Officer  
1100 4<sup>th</sup> St. SW Suite E620  
Washington, DC 20024  
Telephone: (202) 442-7122  
Fax: 202-442-6454  
E-mail address: [Anthony.stover@dc.gov](mailto:Anthony.stover@dc.gov)

- ii. The Contracting Officer is the only official authorized to legally bind the District and make changes to the requirements, terms and conditions of this contract. Only the Contracting Officer can increase, decrease, extend or terminate this contract. All other changes are unauthorized.
- iii. The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the Contracting Officer.
- iv. In the event the 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.

**(b) Contracting Officer Technical Representative (COTR)**

- i. The COTR for this contract is:

James Snight  
Director, ERP Systems Group  
1101 4th St. S.W. W350 Washington, DC 20024  
(202) 442-6268  
[James.Snight@dc.gov](mailto:James.Snight@dc.gov)

- ii. The COTR is responsible for general administration of the contract and advising the Contracting Officer as to the Contractor's compliance or noncompliance with the contract. The COTR has the responsibility of ensuring the work conforms to the requirements of the contract and such other responsibilities and authorities as may be specified in the contract. These include:

- a. Keeping the Contracting Officer fully informed of any technical or contractual difficulties encountered during the performance period and advising the Contracting Officer of any potential problem areas under the contract;
  - b. Coordinating site entry for Contractor personnel, if applicable;
  - c. Reviewing invoices for completed work and recommending approval by the Contracting Officer if the Contractor's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;
  - d. Reviewing and approving invoices for deliverables to ensure receipt of goods and services.
  - e. Timely processing of invoices and vouchers in accordance with the District's payment provisions; and
  - f. Maintaining a file that includes all contract correspondence, modifications, records of inspections and invoice or vouchers.
- iii. The COTR does NOT have the authority to:
- a. Award, agree to, or sign any contract, delivery order or task order. Only the Contracting Officer shall make contractual agreements, commitments or modifications;
  - b. Grant deviations from or waive any of the terms and conditions of the contract;
  - c. Increase the dollar limit of the contract or authorize work beyond the dollar limit of the contract;
  - d. Authorize the expenditure of funds by the Contractor;
  - e. Change the period of performance; or
  - f. Authorize the use of District property, except as specified under the contract.
- iv. The Contractor will be 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.2 INVOICE PAYMENT**

- G.2.1 The District will make payments to the Contractor, upon the submission of proper invoices, at the prices stipulated in this contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.



G.2.2 The District will pay the Contractor on or before the 30<sup>th</sup> day after receiving a proper invoice from the Contractor. The District reserves the right to conduct post payment reviews or audits.

G.2.3 Unless otherwise specified in this contract, and with presentation of a properly executed invoice:

- a) Payment will be made on completion and acceptance of each item for which the price is stated in the Pricing Schedule in Section B,
- b) Payment will be made on completion and acceptance of each percentage or milestone of work in accordance with the prices stated in the Pricing Schedule in Section B, or
- c) Payment may be made on partial deliveries of goods and services accepted by the District if the Contractor requests it and the amount due on the deliveries warrants it as determined by the District.

### **G.3 INVOICE SUBMITTAL**

G.3.1 The Contractor shall create and submit payment requests in an electronic format through the DC Vendor Portal, <https://vendorportal.dc.gov>.

G.3.2 The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in Section G.4.

G.3.3 To constitute a proper invoice, the Contractor shall enter all required information into the Portal after selecting the applicable purchase order number which is listed on the Contractor's profile.

### **G.4 THE QUICK PAYMENT ACT**

#### **G.4.1 Interest Penalties to Contractors**

G.4.1.1 The District will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code § 2-221.01 *et seq.*, as amended, 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 at least 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 required payment date. The required payment date shall be:

- a. The date on which payment is due under the terms of this contract;
- b. Not later than 7 calendar days, excluding legal holidays, after the date of delivery of meat or meat food products;
- c. Not later than 10 calendar days, excluding legal holidays, after the date of delivery of a perishable agricultural commodity; or
- d. 30 calendar days, excluding legal holidays, after receipt of a proper invoice for the amount of the payment due.

G.4.1.2 No interest penalty shall be due to the Contractor if payment for the completed delivery of goods or services is made on or before:

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

G.4.1.3 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

#### **G.4.2 Payments to Subcontractors**

G.4.2.1 The Contractor shall take one of the following actions within seven (7) days of receipt of any amount paid to the Contractor by the District for work performed by any subcontractor under the contract:

- a. Pay the subcontractor(s) for the proportionate share of the total payment received from the District that is attributable to the subcontractor(s) for work performed under the contract; or
- b. Notify the CO and the subcontractor(s), in writing, of the Contractor's intention to withhold all or part of the subcontractor's payment and state the reason for the nonpayment.

G.4.2.2 The Contractor shall pay subcontractors or suppliers 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 at least 1% per month. No interest penalty shall be paid on the following if payment for the completed delivery of the item of property or service is made on or before the:

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

G.4.2.3 Any amount of an interest penalty which remains unpaid by the Contractor at the end of any 30-day period shall be added to the principal amount of the debt to the subcontractor and thereafter interest penalties shall accrue on the added amount.

G.4.2.4 A dispute between the Contractor and subcontractor relating to the amounts or entitlement of a subcontractor to a payment or a late payment interest penalty under the Quick Payment Act does not constitute a dispute to which the District is a party. The District may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

**G.4.3 Subcontract requirements**

- G.4.3.1 The Contractor shall include in each subcontract under this contract a provision requiring the subcontractor to include in its contract with any lower-tier subcontractor or supplier the payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code § 2-221.02(d).
- G.4.3.2 The Contractor shall include in each subcontract under this contract a provision that obligates the Contractor, at the election of the subcontractor, to participate in negotiation or mediation as an alternative to administrative or judicial resolution of a dispute between them.

**G.5 ASSIGNMENT OF CONTRACT PAYMENTS**

- G. 5.1 The Contractor may assign funds due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution.
- G.5.2 Any assignment shall cover all unpaid amounts payable under this contract and shall not be made to more than one party.
- G.5.3 Notwithstanding an assignment of contract payments, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

*"Pursuant to the instrument of assignment dated \_\_\_\_\_, make payment of this invoice to (name and address of assignee)."*

**G.6 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT**

- G.6.1 For contracts subject to the 51% District Residents New Hires Requirement and First Source Employment Agreement, final requests for payment shall be accompanied by the report or a waiver of compliance pursuant to Section I.31.
- G.6.2 No final payment shall be made to the Contractor until the CFO has received the Contracting Officer's final determination or approval of waiver of the Contractor's compliance with 51% District Residents New Hires Requirement and First Source Employment Agreement requirements.

*[End of Section G]*

**SECTION H****SPECIAL CONTRACT REQUIREMENTS****H.1 STAFFING**

The Contractor shall not employ or permit the employment of any unfit or unqualified person or persons not skilled in the tasks assigned to them by the contractor. The Contractor shall at all times employ sufficient labor to carry out functions and services in the manner and time prescribed by the Contract. The Contractor shall be responsible to the District for all acts and omissions of the Contractor's employees, agents and subcontractors and the Contractor shall enforce strict discipline among the Contractor's employees, agents and subcontractors performing the services under the Contract. Any person employed by the Contractor shall, at the written request of the District, and within the District's sole discretion, be removed immediately by the Contractor from work relating to the Contract.

**H.2 SUBCONTRACTS**

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior, written consent of the Contracting Officer in consultation with the COTR. 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, including any work conducted by a subcontractor.

**H.3 CERTIFIED BUSINESS ENTERPRISE SUBCONTRACTING REQUIREMENTS**

H.3.1 Beneficiaries of all non-construction contracts for government-assisted projects in excess of \$250,000, unless a waiver has been approved by the Director of the Department of Small and Local Business Development in accordance with D.C. Code §2-218.51, are required to:

- (a) Subcontract at least 35% of the dollar volume to small business enterprises, as defined in D.C. Code §2-218.32; or
- (b) If there are insufficient qualified small business enterprises to completely fulfill the requirement set forth in H.3.1(a), then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any qualified certified business enterprises, as defined in D.C. Code §§2-218.31-39a; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.
- (c) For each government-assisted project for which a certified business enterprise is utilized to meet the subcontracting requirements set forth above in H.3.1(a) or H.3.1(b), the certified business enterprise shall perform at least 35% of the contracting effort with its own organization and resources.
- (d) Beneficiaries certified as a small business enterprise, local business enterprise, or disadvantaged business enterprise shall not have to comply with Sections H.3.1(a) or H.3.1(b).

## H.3.2

- (a) For each government-assisted project for which a certified business enterprise is selected as a Beneficiary and is granted points or a price reduction pursuant to D.C. Code §2-218.43 or is selected through a set-aside program, the certified business enterprise shall perform at least 35% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracted effort shall be with certified business enterprises.
- (b) For each government-assisted project for which a certified joint venture is selected as a Beneficiary and is granted points or a price reduction pursuant to D.C. Code §2-218.43 or is selected through a set-aside program, the certified business enterprise shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracted effort shall be with certified business enterprises.
- (c) For each government-assisted project of \$1 million or less for which a certified business enterprise is selected as a Beneficiary and is granted points or a price reduction pursuant to D.C. Code §2-218.43 or is selected through a set-aside program, the certified business enterprise shall perform at least 50% of the on-site work with its own workforce.

H.3.3 Bids or proposals responding to a solicitation, including an open market solicitation, shall be deemed nonresponsive and shall be rejected if a subcontracting plan is required by law and the Beneficiary fails to submit a subcontracting plan as part of its bid or proposal. The subcontracting plan required shall be provided before the District accepts the submission of the bid or proposal.

H.3.4 A Beneficiary's subcontracting plan shall specify all of the following:

- (a) The name and address of the subcontractor;
- (b) A current certification number of the small or certified business enterprise;
- (c) The scope of work to be performed by the subcontractor; and
- (d) The price to be paid by the Beneficiary to the subcontractor.

H.3.5 No Beneficiary shall be allowed to amend the subcontracting plan filed as part of its bid or proposal except with the consent of the Director of the Department of Small and Local Business Development. Any reduction in the dollar volume of the subcontracted portion resulting from such amendment of the plan shall inure to the benefit of the District.

H.3.6 No multiyear contracts or extended contracts, which are not in compliance with D.C. Code §2-218.46 or this Section H.3 at the time of the contemplated exercise of the option or extension, shall be renewed or extended, and any such option or extension shall be void.

H.3.7 A Beneficiary shall submit within 15 days of contract award, to the Contracting Officer, project manager, District of Columbia Auditor and the Director of the Department of Small and Local Business Development (at [compliance.enforcement@dc.gov](mailto:compliance.enforcement@dc.gov)) copies of the executed contracts with the subcontracts identified in the subcontracting plan. Failure to submit copies of the executed contracts shall render the underlying contract voidable by the District.

H.3.8 The Beneficiary shall provide written notice to the Department of Small and Local Business Development and District of Columbia Auditor upon the initiation and completion of a project.

H.3.9 Within 15 days after the end of each quarter, the Beneficiary shall provide a quarterly report to the Department of Small and Local Business Development (at [compliance.enforcement@dc.gov](mailto:compliance.enforcement@dc.gov)), the Contracting Officer, project manager and the District of Columbia Auditor which shall include a list of each subcontractor identified in the subcontracting plan and for each subcontract:

- (a) The price to be paid by the contractor to the subcontractor;
- (b) A description of the goods procured or the services contracted for;
- (c) The amount paid by the contractor to the subcontractor under the subcontract; and
- (d) A copy of the fully executed subcontract, if it was not provided in a prior quarterly report. If not included, the Beneficiary shall not receive credit toward the subcontracting requirements of this section for that subcontract.

The Beneficiary shall go to <https://dslbd.dc.gov> . Scroll down to SBE Forms under the section 'Stay in Compliance' . Click on that link & select 'District Agency Compliance' in order to access the DSLBD forms for beneficiaries to use for reporting requirements. The Beneficiary may further contact DSLBD at (202) 727-3900 for instructions on SBE Forms.

H.3.10 The Beneficiary shall meet on an annual basis with the Department of Small and Local Business Development, the Contracting Officer, project manager and the District of Columbia Auditor to provide an update of the subcontracting plan for utilization of small business enterprises and certified business enterprises. The Department of Small and Local Business development shall provide the Beneficiary with a 30-day written notice of the meeting.

H.3.11 A Beneficiary and/or certified business enterprise subject to this section, that fails to meet the requirements of this section shall be subject to penalties set forth in D.C. Code §2-218.63.

H.3.12 Waiver of Subcontracting Requirements

- (a) The Director of the Department of Small and Local Business Development may waive the subcontracting requirements only if there is insufficient market capacity for the goods and services that comprise the project and such lack of capacity leaves the contractor commercially incapable of achieving the subcontracting requirements.
- (b) Prior to submission of bids or proposals, the Beneficiary may request a waiver of the subcontracting requirements by timely filing a written request with to the point of contact on Page 1 of this solicitation, to the attention of the Contracting Officer detailing the reasons justifying a waiver, including the Beneficiary's efforts to secure involvement by Certified Business Enterprises. The Contracting Officer will, in turn, use the Beneficiary's information to submit a waiver request to the Director of the Department of Small and Local Business Development.
- (c) The Contracting Officer will provide written notice of the waiver determination to the Beneficiary prior to the acceptance of bids or proposals and upon a decision of the waiver by the Director of the Department of Small and Local Business Development.

- (d) The Beneficiary should provide the following information in its waiver request to the Contracting Officer to demonstrate the Beneficiary's good faith efforts to secure involvement by a Certified Business Enterprise:
- i. Whether the Beneficiary advertised in general circulation, trade association, or other media outlets concerning the subcontracting opportunity;
  - ii. Whether the Beneficiary provided written notice to a reasonable number of certified business enterprises that their interest in the subcontracting opportunity was being solicited;
  - iii. Whether the Beneficiary conducted any pre-solicitation or pre-bid conferences to inform certified business enterprises of the subcontracting opportunity;
  - iv. Whether the Beneficiary provided sufficient time to allow certified business enterprises to participate effectively in its efforts to secure involvement by a certified business enterprise;
  - v. Whether the Beneficiary followed up responses of interest by conducting negotiations with certified business enterprises;
  - vi. Whether rejections by the Beneficiary of certified business enterprises as being unqualified were based on sound reasoning and thorough investigation of their capabilities;
  - vii. Whether the Beneficiary made efforts to assist interested certified business enterprises in obtaining bonding, lines of credit, or insurance required by the Beneficiary;
  - viii. Whether the Beneficiary effectively used the services of the Department of Small and Local Business Development, (202) 727-3900 and <http://dslbd.dc.gov>, in recruiting qualified certified business enterprises; and
  - ix. Whether bids submitted by certified business enterprises were excessive or noncompetitive based upon a review of prevailing market conditions.
- (e) While the information described in (d) above will assist the Director of the Department of Small and Local Business Development in reviewing the waiver request, it does not guarantee that a waiver will, in fact, be approved. Additional factors may be considered, and additional information may be requested from the Beneficiary to support the waiver request.

H.3.13 In addition to the information provided by the Beneficiary, the Contracting Officer will include the following information in its written request for a waiver:

- (a) The number of certified business enterprises, if any, qualified to perform the elements of the work that comprise the project;
- (b) A summary of the market research or outreach conducted to analyze the relevant market; and
- (c) The consideration given to alternate methods for acquiring the work to be subcontracted in order to make the work more amenable to being performed by certified business enterprises.

H.3.14 For purposes of this Section H.3, the term:

- (a) "Beneficiary" means a business enterprise that is the prime contractor or developer on a government-assisted project.

(b) "Government-assisted project" means:

- i. A contract executed by an agency on behalf of the District or pursuant to statutory authority that involves District funds or, to the extent not prohibited by federal law, funds that the District administers in accordance with a federal grant or otherwise;
- ii. A project funded in whole or in part by District funds;
- iii. A project that receives a loan or grant from a District agency;
- iv. A project that receives bonds or notes or the proceeds thereof issued by a District agency, including tax increment financing or payment in lieu of tax bonds and notes, or industrial revenue bonds;
- v. A project that receives District tax exemptions or abatements that are specific to the project and not to the nature of the entity undertaking the project, such as a religious institution or nonprofit corporation; or
- vi. A development project conducted pursuant to a disposition under section 1 of An Act Authorizing the sale of certain real estate in the District of Columbia no longer required for public purposes, approved August 5, 1939 (53 Stat. 1211; D.C. Official Code § 10-801).

H.3.15 Notwithstanding the requirements set forth in this Section H.3, a Beneficiary, and any other certified business enterprise subject to this section, shall fully comply with the requirements set forth in D.C. Code §§ 2-218.46, 2-218.51. If there is a conflict between the requirements set forth in this Section H.3 and D.C. Code §§ 2-218.46, 2-218.51, the requirements set forth in D.C. Code §§ 2-218.46, 2-218.51 shall govern.

#### **H.4 WARRANTIES**

- H.4.1 The Contractor warrants and agrees that it is lawfully organized and constituted under all federal, state and local laws, ordinances and other authorities of its domicile and is otherwise in full compliance with all legal requirements of its domicile.
- H.4.2 The Contractor warrants and agrees that it is of legal authority and capacity to enter into and perform under the Contract, and that it has the financial ability to perform its obligations under such Contract.
- H.4.3 The Contractor warrants and agrees that it has been duly authorized to operate and do business in all places where it will be required to do business under the Contract that it has obtained or will obtain all necessary licenses and permits required in connection with such Contract; and that it will fully comply with all laws, decrees, labor standards and regulations of its domicile and wherever performance occurs during the term of such Contract.
- H.4.4 The Contractor warrants and agrees that it has no present interest and shall not acquire any interest which would conflict in any manner with its duties and obligations under the Contract.



- H.4.5 The Contractor warrants and agrees that all systems analysis, systems design and programming pursuant to the Contract or for use in its performance there under has been and shall be prepared or done in a high quality, professional and competent manner using only qualified personnel.
- H.4.6 The Contractor further represents and warrants that all programs implemented in its performance under the contract shall meet the performance standards required there under and shall correctly and accurately perform their intended functions on the equipment supplied by the District or Contractor.
- H.4.7 The Contractor warrants and agrees that all services provided by it under the Contract shall be performed in a prompt, high quality, professional and competent manner using only qualified personnel.
- H.4.8 The Contractor warrants and agrees that it will not take any action inconsistent with any of the terms, conditions, agreements, or covenants set forth in this Contract without the express written consent of the District.
- H.4.9 The Contractor warrants and agrees that it shall keep all equipment in good condition and repair and shall not permit anything to be done that may materially impair the value thereof. The Contractor shall use such equipment only in the ordinary course of its performance under the Contract and shall not permit such equipment to be used in violation of any applicable law, regulation or policy of insurance. The Contractor agrees to develop a maintenance and replacement schedule subject to approval by the District and agrees to comply with that schedule.
- H.4.10 The Contractor warrants and agrees that it shall not sell, assign, lease, transfer, pledge, hypothecate, or otherwise dispose of any component of any goods, system proposed in the Contract or any interest therein, or permit any of it to become a fixture or accession to other goods or property without the prior written consent of the District.

#### **H.5 DISCLOSURE OF LITIGATION**

The Contractor shall provide complete disclosure of any material civil or criminal litigation or indictment either threatened or pending involving the Contractor. The Contractor shall also disclose any material litigation threatened or pending for subcontractors, consultants, and/or lobbyists. For purposes of this section, material refers to any action or pending action that a reasonable person knowledgeable in the industry would consider relevant or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the industry and its operations. This is a continuing disclosure requirement; any litigation commencing after submission of a response to a solicitation or execution of a contract shall be disclosed in a written statement within fifteen (15) days of its occurrence. The Contractor shall be required to file with the District comprehensive monthly reports regarding all threatened or pending litigation involving the Contractor's District of Columbia operations and all threatened or pending litigation that may be considered material to the overall operations of the Contractor.

**H.6 CONTINUITY OF SERVICES**

The Contractor recognizes that the services provided under this contract are vital to the District of Columbia and must be continued without interruption and that, upon contract expiration or termination, a successor, either the District Government or another Contractor, at the District's option, may continue to provide these services. If another Contractor is awarded a future contract for performance of the required services, the original Contractor shall cooperate fully with the District and the new Contractor in any transition activities that the Contracting Officer deems necessary during the term of the contract. To that end, the Contractor agrees to exercise its best efforts and cooperation to affect an orderly and efficient transition to a successor.

**H.7 BACKGROUND INVESTIGATIONS AND OTHER INTEGRITY REQUIREMENTS**

- H.7.1 The District may initiate investigations into the backgrounds of any of the Contractor's officers, principals, investors, owners, employees, vendors, subcontractors, or subcontractors' officers, principals, owners, employees or vendors, or any other associates of the Contractor(s) it deems appropriate. Such background investigations may include the completion of certain documents, and fingerprint identification by appropriate law enforcement agencies.
- H.7.2 The Contractor agrees that, during the term of the Contract and any renewal thereof, it shall be obligated to provide such information about its officers, directors, employees and owners, as well as all information about its subcontractors' officers, directors, employees and owners, as the District may prescribe. The Contractor also agrees that the District may conduct background investigations of such persons.
- H.7.3 The District may also require that contractors (1) fully cooperate with official inquiries by responding to questions truthfully and under oath when required, whether orally or in writing, (2) provide documents and other information of official interest, and (3) attend integrity training.

**H.8 KEY PERSONNEL**

- H.8.1 The key personnel specified in the contract are considered to be essential to the work being performed hereunder.
- H.8.2 The substitution of key personnel during the evaluation period, prior to award, is prohibited. Substitutions of any kind, post proposal due date, but prior to award, is considered to be the equivalent of an alternate proposal and is prohibited.
- H.8.3 The Contractor shall make no substitutions of key personnel unless the substitution is directed by the Contracting Officer (District) necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer and the Executive Steering Committee FS SC representative(s) immediately after the occurrence of any of these events. In the event any one of the Key Personnel becomes incapacitated, or ceases to be employed by the Contractor and therefore becomes unable to perform the functions or responsibilities assigned to him or her, the Contractor shall (i) notify the District immediately upon becoming aware of a need to replace a resource, (ii) within five business days, temporarily replace such person with another person properly qualified to perform the functions of such replaced person, and (iii) within twenty (20) business days, permanently replace such replaced person with

another person approved by the District and properly qualified to perform the functions of such replaced person. The Contractor shall assign all key personnel identified in this section to complete all their planned and assigned responsibilities in connection with performance of the obligations of the Contractor under this contract. The unauthorized removal of key personnel by the Contractor may be considered by the District as a material breach of contract. Resumes shall be submitted to the Contracting Officer for review by the District. The Contractor shall supply comparable qualified individuals to perform the work. All key personnel shall be approved by the District prior to making any permanent substitutions. The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. The contract will be modified to reflect any District approved changes of key personnel.

H.8.4 The following Contractor roles shall be considered Key Personnel:

1. Project Manager
2. EFS Functional Specialist/Lead
3. TMS Functional Specialist/Lead
4. Ariba Cloud Functional Specialist/Lead

H.8.5 The Contractor shall ensure that persons assigned to the Key Personnel roles remain on the project as Key Personnel.

H.8.6 The District shall have the right to approve the assignment and replacement by the Contractor of non-key personnel assigned to provide services, including, without limitation, individuals named or described in the Contractor's proposal, and individuals as mutually agreed by the parties. Before assigning an individual to any of these positions, the Contractor shall notify the District of the proposed assignment, shall introduce the individual to the COTR, and shall provide to the District a resume and any other information about the individual reasonably requested by the District. The District reserves the right to interview the individual before granting approval. Whenever possible, the Contractor shall ensure that there is proper handoff of duties and knowledge from the previously assigned personnel to any proposed replacement personnel including transition plans and adequate time spent on site by the newly assigned personnel with the Project Team and Contractor resources to minimize any project set-backs or disruption.

## H.9 ADVISORY AND ASSISTANCE SERVICES

This contract is a "non-personal services contract". The Contractor and the Contractor's employees: (1) shall perform the services specified herein as independent contractors, not as employees of the government; (2) shall be responsible for their own management and administration of the work required and bear sole responsibility for complying with any and all technical, schedule, financial requirements or constraints attendant to the performance of this contract; (3) shall be free from supervision or control by any government employee with respect to the manner or method of performance of the service specified; but (4) shall, pursuant to the government's right and obligation to inspect, accept or reject work, comply with such general direction of the CO, or the duly authorized representative of the CO as is necessary to ensure accomplishment of the contract objectives.

**H.10 PERFORMANCE ISSUE MITIGATION**

- H.10.1 At any time during the contract period of performance, should the performance of any Contractor Personnel be unsatisfactory as determined by the COTR, the Contracting Officer will pursue the following mitigation procedures prior to requesting a replacement employee:
- A) The COTR shall document performance issues and give written notice to the Contracting Officer and the Contractor, clearly describing problems and delineating remediation requirement(s).
  - B) The Contractor shall respond to the COTR and the Contracting Officer with a written remediation plan within three (3) business days and implement the plan immediately upon written acceptance by the COTR.
  - C) Should performance issues persist, the Contracting Officer may give written notice or request the immediate removal of person(s) whose performance is at issue and determine whether a substitution is required.
- H.10.2 The District reserves the right to require the Contractor to replace Contractor and/or subcontractor employees whom the District judges to be contrary to the best interests of the District. If mitigation is unsuccessful, the District will issue a written request from the Contracting Officer and the Contractor shall be required to proceed with the replacement. The replacement request will include the desired replacement date and the reason for the request. The Contractor shall use its best efforts to conduct the replacement in a manner that does not degrade service quality. This provision will not be deemed to give the District the right to require the Contractor to terminate any Contractor employee's employment. Rather, this provision is intended to give the District only the right to require that the Contractor discontinue using an employee in the performance of services for the District.

*[End of Section H]*

**SECTION I****CONTRACT CLAUSES****I.1 LAWS AND REGULATIONS INCORPORATED BY REFERENCE**

To the extent applicable, the provisions of the following acts, together with the provisions of applicable regulations made pursuant to said acts are hereby incorporated by reference into this contract; together with the laws and regulations of the District of Columbia:

- A. Contract Work Standards Act of August 13, 1962, also known as the Contract Work Hours and Safety Standards Act of 1962, 76 Stat. 357-360.
- B. Buy American Act, Act of March 3, 1983, c.212, Title III, 47 Stat. 1520, as amended.
- C. Walsh-Healy Public Contracts Act, Act of June 30, 1936, c.881, 49 Stat. 2036, as amended. (Applies only when contract is \$10,000 or more).
- D. Mayor's Order 85-85, dated June 10, 1985, as amended, entitled: "Compliance with Equal Opportunity Obligations in Contracts."
- E. Public Law 93-112, Rehabilitation Act of 1973, Section 504, as amended.
- F. Mayor's Order 83-265, dated November 9, 1983 entitled: Employment Agreement Goals and Objectives for all District of Columbia Projects."
- G. D.C. Law 5-93, dated May 9, 1984, the First Source Employment Agreement Act of 1984.
- H. Protecting Pregnant Workers Fairness Act of 2016, D.C. Official Code § 32-1231.01 et seq. (PPWF Act)
- I. Unemployed Anti-Discrimination Act of 2012, D.C. Official Code § 32-1361 et seq.
- J. Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-152)
- K. Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 et seq.), as amended, ("Living Wage Act of 2006") which applies to all contracts for services in the amount \$100,000 or more in a 12-month period. The current living wage rate, the Living Wage Act Fact Sheet which includes exemption information, and the Living Wage Act Poster may be found at <http://does.dc.gov/service/wage-and-hour-compliance> or contact the Department of Employment Services at (202) 724-7000.

**I.2 WAIVER**

The waiver of any breach of the contract will not constitute a waiver of any subsequent breach thereof, or a waiver of the contract.

**I.3 INDEMNIFICATION**

- I.3.1 The Contractor agrees to defend, indemnify and hold harmless the District, its officers, agencies, departments, agents, and employees (collectively the “District”) from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorneys’ fees), resulting from, arising out of, or in any way connected to activities or work performed by the Contractor, Contractor’s officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor in performance of this Contract. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed in performance of this Contract. The Contractor shall also repair or replace any District property that is damaged by the Contractor, Contractor’s officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor while performing work hereunder.
- I.3.2 The indemnification obligation under this section shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor and shall survive the termination of this Contract. The District agrees to give Contractor written notice of any claim of indemnity under this section. Additionally, Contractor shall have the right and sole authority to control the defense or settlement of such claim, provided that no contribution or action by the District is required in connection with the settlement. Monies due or to become due the Contractor under the contract may be retained by the District as necessary to satisfy any outstanding claim which the District may have against the Contractor.

**I.4 TRANSFER**

No contract or any interest therein shall be transferred by the parties to whom the award is made; such transfer will be null and void and will be cause to annul the contract.

**I.5 TAXES**

- (a) The Government of the District of Columbia is exempt from and will not pay Federal Excise Tax, Transportation Tax, and the District of Columbia Sales and Use Taxes.
- (b) Tax exemption certificates are no longer issued by the District for Federal Excise Tax. The following statement may be used by the supplier when claiming tax deductions for Federal Excise Tax exempt items sold to the District.

“The District of Columbia Government is Exempt from Federal Excise Tax –  
Registration No. 52-73-0206-K, Internal Revenue Service, Baltimore, Maryland.”

Exempt from Maryland Sales Tax, Registered with The Comptroller of The Treasury –  
Exemption No. 09339

“The District of Columbia Government is Exempt from Sales and Use Tax –  
Registration No. 53-600, The District of Columbia Office of Tax and Revenue.”

**I.6 OFFICIALS NOT TO BENEFIT**

- I.6.1 Unless a determination is made as provided herein, no officer or employee of the District will be admitted to any share or part of this contract or to any benefit that may arise therefrom, and any contract made by the Contracting Officer or any District employee authorized to execute contracts in which they or an employee of the District will be personally interested shall be void, and no payment shall be made thereon by the District or any officer thereof, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit. A District employee shall not be a party to a contract with the District and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the procuring agency that there is a compelling reason for contracting with the employee, such as when the District's needs cannot reasonably otherwise be met. (Procurement Practices Reform Act of 2010, D.C. Law 18-0371, D.C. Official Code, section 2-359.10, and Chapter 18 of the DC Personnel Regulations)
- I.6.2 The 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. The Contractor further covenants not to employ any person having such known interests in the performance of the contract.

**I.7 DISPUTES**

All disputes arising under or relating to this contract shall be resolved as provided herein.

- (a) **Claims by a Contractor against the District:** Claim, as used in paragraph (a) of this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.
- (1) All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the Contracting Officer for a decision. The Contractor's claim shall contain at least the following:
    - (i) A description of the claim and the amount in dispute;
    - (ii) Data or other information in support of the claim;
    - (iii) A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and
    - (iv) The Contractor's request for relief or other action by the Contracting Officer.
  - (2) The Contracting Officer may meet with the Contractor in a further attempt to resolve the claim by agreement.
  - (3) The Contracting Officer shall issue a decision on any claim within 120 calendar days after receipt of the claim. Whenever possible, the CO shall take into

account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.

- (4) The Contracting Officer's written decision shall do the following:
    - (i) Provide a description of the claim or dispute;
    - (ii) Refer to the pertinent contract terms;
    - (iii) State the factual areas of agreement and disagreement;
    - (iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
    - (v) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
    - (vi) Indicate that the written document is the contracting officer's final decision; and
    - (vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
  - (5) Failure by the Contracting Officer to issue a decision on a contract claim within 120 days of receipt of the claim will be deemed to be a denial of the claim, and will authorize the commencement of an appeal to the Contract Appeals Board as authorized by D.C. Official Code § 2-360.04.
  - (6) If a Contractor is unable to support any part of his or her claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Contractor's claim. Liability this paragraph (a)(6) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.
  - (7) Pending final decision of an appeal, action, or final settlement, a Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.
- (b) **Claims by the District against a Contractor:** Claim as used in paragraph (b) of this clause, means a written demand or written assertion by the District seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to this contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.
- (1) The Contracting Officer shall decide all claims by the District against a Contractor arising under or relating to a contract.
  - (2) The Contracting Officer shall send written notice of the claim to the Contractor. The Contracting Officer's written decision shall do the following:



- (i) Provide a description of the claim or dispute;
  - (ii) Refer to the pertinent contract terms;
  - (iii) State the factual areas of agreement and disagreement;
  - (iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
  - (v) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
  - (vi) Indicate that the written document is the Contracting Officer's final decision; and
  - (vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- (3) The Contracting Officer shall support the decision by reasons and shall inform the Contractor of its rights as provided herein.
  - (4) Before or after issuing the decision, the CO may meet with the Contractor to attempt to resolve the claim by agreement.
  - (5) The authority contained in this paragraph (b) shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle, or determine.
  - (6) This paragraph shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.
- (c) Decisions of the Contracting Officer shall be final and not subject to review unless an administrative appeal or action for judicial review is timely commenced by the Contractor as authorized by D.C. Official Code §2-360.04.
  - (d) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

## **I.8 CHANGES**

- (a) The CO may, at any time, by written order, and without notice to the surety, if any, make changes in the contract within the general scope hereof. If such change causes an increase or decrease in the cost of performance of the contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment for a change within the general scope must be asserted within ten (10) days from the date the change is ordered; provided, however, that the CO, if he or she determines that the facts justify such action, may receive, consider, and adjust any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in **Section I.7 Disputes**.

- (b) The District shall not require the Contractor, and the Contractor shall not require a subcontractor, to undertake any work that is beyond the original scope of the contract or subcontract, including work under a District-issued change order, when the additional work increases the contract price beyond the not-to-exceed price or negotiated maximum price of the contract, unless the CO:
- (1) Agrees with the Contractor, and if applicable the subcontractor, on a price for the additional work;
  - (2) Obtains a certification of funding to pay for the additional work;
  - (3) Makes a written, binding commitment with the Contractor to pay for the additional work within thirty (30) days after the Contractor submits a proper invoice; and
  - (4) Provides the Contractor with written notice of the funding certification.
- (c) The Contractor shall include in its subcontracts a clause that requires the Contractor to:
- (1) Within five (5) business days of its receipt of notice of the approved additional funding, provide the subcontractor with notice of the amount to be paid to the subcontractor for the additional work to be performed by the subcontractor;
  - (2) Pay the subcontractor any undisputed amount to which the subcontractor is entitled for the additional work within ten (10) days of receipt of payment from the District; and
  - (3) Notify the subcontractor and CO in writing of the reason(s) the Contractor withholds any payment from a subcontractor for the additional work.
- (d) Neither the District, Contractor, nor any subcontractor may declare another party to be in default, or assess, claim, or pursue damages for delays until the parties agree on a price for the additional work.

## **I.9 TERMINATION FOR DEFAULT**

- A. The District may, subject to the provisions of paragraph C., below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances: (i) If the Contractor fails to make delivery of the supplies or to perform the services within the time specified within the project work plan or any extension thereof; or (ii) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.
- B. In the event the District terminates this contract in whole or part as provided in paragraph A. above, the District may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or service similar to those so terminated; and the Contractor shall be liable to the District for any excess costs for similar supplies or services. Provided, that the Contractor shall continue the performance of this contract to the extent not terminated under provisions of this clause. The Contractor shall work with any subsequent contractor to ensure a smooth transfer of information for a period of sixty (60) days.

- C. Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the contractor. Such causes may include, but are not restricted to, acts of God or of public enemy, acts of the District or Federal Government in either their sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of the subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess cost for failure to perform, unless the supplies or services to be furnished by the contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.
- D. If this contract is terminated as provided in paragraph A., above, the District in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the District, in the manner and to the extent directed by the Contracting Officer, (i) completed supplies, (ii) such partially completed supplies and materials, information, and contract rights (herein after called "manufacturing materials") as the Contractor has specifically produced or specifically produced or specifically acquired for the performance being terminated; and the Contractor, shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the District has an interest. Payment for completed supplies delivered to and accepted by the District shall be at the contract price. Payment for manufacturing materials delivered to and agreed upon by the Contractor and Contracting Officer; failure to agree to such amount shall be a dispute concerning a question of fact. The District may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sums as the Contracting Office determines to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders.
- E. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provision of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for a termination for convenience be the same as if the notice of termination had been issued pursuant to such clause. Section I.10 "Termination for Convenience."
- F. The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any rights and remedies provided by law or under this contract.
- G. As used in paragraph C., above, the terms "subcontractor" and "subcontractors" means subcontractor(s) at any tier.

#### **I.10 TERMINATION FOR CONVENIENCE**

- (a) The District may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the District's

interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and effective date.

- (b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
- (1) Stop work as specified in the notice.
  - (2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
  - (3) Terminate all contracts to the extent they relate to the work terminated.
  - (4) Assign to the District, as directed by the Contracting Officer, all rights, title and interest of the Contractor under the subcontracts terminated, in which case the District will have the right to settle or pay any termination settlement proposal arising out of those terminations.
  - (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts. The approval or ratification will be final for purposes of this clause.
  - (6) As directed by the Contracting Officer, transfer title and deliver to the District (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other materials produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract has been completed, would be required to be furnished to the District.
  - (7) Complete performance of the work not terminated.
  - (8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the District has or may acquire an interest.
  - (9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the District under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.
- (c) After the expiration of ninety (90) days (or such longer period as may be agreed to) after receipt by the Contracting Officer of acceptable inventory schedules, the Contractor may

submit to the Contracting Officer a list, certified as to quantity and quality of termination inventory not previously disposed of excluding items authorized for disposition by the Contracting Officer. The Contractor may request the District to remove those items or enter into an agreement for their storage. Within fifteen (15) days, the District will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within forty-five (45) days from submission of the list, and shall correct the list, as necessary, before final settlement.

- (d) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this one-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after one year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due to the Contractor because of the termination and shall pay the amount determined.
- (e) Subject to paragraph (d) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) below, exclusive of costs shown in subparagraph (f)(3) below, may not exceed the total contract price as reduced by (1) the amount of payment previously made and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (f) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.
- (f) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (e) above:
  - (1) The contract price for completed supplies or services accepted by the District (or sold or acquired under subparagraph (b)(9) above) not previously paid for, adjusted for any saving of freight and other charges.
  - (2) The total of:
    - (i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (f)(1) above;
    - (ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (f)(1) above; and

- (iii) A sum, as profit on subparagraph f(1) above, determined by the Contracting Officer to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subparagraph (iii) and shall reduce the settlement to reflect the indicated rate of loss.
- (3) The reasonable cost of settlement of the work terminated, including-
  - (i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
  - (ii) The termination and settlement of subcontractors (excluding the amounts of such settlements); and
  - (iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.
- (g) Except for normal spoilage, and except to the extent that the District expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f) above, the fair value as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the District or to a buyer.
- (h) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraphs (d), (f) or (j), except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) or (j), and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (d), (f) or (j), the District will pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.
- (i) In arriving at the amount due the Contractor under this clause, there shall be deducted:
  - (1) All unliquidated advances or other payments to the Contractor under the termination portion of the contract;
  - (2) Any claim which the District has against the Contractor under this contract; and
  - (3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the District.
- (j) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within ninety (90) days from the effective date of termination unless extended in writing by the Contracting Officer.

- (k) (1) The District may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor shall be entitled.
- (2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the District upon demand together with interest computed at the rate of 10 percent (10%) per year. Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess payment is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.
- (l) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the District, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, micrographs, or other authentic reproductions may be maintained instead of original records and documents.

#### **I.11 TERMINATION OF CONTRACTS FOR CERTAIN CRIMES AND VIOLATIONS**

- A. The District may terminate without liability any contract and may deduct from the contract price or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid in violation of this title if:
- (1) the Contractor has been convicted of a crime arising out of or in connection with the procurement of any work to be done or any payment made under this contract.
- (2) There has been any breach or violation of:
- (A) Any provision of the District of Columbia Procurement Practices Reform Act of 2010, (D.C. Law 18-371; D.C. Official Code §§ 2-351.01, et seq., or
- (B) The contract provision against contingent fees.
- B. If a contract is terminated pursuant to this section, the Contractor: (i) May be paid only the actual costs of the work performed to the date of termination, plus termination costs, if any; and (ii) shall refund all profits or fixed fees realized under the contract.
- C. The rights and remedies contained in this Clause are in addition to any other rights or remedies provided by law, and the exercise of any of them is not a waiver of any other right or remedy provided by law.

**I.12 EXAMINATION OF THE BOOKS**

- I.12.1 The Contractor shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the District under the contract that results from this solicitation. The Contractor shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of three (3) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of three (3) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract. The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the Contracting Officer.
- I.12.2 The Contracting Officer, the DC Inspector General, OCFO, and the District of Columbia Auditor, and/or any of their duly authorized representatives shall, until three years after final payment, have the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to the contract.

**I.13 NON-DISCRIMINATION CLAUSE**

- (a) The Contractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human Rights Act, approved December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code §2-1402.11) (2001 Ed.) ("Act" as used in this Section). The Contractor shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, Contractor agrees and any subcontractor shall agree to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause as provided in Section 251 of the Act.
- (b) Pursuant to rules of the Office of Human Rights, published on August 15, 1986 in the D.C. Register, Mayor's Order 2002-175 (10/23/02), 49 DCR 9883 and Mayor's Order 2006-151 (11/17/06), 52 DCR 9351, the following clauses apply to this contract:
- (1) The Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act.
  - (2) The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression,



familial status, family responsibilities, disability, matriculation, political affiliation, genetic information, source of income, or place of residence or business.

The affirmative action shall include, but not be limited to the following:

- (a) employment, upgrading or transfer;
  - (b) recruitment or recruitment advertising;
  - (c) demotion, layoff, or termination;
  - (d) rates of pay, or other forms of compensation; and
  - (e) selection for training and apprenticeship.
- (3) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Agency, setting forth the provisions in subsections (b)(1) and (b)(2) concerning non-discrimination and affirmative action.
  - (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in subsection (b)(2).
  - (5) The Contractor agrees to send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of that contractor's commitments under this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - (6) The Contractor agrees to permit access to his books, records and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of Human Rights or designee, for purposes of investigation to ascertain compliance with this chapter, and to require under the terms of any subcontractor agreement each subcontractor to permit access of such subcontractor's books, records, and accounts for such purposes.
  - (7) The Contractor agrees to comply with the provisions of this chapter and with all guidelines for equal employment opportunity applicable in the District of Columbia adopted by the Director of the Office of Human Rights, or any authorized official.
  - (8) The Contractor shall include in every subcontract the equal opportunity clauses, subsections (b)(1) through (b)(9) of this section, so that such provisions shall be binding upon each subcontractor or vendor.
  - (9) The Contractor shall take such action with respect to any subcontract as the Contracting Officer may direct as a means of enforcing these provisions, including

sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or Contractor as a result of such direction by the Contracting Officer, the Contractor may request the District to enter into such litigation to protect the interest of the District.

#### **I.14 SERVICE CONTRACT ACT OF 1965**

##### Definitions:

“Act”, as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351- 358). “Contractor” as used in this clause, means the prime Contractor or any subcontractor at any tier. “Service employee” as used in this clause, means any person (other than a person employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR 541) engaged in performing a Government contract nor exempted under 41 U.S.C. 356, the principal purpose of which is to furnish services in the United States as defined in section 22.1001 of the Federal Acquisition Regulation. It includes all such persons regardless of the actual or alleged contractual relationship between them and a contractor.

- A. **Applicability.** To the extent that the Act applies, this contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29CFR 4). All interpretations of the Act in Subpart C of 29 CFR 4 are incorporated in this contract by reference. This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C, 29 CFR 4.
- B. **Compensation:** (i) The Contractor shall pay not less than the minimum wage and shall furnish fringe benefits to each service employee under this contract in accordance with wages and benefits determined by the Secretary of Labor or the Secretary’s authorized representative, as specified in any attachments to this contract; (ii) If there is an attachment, the Contractor shall classify any class of service employees not listed in it, but to be employed under this contract. The classification shall provide a reasonable relationship to those listed in the attachment. The Contractor shall pay that class wages and fringe benefits determined by agreement of the interested parties: The contracting agency, the Contractor, and the employees who will perform the contract or their representatives. If the interested parties do not agree, the Contracting Officer shall submit the question, with a recommendation for final determination to the Office of Government Contract Wage Standards, Wage and Hour Division Employment Standards Administration (ESA), and the Department of Labor. Failure to pay such employees the compensation agreed upon by the interested parties or finally determined by ESA is a contract violation. (iii) If the term of this contract is more than one (1) year, the minimum wages and fringe benefits required for service employees under this contract shall be subject to adjustment after 1 year and not less often than once every two (2) years under wage determinations issued by ESA.
- C. **Minimum Wage.** In the absence of a minimum wage attachment for this contract, the Contractor shall not pay any service or other employees performing this contract less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206). Nothing in this clause shall relieve the Contractor of any other legal or contractual obligations to pay a higher wage to any employee.

- D. Successor Contracts.** If this contract succeeds a contract subject to the Act under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then, in the absence of a minimum wage attachment to this contract, the Contractor may not pay any service employee performing this contract less than the wages and benefits, including those accrued and any prospective increases, provided for under that agreement. No Contractor may be relieved of this obligation unless the limitations of 29 CFR 4.1c (b) apply or unless the Secretary of Labor or the Secretary's authorized representative - (i) Determines that the agreement under the predecessor was not the result of arms-length negotiations, or (ii) Finds, after a hearing under 29 CFR 4.10, that the wages and benefits provided for by that agreement vary substantially from those prevailing for similar services in the locality.
- E. Notification to Employees.** The Contractor shall notify each service employee commencing work on this contract of the minimum wage and any fringe benefits required to be paid, or shall post a notice of these wages and benefits in a prominent and accessible place at the work site, using such poster as may be provided by the Department of Labor.
- F. Safe and sanitary working conditions.** The Contractor shall not permit services called for by this contract to be performed in building or surroundings or under working conditions provided by or under the control or supervision of the Contractor that are unsanitary, hazardous, or dangerous to the health or safety of service employees. The Contractor shall comply with the health standards applied under 29 CFR Part 1925.
- G. Records.** The Contractor shall maintain for three (3) years from the completion of the work, and make available for inspection and transcription by authorized ESA representatives, a record of the following:
- (i) For each employee subject to the Act –
    - (a) Name and address;
    - (b) Work classification or classifications, rate or rates of wages and fringe benefits provided;
    - (c) Rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;
    - (d) Daily and weekly hours worked; and
    - (e) Any deductions, rebates, or refunds from total daily and weekly compensation.
  - (ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by ESA under the terms of paragraph (B)(iii) of this clause. A copy of the report required by paragraph (D) of this clause will fulfill this requirement.

- H. Withholding of Payments and Termination of Contract:** The Contracting Officer shall withhold from the prime contractor under this or any other government contract with the prime contractor any sums the Contracting Officer, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of this clause may be grounds for termination for default.
- I. Contractor's Report:** (i) If there is a wage determination attachment to this contract and any classes of service employees not listed on it are to be employed under the contract, the Contractor shall report promptly to the Contracting Officer the wages to be paid and the fringe benefits to be provided each of these classes, when determined under paragraph C. of this clause. (ii) If wages to be paid or fringe benefits to be furnished any service employee(s) under the contract are covered in collective bargaining agreement effective at any time when the contract is being performed, the prime Contractor shall provide to the Contracting Officer a copy of the agreement and full information on the application and accrual of wages and benefits (including any prospective increases) to service employees working on the contract. The prime Contractor shall report when contract performance begins, in the case of agreements then in effect, and shall report subsequently effective agreements, provisions, or amendments promptly after they are negotiated.
- J. Variations, tolerances, and exemptions involving employment:** Notwithstanding any of the provisions in this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions authorized by the Secretary of Labor: (i) In accordance with regulations issued under Section 14, of the Fair Labor Standards Act of 1938 by the Administrator of the Wage and Hour Division, ESA(29 CFR 520, 521, 524 and 525), apprentices, student learners, and workers whose earning capacity is impaired by age or by physical or mental deficiency or injury, may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act, without diminishing any fringe benefits or payments in lieu of these benefits required under section 2(a)(2) of the Act. (ii) The Administrator will issue certificates under the Act for employing apprentices, and student learners, disabled persons, or disabled clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of minimum wages, but without changing requirements concerning fringe benefits for supplementary cash payments in lieu of these benefits; (iii) The Administrator may also withdraw, annul, or cancel such certificates under 29 CFR 525 and 528; and (iv) an employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips credited by the employer against the minimum wage required by section 2(a)(1) of the Act or section 2(b)(1) of the Act, in accordance with regulations in 29 CFR 531. However, the amount of credit shall not exceed 40 percent of the minimum rate specified in section 6(a) (1) of the Fair Labor Standards Act of 1938, as amended.

#### **I.15 RECOVERY OF DEBTS OWED THE DISTRICT**

The Contractor hereby agrees that the District may use all or any portion of any consideration or refund due the Contractor under the present contract to satisfy in whole or part, any debt due the District.

**I.16 NON-DISCLOSURE AGREEMENT**

- A. The Contractor shall maintain as confidential, and shall not disclose to third parties without the District's prior written consent, any District information including, but not limited to, the District's business activities, practices, systems, conditions, products, services, public information and education plans and related materials, and game and marketing plans.
- B. The 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.
- C. No information regarding the Contractor's performance of the contract shall be disclosed by the Contractor to anyone other than District Government officials unless written approval is obtained in advance from the Contracting Officer.
- D. The District shall ensure that its personnel do not disclose to any non-District person or organization information concerning the process the Contractor uses to provide services under the awarded contract.

**I.17 GOVERNMENT PROPERTY**

Contractor use of Government property shall be governed by Chapter 41 of Title 27 of the D.C. Municipal Regulations.

**I.18 RIGHTS IN DATA****A. Ownership of Deliverables:**

- (a) Subject to payment of fees specified in the applicable SOW, the Contractor grants to the District ownership of any Deliverable originally created for and submitted to the District under this Contract. The Contractor shall retain sole and exclusive ownership of the Contractor's tools, methodologies, questionnaires, responses, and proprietary research and data generated in the course of performing the consulting services, together with all intellectual property rights therein (collectively, the "Contractor Materials"). The Contractor grants to the District a perpetual, non-exclusive, royalty-free license to use and to disclose during the course of its internal business operations any Contractor Materials embodied in a Deliverable. The District may share the Deliverables with (i) its outside auditors and/or accountants, (ii) third parties who have signed appropriate confidentiality agreements with Client who are engaged by Client to review or implement suggestions or to further research the issues contained in the Deliverables, and (iii) the public, governmental or regulatory bodies as required by law. The license granted herein as also subject to the following:
- b) Except as provisioned in Sections H.4.4 and I.6.2 of the Contract, nothing else contained in this Contract shall preclude the Contractor from rendering services to others or developing work products that are competitive with, or functionally

comparable to, the consulting services performed. The Contractor shall not be restricted in its use of ideas, concepts, know-how, data and techniques acquired or learned in the course of performing the consulting services, provided that the Contractor shall not use or disclose any of the District's confidential information, as defined below.

- c) With respect to benchmarking Services performed by the Contractor (if any), the District acknowledges that (i) the contents of the Benchmarking Report (as defined by the Contract) and other deliverables are based upon information that is proprietary to the Contractor and contained in the Contractor's proprietary database, (ii) the contents of the database belong to the Contractor solely, (iii) the District's data may become part of the database, (iv) the Contractor will code any presentation of the District's data to preserve the District's anonymity, and (v) the database may be used by the Contractor in future consulting and benchmarking engagements. The Contractor shall not disclose any of the District's confidential information.
- d) The District shall retain its rights in any proprietary material that the District supplies to the Contractor. If the District provides the Contractor with materials owned or controlled by the District or with use of, or access to, such materials, the District grants to the Contractor all rights and licenses that are necessary for the Contractor to fulfill its obligations under the Contractor.

## **B. Indemnification and Limitation of Liability**

The Contractor shall indemnify and save and hold harmless the District, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this contract, or (ii) based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.

### **I.19 PATENTS**

The Contractor shall hold and save the District, its officers, agents, servants and employees harmless from liability of any nature or kind, including costs, expenses, for or on account of any patented or unpatented invention, article, process, or appliance, manufactured or use in the performance of this contract, including their use by the District, unless otherwise specifically stipulated in this contract.

### **I.20 RESERVED**

### **I.21 APPROPRIATION OF FUNDS**

The District's liability under this contract is contingent upon the future availability of appropriated monies with which to make payment for the contract purposes. The legal liability on the part of the District for payment of any money shall not arise unless and until such monies shall have been provided. The District's obligation to pay under this contract is subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1351; (ii) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08

(2001); (iii) D.C. Official Code § 47-105 (2001); and (iv) D.C. Official Code § 1-204.46 (2001), as the foregoing statutes may be amended from time to time. Any expenditures under the contract in excess of the encumbered budget authority are subject to appropriation or additional budget authority.

**I.22 MULTIYEAR CONTRACT**

If funds are not appropriated or otherwise made available for the continued performance in a subsequent year of a multiyear contract, the contract for the subsequent year shall be terminated, either automatically or in accordance with the termination clause of this contract. Unless otherwise provided for in this contract, the effect of termination is to discharge both the District and the Contractor from future performance of the Contract, but not from their existing obligations. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred, but not amortized in the price of the supplies or services delivered under the Contract.

**I.23 RESERVED**

**I.24 CONTRACTS IN EXCESS OF \$1 MILLION DOLLARS**

Any contract in excess of one million dollars (\$1,000,000) within a 12-month period shall not be binding or give rise to any claim or demand against the District unless first approved by the Council of the District of Columbia and signed by the Contracting Officer.

**I.25 CONTRACTS THAT CROSS FISCAL YEARS**

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

**I.26 RESERVED**

**I.27 AMERICANS WITH DISABILITIES ACT OF 1990 ("ADA")**

During the performance of the contract, the Contractor and any of its subcontractors shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. § 12101 et seq.

**I.28 FREEDOM OF INFORMATION ACT ("FOIA")**

The District of Columbia's Freedom of Information Act, at D.C. Official Code § 2-532 (a)(3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the COTR designated in subsection G.1 who will provide the request to the FOIA Officer for the agency with programmatic responsibility in accordance with the D.C. Freedom of Information Act. If the agency with programmatic responsibility receives a request for a record maintained by the Contractor pursuant to the contract, the COTR will forward a copy to the Contractor. In either event, the 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 the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code § 2-532 and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

## **I.29 RESERVED**

## **I.30 INSURANCE**

A. **GENERAL REQUIREMENTS.** The Contractor shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A-VIII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein.

All required liability policies shall include the Government of the District of Columbia as an additional insured and shall contain a waiver of subrogation.

If the Contractor and/or its subcontractors maintain broader coverage and/or higher limits than the minimums shown below, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Grantee and subcontractors. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District.

1. **Commercial General Liability Insurance.** The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate; Bodily Injury and Property Damage including, but not limited to: premises-operations; broad form property damage; Products and Completed Operations; Personal and Advertising Injury; contractual liability and independent contractors. The policy coverage shall include the District of Columbia as an additional insured, shall be primary and non-contributory with any other insurance maintained by the District of Columbia.
2. **Automobile Liability Insurance.** The Contractor shall provide automobile liability insurance to cover all owned, hired or non-owned motor vehicles used in conjunction with the performance of this contract. The policy shall provide a \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
3. **Workers' Compensation Insurance.** The Contractor shall provide Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.



4. Employer's Liability Insurance. The Contractor shall provide employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.
  5. Cyber Liability Insurance - The Contractor shall provide Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.
- B. PRIMARY AND NONCONTRIBUTORY INSURANCE. This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:
1. The additional insured is a Named Insured under such other insurance; and
  2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.
- C. DURATION. The Contractor shall carry all required insurance until all contract work is accepted by the District of Columbia and shall carry listed coverages for five (5) years following final acceptance of the work performed under this contract.
- D. LIABILITY. These are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE CONTRACTOR'S LIABILITY UNDER THIS CONTRACT.**
- E. CONTRACTOR'S PROPERTY. Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.
- F. MEASURE OF PAYMENT. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all the costs of insurance and bonds in the contract price
- G. NOTIFICATION. The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event of coverage and / or limit changes or if the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-

payment of premium. The Contractor will also provide the CO with an updated Certificate of Insurance should his insurance coverages renew during the contract.

- H. CERTIFICATES OF INSURANCE. The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Evidence of insurance shall be submitted to:

**The Government of the District of Columbia**

**And mailed to the attention of:  
(See G.1.a)**

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

**I.31 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT**

- I.31.1 For contracts for services in the amount of \$300,000 or more, the Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code § 2-219.01 et seq. (First Source Act).
- I.31.2 The Contractor shall enter into and maintain during the term of the contract, a First Source Employment Agreement (Employment Agreement) with the District of Columbia Department of Employment Service's (DOES), in which the Contractor shall agree that:
- (a) The first source for finding employees to fill all jobs created in order to perform the contract shall be the First Source Register; and
  - (b) The first source for finding employees to fill any vacancy occurring in all jobs covered by the Employment Agreement shall be the First Source Register.
- I.31.3 The Contractor shall not begin performance of the contract until its Employment Agreement has been accepted by DOES. Once approved, the Employment Agreement shall not be amended except with the approval of DOES.
- I.31.4 The Contractor agrees that at least 51% of the new employees hired to perform the contract shall be District residents.
- I.31.5 The Contractor's hiring and reporting requirements under the First Source Act and any rules promulgated thereunder shall continue for the term of the contract.
- I.31.6 The CO may impose penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract, for a willful breach of the Employment Agreement, failure to submit the required hiring compliance reports, or deliberate submission of falsified data.

- I.31.7 If the Contractor does not receive a good faith waiver, the CO may also impose an additional penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the contract for each percentage by which the Contractor fails to meet its hiring requirements.
- I.31.8 Any contractor which violates, more than once within a 10-year timeframe, the hiring or reporting requirements of the First Source Act shall be referred for debarment for not more than five (5) years.
- I.31.9 The contractor may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board as provided in Section I.7.
- I.31.10 The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.

**I.32 COVENANT AGAINST CONTINGENT FEES**

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the District will have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of the commission, percentage, brokerage, or contingent fee.

**I.33 HEALTH AND SAFETY STANDARDS**

Items delivered under this contract shall conform to all requirements of the Occupational Safety and Health Act of 1970, as amended ("OSHA"), and Department of Labor Regulations under OSHA, and all Federal requirements in effect at time of bid opening/proposal submission.

**I.34 FORCE MAJEURE**

Neither the Contractor nor the District shall be deemed in default or otherwise liable hereunder due to either party's inability to perform by reason of any fire, earthquake, flood, epidemic, accident, explosion, casualty, strike, lockout, labor controversy, riot, civil disturbance, act of public enemy, embargo, war, act of God, or any municipal, county, state or national ordinance or law, or any executive, administrative or judicial orders (which judicial orders are not the result of any act or omission to act which would constitute a default hereunder), or any failure or delay of any transportation, power or other essential thing required, or similar causes beyond the parties control.

**I.35 GOVERNING LAW**

This contract shall be governed by, and construed in accordance with, the laws of the District of Columbia, including, but not limited to, the District of Columbia Procurement Practices Reform Act of 2010, (D.C. Law 18-371; D.C. Official Code §§ 2-351.01, et seq. and D.C. MUN. REGS. tit. 27.

**I.36 ORDER OF PRECEDENCE**

A conflict in language shall be resolved by giving precedence to the document in the highest order of priority that contains language addressing the issue in question. The following documents are incorporated into the contract by reference and made a part of the contract in the following order of precedence:

- (1) Contract
- (2) Contract Attachments
- (3) Contractor Proposal dated July 16, 2019 (Engagement #330055879)

*[End of Section I]*

**SECTION J****ATTACHMENTS**

The following Attachments are hereby incorporated:

J.1 The following Attachments are hereby incorporated:

<b>Attachment Number</b>	<b>Document</b>
<b>J.1</b>	Office of Contracts Bidder/Offeror Certification Form
<b>J.2</b>	RESERVED
<b>J.3</b>	Department of Labor Wage Determination No. 2015-4281, Revision No. 14 dated July 16, 2019.
<b>J.4</b>	Doing Business with Integrity
<b>J.5</b>	RESERVED
<b>J.6</b>	RESERVED
<b>J.7</b>	RESERVED
<b>J.8</b>	RESERVED
<b>J.9</b>	RESERVED
<b>J.10</b>	RESERVED

J.2 The following RFP related attachments are hereby incorporated. Those that require a proposal response are marked with an asterisk (\*). Others are informational only:

<b>Attachment Number</b>	<b>Document</b>
<b>J.11</b>	RESERVED
<b>J.12</b>	OCFO Business Applications As Is
<b>J.13</b>	OCFO As Is (SOAR) Environment
<b>J.14</b>	Accounting System Process Flow
<b>J.15</b>	SOAR User Counts
<b>J.16</b>	OCFO Org Chart
<b>J.17</b>	Contractor IVV – Pricing Schedule
<b>J.18</b>	Current Budget Process Summary
<b>J.19</b>	Current Data Sets for Conversion
<b>J.20</b>	Current Integrations and Interfaces
<b>J.21</b>	Glossary of Terms
<b>J.22</b>	RESERVED
<b>J.23</b>	Project Planned Timeline
<b>J.24</b>	Contractor IVV – Resource Plan

*[End of Section J]*