

<b>AWARD/CONTRACT</b>		1. Solicitation Number <b>CFOPD-20-R-048</b>		Page of Pages 1   73 + Attachments			
2. Contract Number <b>CFOPD-21-C-001</b>		3. Effective Date 1-Jul-21		4. Requisition/Purchase Request/Project No.			
5. Issued By <b>Office of the Chief Financial Officer Office of Contracts 1100 - 4th Street, SW., Suite E610 Washington, DC 20024</b>		Code		6. Administered By (If other than line 5) Office of the Chief Information Officer Lisa Pierson Contracting Officer Technical Representative 1100 4th St. SW E620 Washington, DC 20024 (202) 442-6352, email: lisa.pierson@dc.gov			
7. Name and Address of Contractor (No. Street, city, country, state and ZIP Code) FAST Enterprises, LLC 7229 S. Alton Way Centennial, CO 80112 Attn: James Harrison; Tel: 877 275 3278 Jhharrison@fastenterprises.com				8. Delivery <input checked="" type="checkbox"/> FOB Destination <input type="checkbox"/> Other (See Schedule Section F)			
Code				9. Discount for prompt payment			
Facility				10. Submit Invoices to the Address shown in Line 12   Item (2 copies unless otherwise specified)			
11. Ship to/Mark For Office of the Chief Financial Officer Office of Logistics and Support Services Suite W1636 1101 4th Street, S.W. Washington, DC 20024 202-442-6930				12. Payment will be made by Office of the Chief Financial Officer Office of Management and Administration Financial Operations/Accounts Payable https://vendorportal.dc.gov 1100 4th Street, SW Suite E600 Washington, DC 20024			
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>GenTax Maintenance &amp; Support Services</b>			1	Lot	NTE \$7,637,330.00	NTE \$7,637,330.00
Total Amount of Contract							NTE \$7,637,330.00
16. Table of Contents							
(X)	Section	Description	Pages	(X)	Section	Description	Pages
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
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<b>Contracting Officer will Complete Item 17 or 18 as Applicable</b>							
17 <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return <u>1</u> pdf 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) <b>James G. Harrison, partner</b>				20A. Name of Contracting Officer Drakus Wiggins, CPPB, CPPO			
19B. Name of Contractor <i>James G. Harrison</i> (Signature of person authorized to sign)		19C. Date Signed <b>3-10-2021</b>		20B. District of Columbia <i>DWiggins</i> (Signature of Contracting Officer)		20C. Date Signed <b>05/24/2021</b>	

**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 Contracts, on behalf of Office of the Chief Information Officer (OCIO) (the “District”) is awarding a single consolidated contract for MITS maintenance and support that includes hosting services, fraud data services and support staff for the combined Income, Business and Real property tax system operating on the GenTax software to ensure the critical function of the collection of taxes is uninterrupted.

**B.2 CONTRACT TYPE**

The District herein awards a Fixed Price Contract with a requirement component.

**B.3 ALL-INCLUSIVE PRICING**

**B.3.1** 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 (NTE) amount of the Contract.

**B.4 REQUIREMENTS COMPONENT**

**B.4.1** The District will purchase its requirements of the Labor Category for resource support 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 that conditions affecting requirements will be stable. The estimated quantities shall not be construed to limit the quantities which may be required from the Contractor by the District or to relieve the Contractor of its obligation to fill all such requirements. Performance shall be made only as authorized in accordance with the Contract award and any modification thereof.

**B.4.2** The District has the annual option to exercise maintenance services at Level 1 or Level 3. Services shall be provided only as authorized in accordance with the Contract award and any modification thereof.

**B.5.1 Base Year Pricing (1-Jul-21 to 30-Jun-22)**

CLIN	Description	Total Price
01	Level 1 Annual Maintenance	\$1,600,000
02	Centralized Tech Support (CTS)	\$325,000
03	Hosting Systems	\$1,525,000
04	Fraud Detection Maintenance Service (FDS) (6-Jan-22 to 30-June-22)	\$154,530
05	Resource Support Services	NTE \$4,232,800
	<b>Full Time Equivalent (FTE) Resource Quantity</b>	<b>Hourly Rate per FTE</b>
05a	10+ FTE Offsite	\$180
05b	10+ FTE Onsite	\$185
05c	5-9 FTE Offsite	\$185
05d	5-9 FTE Onsite	\$190
05e	1-4 FTE Offsite	\$190
05f	1-4 FTE Onsite	\$195
	<b>Total</b>	<b>\$7,837,330</b>
	Applied Discount per Section B.5.4	-\$200,000
	<b>Total Estimated Base Year</b>	<b>\$7,637,330</b>

	Optional Item Description	Price
06	Level 3 – Add On to Level 1	\$4,260,000

**B.5.2 Option Year 1 Pricing (1-Jul-22 to 30 June-23)**

CLIN	Description	Total Price
01	Level 1 Annual Maintenance	\$1,600,000 + CPI* for 2021
02	Centralized Tech Support (CTS)	\$325,000 + CPI for 2021
03	Hosting Systems	\$1,525,000 + CPI for 2021
04	Fraud Detection Maintenance Service (FDS)	\$309,060+CPI for 2021
05	Resource Support Services	NTE \$4,232,800+CPI for 2021
	<b>Full Time Equivalent (FTE) Resource Quantity</b>	<b>Hourly Rate per FTE</b>
05a	10+ FTE Offsite	\$180+CPI for 2021
05b	10+ FTE Onsite	\$185+CPI for 2021

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05c	5-9 FTE Offsite	\$185+CPI for 2021	
05d	5-9 FTE Onsite	\$190+CPI for 2021	
05e	1-4 FTE Offsite	\$190+CPI for 2021	
05f	1-4 FTE Onsite	\$195+CPI for 2021	
<b>Total</b>			<b>\$7,991,860+CPI for 2021</b>
Applied Discount per Section B.5.4			-\$200,000
<b>Total Estimated Option Year 1</b>			<b>\$7,791,860+CPI for 2021</b>

	<b>Optional Item Description</b>	<b>Price</b>
06	Level 3 – Add On to Level 1	\$3,172,000+CPI for 2021

**B.5.3 Option Year CPI Adjustment\***

1. CPI means the annual percent change in the Consumer Price Index for all Urban Consumers (CPI-U) that is released by the Bureau of Labor and Statistics in approximately January of each year.
2. The CLIN price and Hourly Rate per FTE to be used in the Option Years, pursuant to Section F, will be the prior year price and rate increased by the prior calendar year CPI-U, meaning the annual percentage change between January 1<sup>st</sup> through December 31<sup>st</sup>, with the exception of FDS for Option Year 1. As such, the price and rate to be used in Section B.5.2, Option Year 1 will be the FDS Option Year 1 price and the Base Year price and rate for the remaining CLINs all increased by the 2021 CPI-U, meaning the annual percentage change between January 1, 2021 through December 31, 2021.
3. Each year the price and rate will increase by the annual CPI-U as described herein; however, the increase shall not exceed five percent (5%).

**B.5.4 Discount**

Each year the District elects to purchase Level 1, Hosting, CTS, FDS and a minimum of 11 FTEs, the total annual price will be reduced by \$200,000 (the Discount). The Discount will be applied as a deduction of \$50,000 on each quarterly invoice.

## SECTION C

### DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

#### C.1 **SCOPE**

The District of Columbia Office of the Chief Financial Officer, Office of Contracts, on behalf of Office of the Chief Information Officer (OCIO) (the “District”) is awarding a single consolidated contract for MITS maintenance and support that includes Hosting services, Fraud Data services and Support staff for the combined Income, Business and Real Property tax system operating on the GenTax software to ensure the critical function of the collection of taxes is uninterrupted.

#### C.2 **BACKGROUND**

1. The District of Columbia (District) Office of the Chief Financial Officer (OCFO) procured and completed the implementation of GenTax software to replace the Integrated Tax System (ITS) for Income and Business. The replacement is called Modernized Integrated Tax System (MITS).
2. MITS supports 21 different tax types and 61 tax forms using various channels of filing as follows:
  1. Sixteen forms can be filed through the Modernized Electronic Filing (MeF) process.
  2. Fifty-one forms can be filed through the online tax portal MyTax.dc.gov.
  3. More than 20 forms can be filed through paper submission.
3. MITS includes 114 interfaces in Banking, Collections, Correspondence, Data Warehouse/Discovery, Offsets, Refunds, Web, and Revenue, handles revenue of up to \$3 billion dollars each fiscal year and is managed by the OCFO Office of the Chief Information Officer (OCIO).
4. The OCFO Office of Tax and Revenue (OTR) is the primary customer for MITS.
5. The District has further modernized the Real Property Tax system from ITS using the GenTax software. The new Modernized Real Property Tax System (MRPTS) is a part of MITS.
6. The Real Property software implemented through MRPTS includes the administration of Real Property, Business Improvement District, Possessory Interest, Public Space Rental and other fees.
7. MRPTS supports 11 tax account types and 58 web requests and forms, its sources bring in revenue close to \$3.2 billion each fiscal year.
8. The District’s objective is to acquire a single consolidated contract for MITS maintenance and support that includes Hosting services, Fraud Data services and Support staff for the combined Income, Business and Real Property tax system operating on the GenTax software to ensure the critical function of the collection of taxes is uninterrupted.

**C.3 REQUIREMENTS**

**I. GenTax Maintenance Services**

1. The Contractor shall provide maintenance services to ensure that GenTax functions as expected as specified in this Contract for the combined Income, Business and Real Property tax system.
2. The Contractor shall provide the District the option to receive maintenance services at Level 1 or Level 3.
  - (i) The District will exercise a maintenance level option each year of the Contract.
  - (ii) Associated pricing shall adjust according to any change in maintenance level in accordance with the Section B, Price Schedule.
  - (iii) The Contractor shall provide maintenance level pricing for upgrades from Annual Maintenance to Level 3.
  - (iv) Should the District decide to increase the Level of Maintenance and Support and should the District's prior level of Maintenance and Support not include the provision or installation of the latest commercially available Service Pack or version of GenTax then the District is responsible for costs and expenses to obtain and install such Service Pack or version. The Parties shall agree on any such costs and expenses in a modification to the Contract.
3. The Contractor shall provide the following maintenance level pricing that the District will exercise each year:
  1. **Level 1 Annual Maintenance:** No onsite resources. Level 1 shall include, at minimum, items such as:
    - i. Access to service packs on stable and closed versions. A Service pack is defined as a grouping of updates including bug fixes, enhancements, virtualization changes, etc.
    - ii. Access to new versions of GenTax
    - iii. Access to new and revised documentation
    - iv. Phone support
    - v. Defect repair - Fix core GenTax bugs at no cost to OCFO
  2. **Level 3 Maintenance Upgrade:** In addition to Level 1, the District has the option to purchase Level 3. Level 3 shall provide onsite personnel to ensure that service packs and upgrades are installed, including installations of service packs at least twice a year or as agreed upon at no additional cost to the District.

**II. Centralized Tech Support (CTS)**

1. **CTS** shall provide 24/7 remote technical support from the Contractor's development center in Centennial Colorado.
2. CTS shall be provided in accordance with the CTS Statement of Work attached as Attachment J.7.
3. Key CTS Support Features include but may not be limited to:

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- (i) Recurring Tech QA reviews
- (ii) Monthly reporting including performance, open tickets, and completed work
- (iii) Annual FAST Delivery Workbench task that includes capacity planning
- (iv) Increased attention to conforming with Contractor standards and best practices
- (v) Address District's concerns related to compliance with District standards as appropriate
- (vi) Twice monthly meetings with on-site resources (Contractor & District) with meeting minutes
- (vii) FAST Delivery Workbench manager template for reoccurring tech tasks
- (viii) On-call and after-hours support
- (ix) On-site support when appropriate
- (x) Coordination of changes with client technical staff
- (xi) Security and compliance support and documentation
- (xii) Assistance for site project teams (training, conversion, testing, development) when appropriate
- (xiii) Infrastructure consultation
- (xiv) FAST application technical support
- (xv) FAST FCR support
- (xvi) Performance tuning and job stream optimization

**III. Fraud Detection Maintenance Service**

1. The Contractor shall provide the solution for Fraud Detection by FAST Data Services LLC that will ensure the Agency Fraud Detection and Prevention capabilities remain at the forefront and in alignment with industry standards and practice.
2. Data sent to the host solution for fraud analysis shall be analyzed and returned to OCFO system within 24 hours after receipt of records from OCFO. Data shall not be retained on the host system. Data shall be encrypted at rest and in transfer.
3. The Contractor's Solution and business practices shall be substantially compliant to the security requirements as documented in the National Institute of Standards in Technology (NIST) Special Publication 800-53, Recommended Security Controls for Federal Information Systems, Revision 4, Moderated 2.0 Continued-Impact and IRS Publication 1075.
4. OCFO data shall be handled in a secure manner, using an approved file format mechanism (csv, .xml, and .txt), use industry standards for data encryption, and internet-based secure encrypted file transfer protocols.
5. The Fraud Detection Solution shall provide the following features and functions:
  - a. Ability to detect and display multiple tax returns from the same source;
  - b. Ability to simultaneously analyze several sets of returns, taxpayers, and associated information;
  - c. Ability to search across all returns in a filing season to identify patterns and schemes that are indicative of fraud;
  - d. Ability to build and deploy customized fraud and analytics models User dashboards and screens that allow agencies to effectively manage fraud-based workloads;
  - f. Continuous feedback to assist the Fraud Detection Team with near real-time

decision-making to deter fraud;

- g. Ability to process IRS-provided fraud and eFile (MeF) vendor data to identify DC risks; and
  - h. Ability to Identify fraudulent bank wire, check, ACH and other third-party refund card schemes.
6. FDS Services will be provided in accordance with the FDS Subscriber Agreement executed by FDS and the District and attached hereto as Attachment J.5.
  7. Service packs, upgrades and bug fixes related to the GenTax components of the Fraud Detection Solution shall be made available to the District as part of Level 1.
  8. All requests for Help Desk and Hosting requirements for Fraud shall follow the same standard SLA provided in Section XVI, Service Level Agreements.

#### IV. **Resource Support Services**

1. The Contractor shall submit resumes for resource support services upon the District's request.
2. The District may interview resources at no extra charge.
3. The timing and interview method (e.g., in person, by phone or using other virtual meeting services) will be mutually agreed upon.
4. The purpose of the District interview is to ensure the proposed candidate has the appropriate skill and will work cohesively with the team.
5. Resources shall be selected by the Contractor.
6. The Contractor may choose to replace a resource with thirty (30) days written notice to the District or within a mutually agreed time.
7. If the District is not satisfied with the performance of a resource, the District may provide written notice to request a replacement. The Contractor shall provide a replacement within 30 days of the written notice or within a mutually agreed time.
8. Unless mutually agreed, the Contractor shall provide up to a maximum of 10 Programmer/Analysts and one Site Manager software package consultant. These resources shall be provided as requested by the District as needed and integrated into the OCIO Tax Systems Group (TSG).
9. Resources will receive assignments as prioritized by the TSG Director or designee and follow the District's Software Development Life Cycle ("SDLC"). Any updates to the SDLC will be mutually agreed upon.
10. The District acknowledges and agrees that once a year all Contractor employees are required to attend the Contractor's Annual General Meeting (AGM). AGM typically lasts three (3) days. Contractor employees may be away from the project longer than the 3 days to allow for travel. Contractor will inform the District at least 60 days in advance of these dates and will work with the District to minimize the impact.
11. In order for the Contractor resources to perform the support services, the District agrees to provide:
  - (i) 24/7 access to the project workspace
  - (ii) an office for Contractor's Site Manager upon availability
  - (iii) a meeting space for private conversations for the Contractor resources upon request

#### V. **Qualifications and Skills for Programmer/Analyst**

A. The minimum qualifications for the Programmer/Analyst are as follows:

1. Exhibits clear communication



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2. Able to work and effectively prioritize in a dynamic environment
3. Efficiently works independently
4. Able to participate on a team, establish and maintain effective working relationships
5. Able to analyze business processes and provide recommended designs
6. Understands when to escalate issues
7. Knowledgeable in VB.Net
8. At least seven (7) Programmers/Analysts with demonstrated experience of at least 18 months with GenTax, working at 1 or more Contractor sites
9. Knowledgeable of practices and principles in:
  - a) SQL Server or Oracle DBMS
  - b) GENTAX Solution Request Manager (SQR)
  - c) GENTAX Reference Table Editor
  - d) GENTAX Doc Editor
  - e) GENTAX Code Repository (FCR)
  - f) GENTAX Code Solution Management
  - g) GENTAX Reference Table Compare
  - h) GENTAX Migrations
  - i) GENTAX Delivery Workbench
  - j) GENTAX Content
  - k) GENTAX Report Editor/Management
  - l) GENTAX Mail Editor/Management
  - m) GENTAX Customer Copy
  - n) The Programmer/Analyst shall have the skills to provide the following tasks and the District will prioritize the tasks.
10. On-call production support
11. Coordination with the FAST Development Center
12. Gather business requirements and provide recommended design decisions for SQRs, legislative changes, annual forms, and revenue enhancement programs
13. Perform configuration and assist the District development team with configuration
14. Perform application development
15. Provide best practice recommendations
16. Perform tuning for system performance
17. Impart Knowledge transfer to District Developers as needed.

**VI. Qualifications and Skills for Site Manager**

- A. The minimum qualifications for the Site Manager are as follows:
  1. Exhibits clear communication
  2. Able to work, assign resources for projects and change requests, and prioritize effectively in a dynamic environment
  3. Able to recruit and replace Contractor personnel as necessary
  4. Efficiently works independently
  5. Able to participate on a team, establish and maintain effective working relationships
  6. Able to analyze business processes and provided recommended design decisions
  7. Understands when to escalate issues
  8. Knowledgeable in VB.Net

9. Knowledgeable of practices and principles in:

- (a) SQL Server or Oracle DBMS
- (b) GENTAX Solution Request Manager (SQR)
- (c) GENTAX Reference Table Editor
- (d) GENTAX Doc Editor
- (e) GENTAX Code Repository (FCR)
- (f) GENTAX Code Solution Management
- (g) GENTAX Reference Table Compare
- (h) GENTAX Migrations
- (i) GENTAX Delivery Workbench
- (j) GENTAX Content
- (k) GENTAX Report Editor/Management
- (l) GENTAX Mail Editor/Management
- (m) GENTAX Customer Copy

10. Able to manage the Contractor's Programmer/Analyst resources

11. Understanding of GenTax architecture

12. Understand and able to follow the Contractor's Implementation Methodology

13. At least 5 years of hands-on experience in GenTax and implementation experience at 2 or more Contractor sites.

14. Able to transfer knowledge and enrich District staff skills when new features from GenTax are implemented

15. Able to inform OCIO managers and staff of all issues timely and promptly report urgent issues to TSG directors

B. The Site Manager shall have skills to perform the following tasks and the District will prioritize the tasks:

- 1. Prioritize and manage solution requests (SQR) with OCIO management
- 2. Prioritize and manage legislatively prescribed and annual form changes with OCIO management
- 3. Prioritize and manage OTR revenue enhancement programs with OCIO management
- 4. Prioritize and manage system exceptions and interventions; ensure SQR creation and timely correction
- 5. Perform configuration and code reviews for the Contractor and District staff; verify coding standards are met
- 6. Communicate effectively with executives, IT and business staff
- 7. Perform database maintenance, analysis and review
- 8. Perform unit testing and support system and end-to-end testing
- 9. Follow and enforce change control and configuration management processes
- 10. Provide supplemental user, developer, and operator training
- 11. Assist security staff with documentation and implementation of processes and procedures to ensure compliance with District, OCIO and IRS security controls
- 12. Other consulting and services requested by the District and agreed to by the Contractor

C. Additional Site Management Responsibilities:

- 1. Responsible for day to day management of the Contractor personnel
- 2. Prepare status meetings and reports

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3. Responsible for invoice submission
4. Responsible for Contract management
5. Responsible for working with the District to ensure that the solution meets District business requirements and the project follows Contractor best practices
6. Attend workshops, conferences and meetings to maintain knowledge of new technology, best practices and processes
7. Coordination between onsite resources, CTS, Fast Data Services and Hosting services.
8. Status meetings and reports every two weeks. Status reports shall include at a minimum the Tasks completed in the week, Tasks Assigned for next week, any matters that require attention, Top Three important items, Vacations or personnel changes, Risks observed on Tasks, Amount available and Amount Invoiced.

**VII. Hosting Systems**

1. The Contractor shall provide both a primary and a secondary/disaster recovery (DR) system for hosting the District's GenTax environments.
2. Both systems shall meet or exceed the SLAs within this document.
3. The Contractor shall ensure internal controls for the physical facilities for these systems are reviewed and their effectiveness found to be compliant on an annual basis by an independent auditor using Statement on Standards for Attestation Engagements (SSAE) No. 18 Type II reporting and attestation standards.
4. The Contractor shall provide the following documentation upon request by the District:
  - (a) An independent service auditor's report of the physical facilities' SOC 3 and SOC 2 reports.
5. The Contractor shall make the facilities available for inspection by District staff or designated District auditors and IRS staff as required.

**VIII. Hosted Environments**

1. The primary system shall provide the District with the following environments:
  - a) Development/Tools
  - b) Testing
  - c) Training
  - d) Staging
  - e) Production
  - f) FAST Central Repository (FCR)
  - g) All hardware (including but not limited to network, server, storage, and security devices) and software licenses (including but not limited to virtualization, operating system, and application licenses) needed for these environments shall be provided by the Contractor.
2. The District's secondary DR site infrastructure shall support the Production user base without degradation in the primary site's SLA user performance requirements, except for any impact due to network connectivity between the Contractor's Secondary hosting data center and the District.
3. The Contractor shall stand up all servers, install all operating systems, and install and configure all application software needed for these environments. The Contractor shall host the GenTax Tax application in its entirety, including the taxpayer-facing

eServices MyTax.dc.gov portal.

4. While the Contractor is responsible for all hardware and software, there shall be no barrier to development access for the District or its designated staff when granting access. Access beyond the hosting staff for servers, shall not be granted to District systems without prior approval from the District.
5. Dedicated virtual servers shall be used for MITS to meet or exceed the specifications of the Section XVI, Service Level Agreement (SLA) in this contract.
6. All infrastructure components or servers shall comply with IRS Publication 1075 requirements.
7. As part of the SLA reports, the Contractor shall provide information regarding any security incident for the hosted MITS application.
8. The Contractor shall make any necessary infrastructure changes to support SAML 2.0 authentication if it is implemented by the District.
9. The Contractor shall work with OCFO to make any necessary infrastructure changes to support interfaces, including those used to download federal files.
10. The Contractor shall provide access to the Environment Uptime tool in the Health Check Monitor so that the District can monitor daily application availability as measured from the end-user perspective. Contractor shall provide monthly reports as detailed in the SLA.
11. The Contractor shall obtain pre-approval by OCFO prior to implementing any multifactor authentication (MFA) technologies that would be used by the District to ensure compatibility with OCFO practices and standards.

#### **IX. Connectivity between District and Contractor Hosting Centers**

1. The Contractor shall provide an end-to-end connectivity solution to connect District GenTax environments in the Contractor's primary and secondary/DR hosting data centers to the District network and a connectivity solution to connect District GenTax environments in the Contractor's primary and secondary/DR hosting data centers.
2. The District operates two data centers, primary and secondary/DR.
3. The Contractor connectivity solution shall provide connectivity to both District data centers.
4. The Contractor shall provide connectivity to the eServices [MyTax.dc.gov](https://mytax.dc.gov) application from the Internet for use by taxpayers and OCFO staff.
5. To ensure continuous availability of the eServices [MyTax.dc.gov](https://mytax.dc.gov) application, the Contractor shall ensure that in the event of a failover from the primary data center to the alternate/secondary data center all customers of the application will be automatically routed to the alternate/secondary data center.
6. The Contractor shall ensure that traffic to and from the Taxpayer Access Portal at [MyTax.dc.gov](https://mytax.dc.gov) is encrypted and that access to this site is secured and compliant with requirements of District law, policies and current practices; and with IRS Publication 1075 requirements.
7. The connectivity between the Contractor's primary hosting center and the District's Primary datacenter shall be implemented using either a point-to-point circuit, a multi-protocol label switching (MPLS) circuit, or some other form of connectivity with guaranteed security, bandwidth, and latency. We are also seeking a Back up site 2 site VPN connectivity from Primary hosting location to the District's DR data center.
8. These two connectivity circuits shall provide redundancy for one another.
9. The connectivity between the Contractor's secondary hosting center and the District

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shall be implemented using either a site-to-site VPN connection across the Internet or a point-to-point circuit, a MPLS circuit, or some other form of connectivity with guaranteed security and bandwidth.

10. In the event of a failover from the Contractor's primary hosting site to the secondary, the connectivity solution shall automatically route traffic from the District to the Contractor's secondary hosting data center. In the event of a failover from the primary District data center to the secondary District data center, the connectivity solution provided by the Contractor shall route GenTax traffic to the active Contractor hosting data center.
11. The Contractor connectivity solution shall ensure that data is encrypted in transit and shall comply with all other IRS Publication 1075 requirements for protection of data in transit.
12. The Contractor shall work with OCTO and OCIO to ensure the existing connectivity solution on the DC-NET demarcation points managed by OCTO continue to work.
13. The Contractor shall procure and deploy all network and security devices within Contractor's data centers (including but not limited to firewalls, routers, switches, and intrusion protection systems) required to implement the connectivity solution
14. The Contractor shall procure and coordinate the deployment of WAN connectivity between the Contractor's hosting centers and the OCTO network demarcation points.
15. The Contractor shall provide availability metrics for the active network segments under the Contractor's control.
16. Unless written permission is provided by the District, the Contractor must not allow for remote user or administrative access to the servers hosting the DC's application instance, except via the District's network. This requirement does not apply to the Contractor team providing CTS and the hosting staff located at the Contractor's development center.

**X. Managed Services**

1. The Contractor shall provide managed services necessary to monitor, maintain, and administer the Contractor's hosted environments.
2. Managed services shall include system administration, application administration, patching and maintenance, monitoring and alerting, release management, change management, infrastructure management, routing and firewall services, security and intrusion prevention, protection against Distributed Denial of Service and a high-speed network backbone within the hosted infrastructure and also between the primary and disaster recovery sites.
3. The Contractor shall be responsible for building, maintaining, and managing the hardware and software at the data center(s). Hosted services shall include, but not be limited to, the following:
  - a) Maintain and monitor data backups
  - b) Hardware firmware updates
  - c) Server updates and critical patches
  - d) Virtualization management and security updates
  - e) SSL certificate management for internal certificates
  - f) Network services (e.g., routing, security, virtual local area networks/VLANs, zoning)
  - g) Data replication management

- h) Infrastructure access control
- i) Compliance
- j) Penetration testing for major application versions
- k) Secure file transfer via the application
- l) Internet feeds to support meeting SLA targets

#### **XI. Security**

1. The Contractor shall comply with all requirements of IRS Publication 1075, including but not limited to incident response, application security controls, media controls, physical and logical access controls, environmental controls, audit controls.
2. The Contractor shall make their facility and hosted environments and services available to the IRS for purposes of compliance review.
3. In the event of an issue or item being found in noncompliance by IRS or District auditors, the Contractor shall provide a written response to all such compliance findings within 48 hours and shall complete all mitigation activities within the timelines established by the IRS in the audit report or as agreed upon with the District.
4. As part of IRS Publication 1075 compliance, the Contractor shall create, provide, and maintain a Safeguard Security Report (SSR) for the Contractor's hosting environments and assist the District in the creation of the District's SSR covering the GenTax applications contained therein. The SSR shall follow the IRS template on the Office of Safeguards website <https://www.irs.gov/privacy-disclosure/safeguards-program>.

#### **XII. Disaster Recovery**

1. Within thirty (30) days of contract award the Contractor shall provide a comprehensive Disaster Recovery (DR) plan to the District.
2. The DR plan shall provide a playbook including a detailed description of the DR services that the Contractor shall provide to ensure continuity of operations in the event of a failure of one or more servers or of a loss of the entire facility.
3. The Contractor shall review and where necessary provide an updated copy of the DR playbook on an annual basis.
4. DR services shall include, but not be limited to, the following:
  - a) Backups
  - b) Replication from primary to secondary systems
  - c) Recovery of individual servers or data stores
  - d) Failover from the Contractor's primary to the Contractor's secondary systems
  - e) Application functionality of GenTax DR shall be equivalent to the primary site for production except for items dependent on external touch points such as interfaces.
5. The Contractor shall adjust the application features in the Contractor's secondary hosted data center as needed to ensure proper connectivity and integration with the District's infrastructure.

#### **XIII. Extended Backup Retention**

1. The Contractor shall archive backup media in an off-site archive on the following schedule:

- a) Weekly full backups for the last month
  - b) Differential backups for two weeks
  - c) Monthly full backups for the last 12 months
  - d) Annual full backups for the last 7 years
2. The archive schedule shall take effect on the effective start date of the Contract.

**XIV. Work Performance**

1. All work related to hosting services shall be performed by the Contractor's employees.
2. No federal tax returns will be submitted by the District to the Contractor.
3. All data made available shall be used only for the purpose of carrying out provisions of this Contract.
4. Information contained in all material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as necessary in the performance of this Contract.
5. Inspection by or disclosure to anyone other than an officer or employee of the Contractor is prohibited.
6. All tax data shall be accounted for upon receipt and properly stored before, during, and after processing.
7. All related output and products shall be given the same level of protection as required for the source material.
8. The Contractor shall not subcontract any work involving returns or return information furnished under this Contract, unless a Waiver is granted by COTR
9. The Contractor shall maintain a list of employees with authorized access to the District's data, which shall be provided to the District and, upon request by the District, to other designated parties.
10. The District reserves the right to exercise provisions of the Contract to terminate for default and terminate the Contract, in part, for Hosting Services defined in the requirements if the Contractor fails to provide the safeguards described above.
11. All Contractor employees to whom data is or may be disclosed shall be notified in writing that the data can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such data is prohibited.

**XV. Performance Testing**

1. The Contractor shall conduct a performance test of the production environment.
2. The Contractor shall ensure that application performance is compliant with Section XVI, Service Level Agreements by 90 days after the effective date of this Contract

**XVI. Service Level Agreement**

1. The Contractor shall architect, implement, maintain, administer, monitor and troubleshoot the Contractor's connectivity solution, the hosted networking and server infrastructure, and critical components supporting the application environments to ensure that service levels in this Service Level Agreement (SLA) section are satisfied.
2. The Contractor shall ensure that the application achieves a monthly average of 99.9% uptime. The Contractor shall exclude the following time periods from uptime calculation:
  - a) All pre-arranged maintenance windows.

b) Any timeframe outside of normal business hours, defined as follows:

Internal-facing applications	January 1 – April 15	Daily (including weekends) 7:00 am – 8:00 pm EST
	April 16 – December 31	Monday-Friday 7:00 am – 8:00 pm EST
Public-facing applications	January 1 – December 31	12:00 am EST – 11:59 pm EST

3. The Contractor shall conduct a full back up of production system information and data on no less than a weekly basis and a differential backup on no less than a nightly basis, for days where a full wasn't performed.
4. Backups shall include application data.
  - (a) The Contractor shall conduct backups for SQL Server transaction logs at least hourly.
  - (b) The Contractor shall ensure that at least 95% of all backups complete successfully within the scheduled timeframe.
5. The Contractor shall ensure that 95% of all production user transactions will complete ("click through") in less than two (2) seconds.
6. The Contractor shall ensure that the production Recovery Time Objective (RTO) is 12 hours.
7. The Contractor shall ensure that the production Recovery Point Objective (RPO) is two (2) hours.
8. **Technical Help Desk:** The Contractor shall respond to all Priority 1 (P1) and Priority 2 (P2) requests submitted as a support ticket to its hosting support group for assistance within 15 minutes. Contractor may respond by phone or email
9. If the District Point of Contact cannot be reached, and if the District has provided Contractor with written notification of the District's hierarchy, Contractor shall retry the response and escalate it to the next person in the District hierarchy as necessary until a warm hand-off is achieved.
10. **P1 Requests:**
  - (a) If the System is down, the SLA for uptime requirement applies.
  - (b) If the System is degraded, the SLA for performance applies.
11. **P2 Requests:** If a major infrastructure component is down that impacts the application, a workaround exists, and there is significant business impact with many users impacted (such as firewall rules preventing interface connectivity), then resolution shall be within 4 hours or as approved by the District.
12. **P3 Requests:** If there is a minor infrastructure defect, a workaround exists, and there is only minor business impact (usually affecting only one user), then resolution shall be within 24 business hours.
13. **P4 Requests:** If there is a request for hosted infrastructure enhancement, a workaround exists, and business is only inconvenienced (usually affecting only one user), then resolution shall be as approved by the District.
  - (a) **Provisioning of Environments:** The Contractor shall provision new environments



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upon request of the District within 60 calendar days of the request 100% of the time.

- (b) **Refreshing of Environments:** A. The Contractor shall refresh existing staging environments upon request of the District within seven (7) calendar days of the request 100% of the time.
- (c) **Connectivity:** The Contractor's primary site bandwidth and latency of the connectivity solution shall be compliant with performance levels sufficient to ensure required performance of the application for all users during peak utilization periods.

14. Availability of the connectivity solution shall be 99.9% during working hours.

15. Specific details of bandwidth and latency will be approved by the District.

16. **Service Level Metrics Reporting:** The Contractor shall measure performance against SLA targets as follows:

- (a) Measure performance against targets daily,
- (b) Calculate monthly averages for performance for each metric, and
- (c) Report on averages in monthly performance reports to the District.

17. The District shall use the following formulas to calculate SLA metrics on a monthly basis:

Metric	Calculation
1. Production Uptime - internal applications	[Hours application is available to users per month] divided by [total business hours per month]
2. Production Uptime - external applications	[Hours application is available to users per month] divided by [24 days in the month]
3. Backups	[# backups completed on schedule per month] divided by [number of full backups per month + number of differential backups per month + number of SQL Server Transaction Log backups per month]
4. Production RPO	Number of hours of data lost in an outage event
5. Production RTO	Time per outage event from declaration of outage to restoration of service
6. Help Desk Response to P1 and P2 Incidents	[number of times per month a request for service was responded to in less than 15 minutes] divided by [Total number of requests received per month]
7. Help Desk P1 Incident Response	These incidents represent a system down or degraded and thus the Production Uptime and Performance requirements are applicable.
8. Help Desk P2 Incident Response	[number of times per month a P2 request was resolved in <= 4 business hours] divided by [Total number of P2 requests received per month]
9. Provisioning	# of times per month a request for provisioning an environment was completed behind schedule
10. Refreshing	# of times per month a request for refreshing an environment was completed behind schedule
11. Bandwidth	Average bandwidth of the active connection per month, tested daily
12. Latency	Average latency of the active connection per month, tested daily

13. Connectivity Availability	[Hours active connectivity is up per month] divided by [total business hours per month]
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18. Holdbacks:

- (a) If the Contractor fails to satisfy one or more service level performance targets in any given quarter, the Contractor agrees to invoice the District less a holdback of 2.5% of the hosting total amount for that quarter for each of the missed Metric.
- (b) If the Contractor fails to satisfy one or more performance targets for RTO/RPO in any given quarter, the Contractor agrees to invoice the District less the holdback in the corresponding amount from the hosting total amount of that quarter for each of the missed Metric.

19. Metrics and Related Holdbacks Chart:

Metric	Environment	Performance Target	Service Level	Holdbacks for Failure to Perform
Application Availability	Prod	99.9% during business hours	100%	2.5% of monthly hosting charge
Backup Completion	Prod	95% of all scheduled backups completed	100%	2.5% of monthly hosting charge
GenTax Application Performance	Prod	<2second screen	>=95%	2.5% of monthly hosting charge
RTO	Prod	<=12 hours	100%	2.5% of monthly hosting charge plus 100% of daily fee for each additional day that system is not restored. The daily fee is calculated as Total monthly hosting charge/Number of days in the month
RPO	Prod	<=4 2 hours	100%	2.5% of monthly hosting charge plus 100% of daily fee for each day of lost data. The daily fee is calculated as Total monthly hosting charge/Number of days in the month

Help Desk P1		N/A	N/A	Covered by the application availability and Production GenTax Application performance Holdbacks
Help Desk P2		<=4 business hours	>=95%	2.5% of monthly hosting charge

20. The Contractor shall follow the best practices with regard to hardware features (Processor, Memory, I/O, Storage, Power/cooling, System, and Virtual machines) for achieving the SLAs outlined in Section XVI.

**XVII. Monitoring and Alerting**

1. The Contractor shall monitor and provide alerts to the District on system down events.
2. The Contractor shall monitor resource utilization to meet the SLA for thresholds in Section O, Service Level Agreement.
3. The Contractor shall alert the COTR when thresholds have been exceeded.
4. The Contractor shall provide the reports and alerts that are configurable in the system upon request by the District.

**XVIII. Infrastructure Change Management**

1. The Contractor shall provide the following Change Management services for the hosting infrastructure:
  - (a) Change control processes and procedures
  - (b) Customer notification procedures
  - (c) Testing of changes
  - (d) Migrating changes to production from lower environments
  - (e) Environment upgrades and patching
  - (f) Backout process
  - (g) Coordinate with the District to approve planned changes that are expected to result in downtime or require a change be made by the District and coordinate timelines before changes are deployed
2. All infrastructure change management services that are expected to result in downtime or request a change be made by the District in the production environment shall occur during scheduled maintenance periods after normal business hours to minimize user impact.
3. Maintenance periods shall be excluded from the 99.9% service level agreement.
4. Infrastructure changes shall be first tested in the lower environments, documented, and tracked.
5. Contractor shall provide notifications to appropriate District personnel when changes that are expected to result in downtime or require a change be made by the District, have been scheduled to be applied in production.

**XIX. Security Assessment and Penetration Testing**

1. The Contractor shall work with the District and designated third parties to conduct a

Security Assessment, aligned with IRS Publication 1075, no more than 90 days after the request, where direct access to the infrastructure is not required by the assessors.

2. The Contractor shall submit a mitigation plan to the District for all mutually agreed to issues uncovered by Security Assessment within 30 days to satisfy the findings as outlined by the report, and shall execute the mitigation plan as approved by the District for all issues uncovered in the Security Assessment and Penetration testing.
3. The Contractor shall conduct a Penetration Test annually aligned with industry standards.
4. The Contractor shall submit a mitigation plan to the District within 30 days of the penetration test for all applicable issues uncovered, and shall execute the mitigation plan as approved by the District and the Contractor for all issues uncovered in the Penetration Test.

**XX. Interfaces to External Systems**

1. If directed by the District, Contractor resources provided shall support interfaces between the hosted environments and other application systems within the District network, or outside the District network.

**XXI. Exit from Hosting**

1. If the District discontinues the hosting services, for convenience, default or other means allowable by the Contract, the Contractor shall provide data in a format and media approved by the District and Contractor.
2. The Contractor shall assist the District in migrating the hosted application environments to the District's on-premise environments to minimize downtime, preserve continuity of operations, and ensure no loss of data.
3. The details of the exit services to be provided shall be approved by the District during the exit planning stage and shall be at no additional cost to the District.
4. The Contractor shall provide 160 hours of exit services to the District at no additional cost.

**XXII. Governance**

1. The Contractor shall provide governance services to the District.
2. The Contractor shall work with the District to develop required details for these governance services within 60 days from the Effective Date of the Contract.

*[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.

## 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 RESERVED

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 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.
- (c) 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.
- (d) "Covered Services" are those services provided by Contractor, excluding the Resource Support Services described in Section C.3 IV. Resource Support Services. If any of the Covered Services do not materially conform to the contract requirements, the District may require the Contractor to perform these Covered Services again in conformity with contract requirements, at no increase in contract amount. When the defects in Covered 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 Covered 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 Covered 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**

The time period for this warranty provision is during the Contract term plus active options and extensions. However, this warranty only applies to Covered Services as defined in Section E.1.3 above.

E.3.1 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 material defects in workmanship and materially conform to the requirements of this contract. The Contracting Officer shall give written notice of any material 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 reperfomed 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 or make an equitable adjustment in the contract price.
- (c) If the District does not require correction or reperformance by Contractor, the Contracting Officer shall make an equitable adjustment in the contract price. The adjustment is subject to the dispute resolution provision.

## 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 nine (9), one (1) 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.



## SECTION G

### CONTRACT ADMINISTRATION

#### G.1 CONTRACT ADMINISTRATORS

##### (a) **Contracting Officer**

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

Drakus Wiggins  
Contracting Officer  
1100 4<sup>th</sup> St. SW Suite E620  
Washington, DC 20024  
Telephone: (202) 442-7121  
Fax: 202-442-6454  
E-mail address: [drakus.wiggins@dc.gov](mailto:drakus.wiggins@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:

Lisa Pierson  
Contracting Officer Technical Representative (COTR)  
1100 4th St. SW E620 Washington, DC 20024  
(202) 442-6352  
[lisa.pierson@dc.gov](mailto:lisa.pierson@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 quarterly 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.3.4** For the fourth-quarter fiscal year invoice, the Contractor shall submit a projected invoice billed at the full amount for the quarter. The Contractor shall provide a first-quarter invoice for the subsequent fiscal year that is adjusted (trued up) with any discrepancies or variances from the previous fiscal year fourth-quarter invoice.

### **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:
  - G.4.1.1.1** The date on which payment is due under the terms of this contract;
  - G.4.1.1.2** Not later than 7 calendar days, excluding legal holidays, after the date of delivery of meat or meat food products;
  - G.4.1.1.3** Not later than 10 calendar days, excluding legal holidays, after the date of delivery of a perishable agricultural commodity; or
  - G.4.1.1.4** 30 calendar days, excluding legal holidays, after receipt of a proper invoice for the amount

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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:

G.4.1.2.1 3<sup>rd</sup> day after the required payment date for meat or a meat product;

G.4.1.2.2 5<sup>th</sup> day after the required payment date for an agricultural commodity; or

G.4.1.2.3 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:

G.4.2.1.1 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

G.4.2.1.2 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:

G.4.2.2.1 3<sup>rd</sup> day after the required payment date for meat or a meat product;

G.4.2.2.2 5<sup>th</sup> day after the required payment date for an agricultural commodity; or

G.4.2.2.3 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.

## 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 during a period when there is no COVID-19 emergency (as later defined in Section H.3.16(c)(3), 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. A certified business enterprise prime contractor that performs less than 35% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.
- (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. If the certified business enterprise member of the certified joint venture prime contractor performs less than 50% of the contracting effort, the certified joint venture shall be subject to enforcement actions under D.C. Official Code § 2-218.63.
- (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 to the Contracting Officer, project manager, 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 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, and the project manager 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, and the project manager 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) The Beneficiary may request a waiver of the subcontracting requirements by timely filing a written request with 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.3.16

- (a) Notwithstanding the requirements set forth in this Section H.3, D.C. Code §§ 2-218.01 – 2-218.82 or any other provision of District law or regulation, during the period of the COVID-19 emergency, any contract for a government-assisted project in excess of \$250,000 that is unrelated to the District's response to the COVID-19 emergency but entered into during the COVID-19 emergency, absent a waiver pursuant to D.C. Code § 2-218.51, shall provide that:
  - (1) At least 50% of the dollar volume of the contract be subcontracted to small business enterprises; or
  - (2) If there are insufficient qualified small business enterprises to meet the requirement of paragraph (1) of this subsection, the subcontracting requirement may be satisfied by

subcontracting 50% of the dollar volume ("CBE minimum expenditure") to any qualified certified business enterprises; provided, that best efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.

- (b) (1) For every dollar expended by a beneficiary with a resident-owned business, the beneficiary shall receive a credit for \$1.10 against the CBE minimum expenditure.
- (2) For every dollar expended by a beneficiary with a disadvantaged business enterprise, the beneficiary shall receive a credit for \$1.25 against the CBE minimum expenditure.
- (3) For every dollar expended by a beneficiary that uses a company designated as both a disadvantaged business enterprise under D.C. Code § 2-218.33 and as a resident-owned business under D.C. Code § 2-218.02(15), the beneficiary shall receive a maximum credit for \$1.30 against the CBE minimum expenditure.
- (c) For the purposes of this section, the term:
  - (1) "Beneficiary" has the same meaning as set forth in D.C. Code § 2-218.02(1B).
  - (2) "Best efforts" means that a beneficiary is obligated to make its best attempt to accomplish the agreed-to goal, even when there is uncertainty or difficulty.
  - (3) "COVID-19 emergency" means the emergencies declared in the Declaration of Public Emergency (Mayor's Order 2020-045) together with the Declaration of Public Health Emergency (Mayor's Order 2020-046), declared on March 11, 2020, including any extension of those declared emergencies.
  - (4) "Disadvantaged business enterprise" has the same meaning as set forth in D.C. Code § 2-218.33.
  - (5) "Government-assisted project" has the same meaning as set forth in D.C. Code § 2-218.02(9A).
  - (6) "Longtime resident business" has the same meaning as set forth in D.C. Code § 2-218.02(13).
  - (7) "Resident-owned business" has the same meaning as set forth in D.C. Code § 2-218.02(15).
  - (8) "Small Business Enterprises" has the same meaning as set forth in D.C. Code § 2-218.32.

#### **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 RESERVED
- 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 District owned equipment that it uses in good condition and repair, and shall not permit anything to be done by Contractor, its employees or agents 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.
- H.4.10 Excluding any Contractor-owned property that is licensed to the District hereunder or property that is provided as part of the hosting services or otherwise for the District's use, the Contractor warrants and agrees that it shall not sell, assign, lease, transfer, pledge, hypothecate, or otherwise dispose of any District owned property including any component of any goods, system proposed in the Contract or any interest therein, or permit any District owned property under its control to become a fixture or accession to other non District owned 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 execution of a contract shall be disclosed in a written statement within fifteen (15) days of its occurrence. After disclosure is made and if the litigation impacts the Contractor's District of Columbia operations, the Contractor shall be required to file with the District comprehensive monthly reports regarding such litigation.

## **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 at mutually agreed upon terms and rates. 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 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL**

The Contractor has identified the key personnel and the scope of their involvement in Attachment J.4 which is incorporated into the Contract. The key personnel specified in Attachment J.4 of the Contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified key personnel for any reason, the Contractor shall notify the CO at least thirty (30) calendar days in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact upon the Contract. The Contractor shall obtain written approval of the CO for any proposed substitution of key personnel.

## **H.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.9 INTELLECTUAL PROPERTY RIGHTS**

### **H.9.1 Licenses**

- a. Contractor grants the District an irrevocable, worldwide license to use, modify, display, execute, and have modified, displayed, used, and executed, the Works for the term of the Contract (including any extensions or renewals thereof) and a period of five (5) years after termination or expiration of the Contract for any reason. Contractor hereby grants the District an irrevocable, perpetual, worldwide license to use the Works solely for the purpose of accessing archived data.
- b. The District will only use contractors and consultants to exercise its right under the foregoing paragraph to the extent that such contractors and consultants enter non-disclosure with the District, acknowledging the confidential and proprietary nature of the System and agreeing to access and use the System solely to perform its obligations. In the event third-party contractors or consultants of the District require access to the Contractor's confidential information, the Contractor may require the District's third-party contractor or consultant to sign an Attachment J.6, Contractor Non-Disclosure Agreement prior to receiving access.
- c. Upon execution of the Contract, the Contractor hereby grants to the District an irrevocable perpetual license to internally use, modify and display the Works in any manner which will not threaten the security or integrity of the System.

### **H.9.2 Ownership**

- a. *Ownership.* As between the Contractor and the District, the Works and Intellectual Property Rights of the material created for the sole use of the District are and shall be owned exclusively by the District, and not the Contractor. The Contractor specifically agrees that all Works shall be considered "works made for hire" and that the Works shall, upon creation, be owned exclusively by the District. To the extent that the Works, under applicable law, may not be considered works made for hire, the Contractor hereby agrees that the Contract effectively transfers, grants, conveys, assigns, and relinquishes exclusively to the District all right, title and interest in and to all ownership rights in the Works, and all Intellectual Property Rights in the Works, without the necessity of any further consideration, and the District shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Works.
- b. *Further Actions.* Contractor, upon request of the District and without further consideration, shall perform any reasonable acts that may be deemed necessary or desirable by the District to evidence more fully the ownership rights of the District in the Works including but not limited to the execution, acknowledgement and delivery of such further documents in a

- c. *Waiver of Moral Rights.* The Contractor hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Works which the Contractor may now have or which may accrue to the Contractor's benefit under U.S. or foreign copyright laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. The term "Moral Rights" shall mean any and all rights of paternity or integrity of the Works and the right to object to any modification, translation or use of the Works, and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.
- d. *Confidentiality.* All Works prepared solely for the District's use shall be deemed the confidential information of the District, and the Contractor shall not use, disclose, or permit any person to use or obtain the Works, in any manner that might threaten the operation or security of the District.

### H.9.3 Injunctive Relief

The Contract shall protect the District's proprietary rights pertaining to the Works, and any misuse of such rights would cause substantial and irreparable harm to the District. Therefore, the Contractor acknowledges and stipulates that a court of competent jurisdiction should immediately enjoin any material breach of the intellectual property, licensing, and confidentiality provisions of the contract, upon a request by the District, without requiring proof of irreparable injury as same should be presumed.

### H.9.4 **Definitions:**

- H.9.4.1 "*Intellectual Property Rights*" - The worldwide legal rights or interests evidenced by or embodied in: (i) any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement, including any patents, trade secrets, and know-how; (ii) any work of authorship, including any copyrights, moral rights or neighboring rights; (iii) any trademark, service mark, trade dress, trade name, or other indicia of source or origin; (iv) domain name registrations; and (v) any other proprietary or similar rights. The Intellectual Property Rights of a party include all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.
- H.9.4.2 "*Works*" - Any tangible or intangible items or things that have been or will be prepared, created, maintained, serviced or developed by the Contractor (or such third parties as the Contractor may be permitted to engage) at any time following the effective date of the Contract, for the sole use of the District under the Contract, including but not limited to any (i) works of authorship (such as literary works, musical works, dramatic works, choreographic works, pictorial, graphic and sculptural works, motion pictures and other audiovisual works, sound recordings and architectural works, which includes but is not limited to lottery games, game names, game designs, ticket format and layout, manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer software, scripts, object code, source code or other programming code, HTML code, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in

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any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided for the sole use of the District under the Contract, and (viii) all Intellectual Property Rights in any of the foregoing.

H.9.5 Return of Works

Upon the request of the District, but in any event upon termination of any Contract, the Contractor shall surrender to the District all Works, including but not limited to drafts, memoranda, notes, records, drawings, manuals, computer software, reports, data, and all other documents or materials (and copies of same) generated or developed by the Contractor for the sole use of the District under this Contract or furnished by the District to the Contractor, including all materials embodying the Works, any District confidential information, or Intellectual Property Rights, regardless of whether complete or incomplete. This section is intended to apply to all Works made or compiled by the Contractor, as well as to all documents and things furnished to the Contractor by the District that pertains to the Works. This section H.9.5 does not apply to Contractor intellectual property and licensed software.

H.9.6 Contractor's Name or Logo

The District reserves the right to require, the Contractor to not affix its company name, label, logo, or any other identifying information to or on any printed products for the District except for printed material which is licensed to the District and includes Contractor's proprietary markings.

**H.10 PRE-EXISTING AND THIRD-PARTY RIGHTS**

H.10.1 To the extent that any pre-existing rights are embodied or reflected in the Works, the Contractor hereby grants to the District the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license to (i) use, execute, reproduce, display, perform, distribute copies of, and prepared derivative works based upon such pre-existing rights and any derivative works thereof and (ii) authorize others to do any or all of the foregoing. The Contractor shall indemnify, defend, and hold harmless the District from any losses, claims, damages, costs (including attorneys' fees) or causes of action relating to any claim or assertion by any third party that the Works include third party materials or infringe third party rights provided that any such claim or assertion is not occasioned by the District's negligence or willful misconduct. The Contractor will not be liable under this Section H.10.1 for any claim for infringement based solely on the following: (a) District modification of the infringing material where such modification is not made under the direction of Contractor; (b) Use of the Deliverables or the System in a manner other than as contemplated in this Contract, a Deliverable, the System specifications, or as otherwise authorized by Contractor in writing; or (c) Use of the Deliverables or the System in combination, operation, or use of with other products other than as contemplated by this Contract, a Deliverable, the System specifications,



H.10.2 The Contractor agrees that it shall have and maintain, during performance of the Contract, written agreements with all contractors or agents engaged by the Contractor in performance hereunder, granting the Contractor rights sufficient to support all performance and grants of rights by the Contractor. Copies of such agreements shall be provided to the District promptly upon request.

H.10.2.1 Remediation

If the Works or the Intellectual Property Rights therein become the subject of a lawsuit or claim of infringement, or the Contractor becomes aware that such items are likely to become the subject of a lawsuit or claim or infringement, the Contractor shall exercise one (1) of the following two (2) options in order to provide the District with continued and uninterrupted use of the Works and Intellectual Property Rights therein: (a) obtain for the District the right to continue the use of the alleged infringing Works at no additional cost to the District, or (b) obtain alternative or substitute works for the allegedly infringing Works, which are of equivalent or superior quality to the allegedly infringing Works, at no additional cost to the District, and subject to the acceptance of the District in its sole discretion.

H.10.2.2 Intellectual Property Search

The Contractor, at its expense, shall conduct all appropriate intellectual property searches (e.g., full trademark and service mark searches) for all proposed Works, and hold the District harmless from the infringement of such Works.

H.10.2.3 Audit Requirements

The Contractor shall meet specific auditing obligations:

- a. The Contractor shall be required to have a complete financial audit conducted annually. If required by the Contracting Officer, a copy of the Contractor's audited financial statements shall be provided to the District annually.
- b. In addition, if directed by the Contracting Office, a complete internal control audit of the Contractor's District of Columbia operations shall be conducted annually by an independent certified public accounting firm chosen by the District. The District shall pay for the directed audit services. The audit shall be conducted pursuant to Statement on Auditing Standards No. 70, as issued by the American Institute of Certified Public Accountants as it may be updated or amended from time to time. The District reserves the right to specify the type of report and the control objectives to be examined as well as the accounting firm to perform the audit. The District reserves the right to designate the annual period to be covered by the report relating to the internal control audit. The Contractor agrees (i) to fully cooperate with any auditor retained to perform such audit; (ii) to generally release and waive any and all claims against auditor other than those based upon intentional misconduct occurring during such audit or that are related to any disclosure of the Contractor's financial or other confidential information by the auditor, and (iii) to indemnify and hold harmless any auditor retained to perform such audit.

However, the Contractor shall not have any obligation under section (iii) to indemnify and hold harmless any auditor for any damages, liability, claims or other costs arising out of the acts or omissions of the auditor. The Contractor agrees that any such auditor is a direct and intended third party beneficiary of this provision.

- c. The District's internal auditor or external auditors (and other designees) and the District of Columbia Office of the Chief Financial Officer will be given the right to review the work papers of the audits conducted by any independent certified public accounting firm, if considered necessary or desirable by the District.
- d. The District's internal auditor and Contracting Officer shall be given a copy of all reports including any management letters issued as a result of the specified audits within ten (10) days of issuance.
- e. The District shall ensure that any auditor exposed to any audit reports, management letters or any other Contractor information be bound by confidentiality provisions that require them to: (i) maintain all Contractor information in confidence, (ii) use all Contractor information only for the purposes of performing or evaluating the audit, and (iii) prohibit disclosure of any Contractor information to any third party without Contractor's prior approval.

#### **H.11 RIGHT TO ADDITIONALLY AUDIT CONTRACTOR'S OPERATIONS**

H.11.1 The District reserves the right to audit, at its sole cost and expense, the Contractor's records and operations as they relate to the District of Columbia. The Contractor's records are subject to audit by the District, the Office of the Chief Financial Officer, the District of Columbia Auditor and the Office of the Inspector General. For the purpose of this provision, the District may examine all books, records, papers, or other objects, as well as data and systems that the District determines are necessary for conducting a complete examination. The District may also examine under oath any officer, director, or employee of the Contractor. The District may conduct an examination at the principal office or any other office of the Contractor or may require the Contractor to produce the records at the office of the Office of the Chief Financial Officer or other District office.

H.11.2 The Contractor agrees (i) to fully cooperate with any auditor retained to perform such audit and (ii) to generally release and waive any and all claims against auditor other than those based upon intentional misconduct occurring during such audit. The Contractor agrees that any such auditor is a direct and intended third party beneficiary of this provision.

## **H.12 USUFRUCT**

If, for any reason other than breach of Contract by the District, a Contractor shall lose its ability to provide service against the Contract, the District shall acquire a usufruct in all contractual items owned by the Contractor in conjunction with the Contract and which are necessary to provide such services. Said usufruct shall be limited to the right of the District to possess and make use of such contractual items solely for the use and benefit of the District in operating, maintaining, altering, replacing and improving the programs and systems being used by the District under the Contract. Such usufruct shall be limited in time to the duration of the Contract and any extension thereof, and in scope for programs, systems, and other items being used by the District under the Contract. In the event that the District reasonably determines that assumption of operations by the District may be pending, the Contractor shall not unreasonably withhold access and shall reasonably comply with any District request for training in the operations of the System.

## **H.13 PROGRAMS**

The Contractor represents and warrants that all systems analysis, systems design, and programming prepared or done, or to be prepared or done, by the Contractor, its subcontractors, or its officers, employees or agents has been and shall be prepared or done in a professional manner. The Contractor further hereby represents and warrants that all programs implemented in its performance herein shall be in material compliance with the performance standards required hereunder.

## **H.14 EQUIPMENT AND SOFTWARE CORRECTIONS AND UPGRADES**

**Corrections:** The Contractor shall report any relevant deficiencies in licensed third-party software used in the System and is responsible for ensuring that corrections from the supplier are incorporated in the configuration in a timely and responsible manner.

## **H.15 EQUIPMENT**

Any equipment, or component thereof, provided by the Contractor pursuant hereto which does not fit for the purpose for which it is intended or meet the performance standards and specifications required in the Contract shall be repaired or replaced by the Contractor without cost to the District in addition to other amounts the District may be entitled to in law or in equity, or as specified in the Contract.

## **H.16 ADDITIONAL SPECIAL CONTRACT REQUIREMENTS**

H.16.1 The Contractor shall not modify any software or hardware that has been implemented for the District without the prior written approval of the District.

H.16.2 The Contractor shall address recommendations made as a result of System or operational audits.

H.16.3 The goods and services to be provided under the Contract are not readily available on the open market. Further, a breach by the Contractor may delay and disrupt the District's operations.

**H.17 LIMIT ON LIABILITY**

Neither party shall be liable to the other for indirect, special or consequential damages. Contractor's liability for any claims that arise during a Contract year is limited to direct damages not to exceed the annual value of the Contract during the year the claim arose.

**H.18 INTERPRETATION OF LAWS**

The Contractor is not required or obligated to interpret how any law, ordinance, statute or regulation is or should be implemented into the System. The District is solely responsible for any damages (problems, issues, costs, loss of goodwill, lost time, etc.) resulting from the System performing in accordance with instructions from the District.

**H.19 CONFIDENTIALITY AND NONDISCLOSURE AFFIDAVIT**

The Contractor shall provide a completed Attachment J.8, Confidentiality and Non-Disclosure Affidavit and Attachment J.9, Confidentiality and Non-Disclosure Affidavit Acknowledgment Form prior to commencement of service under the Contract to attest to the Contractor's safeguards of District and Federal tax information (FTI) in compliance with the U.S. Internal Revenue Services (IRS) Publication 1075.

## 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 <https://does.dc.gov/service/office-wage-hour-compliance-0> 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 third party claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorneys’ fees), related to bodily injury, property damage, or death to the extent caused by 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 its property or personnel 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. However, if the District becomes required to pay taxes that a buyer of goods or services would pay, like a sales tax, or the goods or services provided under this Contract become subject to a tax, like a gross receipts tax, the parties will enter into a modification to this contract.

(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**

- A. All disputes arising under or relating to this contract shall be resolved as provided herein.
- B. Claims by a Contractor against the District**  
Claim, as used in Section B 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.
- (a) 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:
- (1) A description of the claim and the amount in dispute;
  - (2) Any data or other information in support of the claim;

- (3) A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and
  - (4) The Contractor's request for relief or other action by the Contracting Officer.
- (b) The Contracting Officer may meet with the Contractor in a further attempt to resolve the claim by agreement.
- (c) For any claim of \$50,000 or less, the Contracting Officer shall issue a decision within sixty (60) days from receipt of a written request from a Contractor that a decision be rendered within that period.
- (d) For any claim over \$50,000, the Contracting Officer shall issue a decision within ninety (90) days of receipt of the claim. Whenever possible, the Contracting Officer 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.
- (e) The Contracting Officer's written decision shall do the following:
  - (1) Provide a description of the claim or dispute;
  - (2) Refer to the pertinent contract terms;
  - (3) State the factual areas of agreement and disagreement;
  - (4) 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;
  - (5) 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;
  - (6) Indicate that the written document is the contracting officer's final decision; and
  - (7) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- (f) Any failure by the Contracting Officer to issue a decision on a contract claim within the required time period 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.



- (g) (1) 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.
- (2) Liability under paragraph (g) (1) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.
- (h) The decision 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.
- (i) 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.

**C. Claims by the District against a Contractor**

- (a) Claim as used in Section C 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.
- (b) (1) All claims by the District against a Contractor arising under or relating to a contract shall be decided by the Contracting Officer.
- (2) The Contracting Officer shall send written notice of the claim to the Contractor. The Contracting Officer's written decision shall do the following:
  - (a) Provide a description of the claim or dispute;
  - (b) Refer to the pertinent contract terms;
  - (c) State the factual areas of agreement and disagreement;
  - (d) 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;
  - (e) 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;

- (f) Indicate that the written document is the Contracting Officer's final decision; and
  - (g) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- (3) The decision shall be supported by reasons and shall inform the Contractor of its rights as provided herein.
  - (4) The authority contained in this clause 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.
  - (5) This clause shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.
  - (6) The decision 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.
  - (7) 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.
- (c) All monetary payments, adjustments, or relief may be deducted from any moneys owed the Contractor by the District and, in the event the amounts due the Contractor is not sufficient to satisfy the amount, the Contractor shall pay the balance to the District within thirty (30) calendar days of written notification to submit such payment. The District may also obtain payment through one (1) or more claims upon the Performance Bond.

## **I.8 CHANGES**

The Contracting Officer may request, at any time and without notice to the surety, if any, changes in the contract within the general scope hereof. Contractor and Contracting Officer will mutually agree upon any requested changes to make negotiated equitable adjustments resulting from the issuance of a change order and to reflect other agreements of the parties to modify the terms of the contract. If such changes cause an increase or decrease in the cost of performance, a bilateral agreement executed by the Contracting Officer and an authorized representative of the Contractor shall be made.

## **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

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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 thirty (30) 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 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 at mutually agreed upon terms and rates.
- C. Except with respect to defaults of subcontractors, the Contractor shall not be liable for any 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 were not being supplied by a certified business enterprises and such supplies or services 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 subject to the ownership and confidentiality provisions included herein, 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 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. The District shall pay 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, and subject to the ownership and confidentiality provisions herein, transfer title and deliver to the District the completed or partially completed plans, drawings, information, and other property that, if the contract had 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 have acquired an interest.

(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 of District Property (“termination inventory”), 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 six (6) months from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 6-month period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after six (6) months 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 for which the District would have taken title had the Contract not been terminated 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 that it maintains in its ordinary course of business 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**

The following requirements apply to the Contractor's operations in the District:

- (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.
- E. Section I.16 does not apply to information related to the Contract that is made publicly available by the District.

**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**

GenTax Maintenance & Support Services

- A. All data first produced in the performance of this contract for the sole use of the District shall be the sole property of the District. Contractor hereby acknowledges that all data prepared for the sole use of the District including, without limitation, computer program codes produced by the Contractor for the sole use of the District under this contract are works made for hire and are the sole property of the District; but, to the extent any such data may not, by operation of law, be works made for hire, Contractor hereby transfers and assigns to the District the ownership of copyright in such works, whether published or unpublished. The Contractor agrees to give the District all assistance reasonably necessary to perfect such rights including; but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Contractor agrees not to assert any rights at common law or in equity in such data. The Contractor shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the District until such time as the District may have released such data to the public. The District shall not unreasonably withhold consent to the Contractor's request to publish or reproduce data in professional publications.
- B. The District shall have restricted rights in data, including computer software and all accompanying documentation, and manuals and instructional materials, listed or described in a license or agreement made a part of the contract, which the parties have agreed will be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum, the right to:
  - (i) Use the data at any District installation. If the data is software, use the software and all accompanying documentation and manuals or instructional materials with the computer for which or with which it was acquired, including use at any District installation to which the computer may have been transferred by the District;
  - (ii) Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;
  - (iii) Copy computer programs for safekeeping (archives) or backup purposes; and
  - (iv) modify all the data, including computer software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provision that the modified portions shall remain subject to these restrictions.
- C. In addition to the rights granted in Paragraph B above, the Contractor hereby grants to the District a nonexclusive, paid up license throughout the world, of the same scope as the restricted rights set forth in Paragraph B above, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the District under the contract. Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared or acquired for the sole use of the District under the contract any works of authorship in which the copyright is not owned by the Contractor without acquiring for the District any rights necessary to perfect a copyright license of the scope specified in the first sentence of this paragraph.
- D. Whenever any data, including computer software, is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District's or the Contractor's rights in that subcontractor data or computer software which is required for the District.

**E. Source Code Escrow**

1. For all computer software furnished to the District with the rights specified in section A the Contractor shall furnish to the District, a copy of the source code with such rights of the scope as specified in section A of this clause. For all computer software furnished to the District with the restricted rights specified in section B of this clause, the District shall be added as a beneficiary to the Contractor's multi escrow agreement.

**F. Indemnification and Limitation of Liability**

1. 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 by Contractor under this contract, or (ii) based upon libelous or other unlawful matter contained in such data.
2. The Contractor shall not be liable for actions of the District that include: 1) Contractor modification of the infringing material where such modification is made specifically for the District, and where the District has set forth the specific manner in which the modifications shall be made; 2) District modification of the infringing material where such modification is not made under the direction of the Contractor; 3) use of the Deliverables or the System by the District in a manner not contemplated by this Contract or as otherwise authorized by the Contractor in writing; 4) use of the Deliverables or the System in combination, operation, or use with other products in a manner other than as contemplated by the Contract or otherwise authorized by the Contractor in writing.

**I.19 PATENTS**

The Contractor shall hold and save the District, its officers, agents, servants and employees harmless from third party claims including costs, expenses, caused by infringement by Contractor furnished data or intellectual property 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 LIVING WAGE ACT OF 2006 REQUIREMENTS**

- A. The Contractor shall comply with the provisions of 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.
- B. The Living Wage Act of 2006 requires the Contractor to:
  - 1. Pay its employees and subcontractors who perform services under the contract no less than the current living wage;
  - 2. Include in any subcontract for \$15,000.00 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate;
  - 3. Provide a copy of the Living Wage Act Fact Sheet to each employee and Subcontractor who performs services under the contract;



4. Post the Living Wage Act Notice in a conspicuous place in its place of business;
  5. Include in any subcontract for \$15,000.00 or more a provision requiring the subcontractor to post the Living Wage Act Notice in a conspicuous place in its place of business;
  6. Maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date; and
  7. Require its subcontractors with subcontracts for \$15,000.00 or more under the contract to maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date.
- C. The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 et seq.
- D. 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.

**1.27 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.

**1.28 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*.

**1.29 PROPRIETARY REQUIREMENTS**

Trade secrets or similar proprietary data, which the Contractor or the District does not wish disclosed to other than personnel involved in the evaluation or contract administration will be kept confidential to the extent permitted. The District and the Contractor shall identify and to the extent possible mark all proprietary materials.

### **I.30 INSURANCE**

- A. GENERAL REQUIREMENTS. The Contractor at its sole expense 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- / VII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein.

All required policies, excluding Professional Liability and Cyber Liability policies, shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia. The Contractor shall include a waiver of subrogation provision in favor of the Government of the District of Columbia in its Professional Liability and Cyber Liability policies at such time as the Contractor is reasonably able.

The Government of the District of Columbia shall be included in all policies required hereunder to be maintained by the Contractor and its subcontractors (except for workers' compensation, professional liability and crime) as an additional insureds for claims against The Government of the District of Columbia relating to this contract, with the understanding that any affirmative obligation imposed upon the insured Contractor or its subcontractors (including without limitation the liability to pay premiums) shall be the sole obligation of the Contractor or its subcontractors, and not the additional insured. The additional insured status under the Contractor's and its subcontractors' Commercial General Liability insurance policies shall be effected using the ISO Additional Insured Endorsement form CG 20 10 11 85 (or CG 20 10 07 04 **and** CG 20 37 07 04) or such other endorsement or combination of endorsements providing coverage at least as broad and approved by the CO in writing. The Contractor and its subcontractors' liability policies (except for workers' compensation, professional liability, and crime) shall be endorsed using ISO form CG 20 01 04 13 or its equivalent so as to indicate that such policies provide primary coverage (without any right of contribution by any other insurance, reinsurance or self-insurance, including any deductible or retention, maintained by an Additional Insured) for all claims against the additional insured arising out of the performance of this Statement of Work by the Contractor or its subcontractors, or anyone for whom the Contractor or its subcontractors may be liable. These policies shall include a separation of insureds clause applicable to the additional insured.

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.

1. Commercial General Liability Insurance (“CGL”) - The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services Office, Inc. (“ISO”) form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by the CO in writing), covering liability for all ongoing and completed operations of the Contractor, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including without limitation sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than \$1,000,000 each occurrence, a \$2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a \$1,000,000 personal and advertising injury limit, and a \$2,000,000 products-completed operations aggregate limit.
2. Automobile Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of commercial (business) automobile liability insurance written on ISO form CA 00 01 10 13 (or another form with coverage at least as broad and approved by the CO in writing) including coverage for all owned, hired, borrowed and non-owned vehicles and equipment used by the Contractor, with minimum per accident limits equal to the greater of (i) the limits set forth in the Contractor’s commercial automobile liability policy or (ii) \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
3. i) Workers’ Compensation Insurance - The Contractor shall provide evidence satisfactory to the CO of Workers’ Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.  
  
ii) Employer’s Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of 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.  
  
iii) All insurance required by this paragraph 3 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.
4. Crime Insurance (3rd Party Indemnity) - The Contractor shall provide a Crime policy including 3<sup>rd</sup> party fidelity to cover the dishonest acts of Contractor, its employees and/or volunteers which result in a loss to the District. The policy shall provide a limit of \$1,000,000 per occurrence.
5. Cyber Liability Insurance - The Contractor shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than \$10,000,000 per occurrence or claim, \$10,000,000 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. This insurance requirement will be considered met if the general liability insurance includes an affirmative cyber endorsement for the required amounts and coverages. Shared limits with the Professional Liability coverage will be acceptable.

6. Employment Practices Liability - The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to the operations performed to cover the defense of claims arising from employment related wrongful acts including but not limited to: Discrimination, Sexual Harassment, Wrongful Termination, or Workplace Torts, whether between employees of contractor or against third parties. Employment Practices Liability coverage must specifically state Third Party Liability coverage is included. Contractor will indemnify and defend the District of Columbia should it be named co-defendant or be subject to or party of any claim. Coverage shall also extend to Temporary Help Firms and Independent Contractors hired by Contractor. The policy shall provide limits of not less than \$1,000,000 for each wrongful act and \$2,000,000 annual aggregate for each wrongful act.
7. Installation Floater Insurance - For projects involving District property being installed, fabricated or erected by a contractor, the contractor shall provide an installation floater policy with a limit equal to the full contract value. The policy shall cover property while located at the project site, at temporary locations, or in transit; deductibles will be the sole responsibility of the contractor.
8. Professional Liability Insurance (Errors & Omissions) - The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any covered error or omission in the performance of professional services under this Contract. The policy shall provide limits of \$10,000,000 per claim or per occurrence for each wrongful act and \$10,000,000 annual aggregate. The Contractor warrants that any applicable retroactive date precedes the date the Contractor first performed any professional services for the Government of the District of Columbia and that continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least ten years after the completion of the professional services. Shared limits with the Cyber Liability coverage will be acceptable.
9. Commercial Umbrella or Excess Liability - The Contractor shall provide evidence satisfactory to the CO of commercial umbrella or excess liability insurance with minimum limits equal to the greater of (i) the limits set forth in the Contractor's umbrella or excess liability policy or (ii) \$10,000,000 per occurrence and \$10,000,000 in the annual aggregate, following the form and in excess of all liability policies. **All** liability coverages must be scheduled under the umbrella and/or excess policy. The insurance required under this paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance or reinsurance maintained by the District and the "other insurance" provision must be amended in accordance with this requirement and principles of vertical exhaustion.

B. PRIMARY AND NONCONTRIBUTORY INSURANCE.

Excluding the Professional Liability and Cyber Liability policies, the insurance required herein shall be primary to and will not seek contribution from any other insurance, reinsurance or self-insurance including any deductible or retention, maintained by the Government of the District of Columbia.

- 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 ten years for construction projects following final acceptance of the work performed under this contract and two years for non-construction related contracts.
- 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 of 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 its 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. Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted to:

**The Government of the District of Columbia**

**And mailed to the attention of:  
(Name of Contracting Officer/Agency)  
(Address)  
(Phone Number)  
(E-mail Address)**

The CO may request and the Contractor shall promptly deliver updated certificates of insurance, endorsements indicating the required coverages, and/or other evidence of the insurance policies. If the insurance initially obtained by the Contractor expires prior to

completion of the contract, renewal certificates of insurance and additional insured and other endorsements shall be furnished to the CO prior to the date of expiration of all such initial insurance. For all coverage required to be maintained after completion, an additional certificate of insurance evidencing such coverage shall be submitted to the CO on an annual basis as the coverage is renewed (or replaced).

- 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.
- J. CARRIER RATINGS. All Contractor's and its subcontractors' insurance required in connection with this contract shall be written by insurance companies with an A.M. Best Insurance Guide rating of at least A- VII (or the equivalent by any other rating agency) and licensed in the in the District.

**I.31 51% DISTRICT RESIDENTS NEW HIRES REOUIREMENTS 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.31.11** 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, 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



**SECTION J**  
**ATTACHMENTS**

The following Attachments are hereby incorporated:

- J.1 U.S. Department of Labor Wage Determination No. 2015-4281, Revision 16, Dated 04/23/2020
- J.2 Doing Business with Integrity
- J.3 Bidder/Offeror Certifications
- J.4 Contractor Key Personnel
- J.5 FDS Subscriber Agreement
- J.6 Contractor Non-Disclosure Agreement
- J.7 Centralized Technical Support Statement of Work
- J.8 Confidentiality and Non-Disclosure Affidavit
- J.9 Confidentiality and Non-Disclosure Affidavit Acknowledgment

ATTACHMENT J.1

"REGISTER OF WAGE DETERMINATIONS UNDER  
THE SERVICE CONTRACT ACT  
By direction of the Secretary of Labor

U.S. DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
WAGE AND HOUR DIVISION  
WASHINGTON D.C. 20210

Daniel W. Simms                      Division of  
Director                                  Wage Determinations

Wage Determination No.: 2015-4281  
Revision No.: 16  
Date Of Last Revision: 04/23/2020

Note: Under Executive Order (EO) 13658 an hourly minimum

wage of \$10.80 for calendar year 2020 applies to all contracts subject to the Service Contract Act for which the contract is awarded (and any solicitation was issued) on or after January 1 2015. If this contract is covered by the EO the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination if it is higher) for all hours spent performing on the contract in calendar year 2020. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

States: District of Columbia Maryland Virginia

Area: District of Columbia Statewide

Maryland Counties of Calvert Charles Prince George's

Virginia Counties of Alexandria Arlington Fairfax Falls Church Fauquier Loudoun Manassas Manassas Park Prince William Stafford

**\*\*Fringe Benefits Required Follow the Occupational Listing\*\***

OCCUPATION CODE - TITLE	FOOTNOTE	RATE
01000 - Administrative Support And Clerical Occupations		
01011 - Accounting Clerk I		19.10
01012 - Accounting Clerk II		21.44
01013 - Accounting Clerk III		23.99
01020 - Administrative Assistant		34.70
01035 - Court Reporter		24.02
01041 - Customer Service Representative I		15.13
01042 - Customer Service Representative II		17.01

01043 - Customer Service Representative III	18.56
01051 - Data Entry Operator I	16.64
01052 - Data Entry Operator II	18.16
01060 - Dispatcher Motor Vehicle	20.54
01070 - Document Preparation Clerk	17.75
01090 - Duplicating Machine Operator	17.75
01111 - General Clerk I	15.11
01112 - General Clerk II	16.49
01113 - General Clerk III	18.74
01120 - Housing Referral Assistant	25.29
01141 - Messenger Courier	18.38
01191 - Order Clerk I	15.29
01192 - Order Clerk II	16.68
01261 - Personnel Assistant (Employment) I	19.09
01262 - Personnel Assistant (Employment) II	21.36
01263 - Personnel Assistant (Employment) III	23.81
01270 - Production Control Clerk	26.18
01290 - Rental Clerk	16.55
01300 - Scheduler Maintenance	18.07
01311 - Secretary I	18.07
01312 - Secretary II	20.18
01313 - Secretary III	25.29
01320 - Service Order Dispatcher	18.36
01410 - Supply Technician	34.70
01420 - Survey Worker	20.03
01460 - Switchboard Operator/Receptionist	15.69
01531 - Travel Clerk I	17.63
01532 - Travel Clerk II	19.21
01533 - Travel Clerk III	20.67
01611 - Word Processor I	17.41
01612 - Word Processor II	19.55
01613 - Word Processor III	21.87
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer Fiberglass	28.60
05010 - Automotive Electrician	24.50
05040 - Automotive Glass Installer	23.07
05070 - Automotive Worker	23.07
05110 - Mobile Equipment Servicer	19.84
05130 - Motor Equipment Metal Mechanic	25.79
05160 - Motor Equipment Metal Worker	23.07
05190 - Motor Vehicle Mechanic	25.79
05220 - Motor Vehicle Mechanic Helper	18.49
05250 - Motor Vehicle Upholstery Worker	21.63
05280 - Motor Vehicle Wrecker	23.07
05310 - Painter Automotive	24.50
05340 - Radiator Repair Specialist	23.07
05370 - Tire Repairer	14.44
05400 - Transmission Repair Specialist	25.79
07000 - Food Preparation And Service Occupations	
07010 - Baker	14.36

07041 - Cook I	16.47
07042 - Cook II	19.15
07070 - Dishwasher	12.96
07130 - Food Service Worker	13.07
07210 - Meat Cutter	20.41
07260 - Waiter/Waitress	11.81
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	19.86
09040 - Furniture Handler	14.06
09080 - Furniture Refinisher	20.23
09090 - Furniture Refinisher Helper	15.52
09110 - Furniture Repairer Minor	17.94
09130 - Upholsterer	19.86
11000 - General Services And Support Occupations	
11030 - Cleaner Vehicles	12.75
11060 - Elevator Operator	14.41
11090 - Gardener	20.42
11122 - Housekeeping Aide	14.41
11150 - Janitor	14.41
11210 - Laborer Grounds Maintenance	15.24
11240 - Maid or Houseman	13.85
11260 - Pruner	13.80
11270 - Tractor Operator	18.68
11330 - Trail Maintenance Worker	15.24
11360 - Window Cleaner	15.91
12000 - Health Occupations	
12010 - Ambulance Driver	23.71
12011 - Breath Alcohol Technician	23.49
12012 - Certified Occupational Therapist Assistant	33.40
12015 - Certified Physical Therapist Assistant	27.29
12020 - Dental Assistant	22.82
12025 - Dental Hygienist	50.57
12030 - EKG Technician	33.48
12035 - Electroneurodiagnostic Technologist	33.48
12040 - Emergency Medical Technician	23.71
12071 - Licensed Practical Nurse I	20.26
12072 - Licensed Practical Nurse II	22.67
12073 - Licensed Practical Nurse III	25.27
12100 - Medical Assistant	18.68
12130 - Medical Laboratory Technician	25.27
12160 - Medical Record Clerk	18.96
12190 - Medical Record Technician	22.67
12195 - Medical Transcriptionist	20.67
12210 - Nuclear Medicine Technologist	41.59
12221 - Nursing Assistant I	12.22
12222 - Nursing Assistant II	13.74
12223 - Nursing Assistant III	14.99
12224 - Nursing Assistant IV	16.83
12235 - Optical Dispenser	25.02
12236 - Optical Technician	21.03

12250 - Pharmacy Technician	18.12
12280 - Phlebotomist	19.35
12305 - Radiologic Technologist	35.25
12311 - Registered Nurse I	30.40
12312 - Registered Nurse II	36.78
12313 - Registered Nurse II Specialist	36.78
12314 - Registered Nurse III	44.14
12315 - Registered Nurse III Anesthetist	44.14
12316 - Registered Nurse IV	52.91
12317 - Scheduler (Drug and Alcohol Testing)	28.97
12320 - Substance Abuse Treatment Counselor	27.23
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	23.03
13012 - Exhibits Specialist II	28.53
13013 - Exhibits Specialist III	34.90
13041 - Illustrator I	20.48
13042 - Illustrator II	25.38
13043 - Illustrator III	31.03
13047 - Librarian	38.84
13050 - Library Aide/Clerk	17.04
13054 - Library Information Technology Systems Administrator	35.07
13058 - Library Technician	21.85
13061 - Media Specialist I	25.31
13062 - Media Specialist II	28.32
13063 - Media Specialist III	31.55
13071 - Photographer I	18.32
13072 - Photographer II	20.79
13073 - Photographer III	26.04
13074 - Photographer IV	31.52
13075 - Photographer V	37.14
13090 - Technical Order Library Clerk	21.40
13110 - Video Teleconference Technician	28.01
14000 - Information Technology Occupations	
14041 - Computer Operator I	18.92
14042 - Computer Operator II	21.18
14043 - Computer Operator III	23.60
14044 - Computer Operator IV	26.22
14045 - Computer Operator V	29.05
14071 - Computer Programmer I	(see 1)
14072 - Computer Programmer II	(see 1)
14073 - Computer Programmer III	(see 1)
14074 - Computer Programmer IV	(see 1)
14101 - Computer Systems Analyst I	(see 1)
14102 - Computer Systems Analyst II	(see 1)
14103 - Computer Systems Analyst III	(see 1)
14150 - Peripheral Equipment Operator	18.92
14160 - Personal Computer Support Technician	26.22
14170 - System Support Specialist	38.69
15000 - Instructional Occupations	

15010 - Aircrew Training Devices Instructor (Non-Rated)	36.47
15020 - Aircrew Training Devices Instructor (Rated)	44.06
15030 - Air Crew Training Devices Instructor (Pilot)	52.81
15050 - Computer Based Training Specialist / Instructor	36.47
15060 - Educational Technologist	40.88
15070 - Flight Instructor (Pilot)	52.81
15080 - Graphic Artist	34.72
15085 - Maintenance Test Pilot Fixed Jet/Prop	49.06
15086 - Maintenance Test Pilot Rotary Wing	49.06
15088 - Non-Maintenance Test/Co-Pilot	49.06
15090 - Technical Instructor	30.12
15095 - Technical Instructor/Course Developer	36.85
15110 - Test Proctor	24.32
15120 - Tutor	24.32
16000 - Laundry Dry-Cleaning Pressing And Related Occupations	
16010 - Assembler	15.19
16030 - Counter Attendant	15.19
16040 - Dry Cleaner	18.12
16070 - Finisher Flatwork Machine	15.19
16090 - Presser Hand	15.19
16110 - Presser Machine Drycleaning	15.19
16130 - Presser Machine Shirts	15.19
16160 - Presser Machine Wearing Apparel Laundry	15.19
16190 - Sewing Machine Operator	18.88
16220 - Tailor	19.63
16250 - Washer Machine	16.61
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	27.63
19040 - Tool And Die Maker	33.56
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	20.25
21030 - Material Coordinator	26.18
21040 - Material Expediter	26.18
21050 - Material Handling Laborer	13.87
21071 - Order Filler	16.60
21080 - Production Line Worker (Food Processing)	20.25
21110 - Shipping Packer	18.13
21130 - Shipping/Receiving Clerk	18.13
21140 - Store Worker I	15.10
21150 - Stock Clerk	19.49
21210 - Tools And Parts Attendant	20.25
21410 - Warehouse Specialist	20.25
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	40.69
23019 - Aircraft Logs and Records Technician	31.82
23021 - Aircraft Mechanic I	38.64
23022 - Aircraft Mechanic II	40.69
23023 - Aircraft Mechanic III	42.68
23040 - Aircraft Mechanic Helper	27.19
23050 - Aircraft Painter	36.70

23060 - Aircraft Servicer	31.82
23070 - Aircraft Survival Flight Equipment Technician	36.70
23080 - Aircraft Worker	33.84
23091 - Aircrew Life Support Equipment (ALSE) Mechanic I	33.84
23092 - Aircrew Life Support Equipment (ALSE) Mechanic II	38.64
23110 - Appliance Mechanic	21.75
23120 - Bicycle Repairer	15.78
23125 - Cable Splicer	34.63
23130 - Carpenter Maintenance	23.60
23140 - Carpet Layer	20.49
23160 - Electrician Maintenance	29.53
23181 - Electronics Technician Maintenance I	30.70
23182 - Electronics Technician Maintenance II	32.60
23183 - Electronics Technician Maintenance III	34.33
23260 - Fabric Worker	24.29
23290 - Fire Alarm System Mechanic	27.91
23310 - Fire Extinguisher Repairer	22.38
23311 - Fuel Distribution System Mechanic	34.34
23312 - Fuel Distribution System Operator	26.42
23370 - General Maintenance Worker	22.64
23380 - Ground Support Equipment Mechanic	38.64
23381 - Ground Support Equipment Servicer	31.82
23382 - Ground Support Equipment Worker	33.84
23391 - Gunsmith I	22.38
23392 - Gunsmith II	26.02
23393 - Gunsmith III	29.09
23410 - Heating Ventilation And Air-Conditioning Mechanic	28.96
23411 - Heating Ventilation And Air Contidioning Mechanic (Research Facility)	30.50
23430 - Heavy Equipment Mechanic	28.32
23440 - Heavy Equipment Operator	24.05
23460 - Instrument Mechanic	33.08
23465 - Laboratory/Shelter Mechanic	27.63
23470 - Laborer	14.98
23510 - Locksmith	30.95
23530 - Machinery Maintenance Mechanic	29.39
23550 - Machinist Maintenance	26.10
23580 - Maintenance Trades Helper	18.27
23591 - Metrology Technician I	33.08
23592 - Metrology Technician II	34.84
23593 - Metrology Technician III	36.54
23640 - Millwright	28.19
23710 - Office Appliance Repairer	22.96
23760 - Painter Maintenance	21.75
23790 - Pipefitter Maintenance	28.47
23810 - Plumber Maintenance	27.04
23820 - Pneudraulic Systems Mechanic	29.09

23850 - Rigger	28.23
23870 - Scale Mechanic	26.02
23890 - Sheet-Metal Worker Maintenance	26.70
23910 - Small Engine Mechanic	20.63
23931 - Telecommunications Mec	33.90
23932 - Telecommunications Mechanic II	35.70
23950 - Telephone Lineman	34.02
23960 - Welder Combination Maintenance	24.34
23965 - Well Driller	25.20
23970 - Woodcraft Worker	29.09
23980 - Woodworker	22.38
24000 - Personal Needs Occupations	
24550 - Case Manager	20.05
24570 - Child Care Attendant	13.96
24580 - Child Care Center Clerk	17.77
24610 - Chore Aide	12.99
24620 - Family Readiness Coordinator	20.05
24630 - Homemaker	20.05
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	33.55
25040 - Sewage Plant Operator	26.77
25070 - Stationary Engineer	33.55
25190 - Ventilation Equipment	23.62
25210 - Water Treatment Plant	26.77
27000 - Protective Service Occupations	
27004 - Alarm Monitor	23.83
27007 - Baggage Inspector	17.28
27008 - Corrections Officer	27.86
27010 - Court Security Off	29.37
27030 - Detection Dog Han	20.57
27040 - Detention Officer	27.86
27070 - Firefighter	30.87
27101 - Guard I	17.28
27102 - Guard II	20.57
27131 - Police Officer I	31.63
27132 - Police Officer II	35.14
28000 - Recreation Occupations	
28041 - Carnival Equipment Ope	14.62
28042 - Carnival Equipment Repai	15.98
28043 - Carnival Worker	
28210 - Gate Attendant/Gate Tender	
28310 - Lifeguard	
28350 - Park Attendant (Aide)	
28510 - Recreation Aide/Health Facilit	
28515 - Recreation Specialist	
28630 - Sports Official	14.03
28690 - Swimming Pool Operator	18.57
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	33.54



29020 - Hatch Tender	33.54
29030 - Line Handler	33.54
29041 - Stevedore I	31.31
29042 - Stevedore II	35.62
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist Center (HFO) (see 2)	44.89
30011 - Air Traffic Control Specialist Station (HFO) (see 2)	30.95
30012 - Air Traffic Control Specialist Terminal (HFO) (see 2)	34.08
30021 - Archeological Technician I	20.86
30022 - Archeological Technician II	23.34
30023 - Archeological Technician III	28.90
30030 - Cartographic Technician	28.90
30040 - Civil Engineering Technician	29.89
30051 - Cryogenic Technician I	32.01
30052 - Cryogenic Technician II	35.36
30061 - Drafter/CAD Operator I	20.86
30062 - Drafter/CAD Operator II	23.34
30063 - Drafter/CAD Operator III	26.01
30064 - Drafter/CAD Operator IV	32.01
30081 - Engineering Technician I	22.92
30082 - Engineering Technician II	25.72
30083 - Engineering Technician III	28.79
30084 - Engineering Technician IV	35.64
30085 - Engineering Technician V	43.61
30086 - Engineering Technician VI	52.76
30090 - Environmental Technician	28.90
30095 - Evidence Control Specialist	28.90
30210 - Laboratory Technician	26.31
30221 - Latent Fingerprint Technician I	34.67
30222 - Latent Fingerprint Technician II	38.29
30240 - Mathematical Technician	28.94
30361 - Paralegal/Legal Assistant I	21.36
30362 - Paralegal/Legal Assistant II	26.47
30363 - Paralegal/Legal Assistant III	32.36
30364 - Paralegal/Legal Assistant IV	39.16
30375 - Petroleum Supply Specialist	35.36
30390 - Photo-Optics Technician	28.90
30395 - Radiation Control Technician	35.36
30461 - Technical Writer I	27.62
30462 - Technical Writer II	33.80
30463 - Technical Writer III	40.88
30491 - Unexploded Ordnance (UXO) Technician I	28.53
30492 - Unexploded Ordnance (UXO) Technician II	34.51
30493 - Unexploded Ordnance (UXO) Technician III	41.37
30494 - Unexploded (UXO) Safety Escort	28.53
30495 - Unexploded (UXO) Sweep Personnel	28.53
30501 - Weather Forecaster I	32.01
30502 - Weather Forecaster II	38.93
30620 - Weather Observer Combined Upper Air Or Surface Programs	(see 2) 26.01

30621 - Weather Observer Senior	(see 2)	28.90
31000 - Transportation/Mobile Equipment Operation Occupations		
31010 - Airplane Pilot		34.51
31020 - Bus Aide		14.84
31030 - Bus Driver		21.58
31043 - Driver Courier		17.15
31260 - Parking and Lot Attendant		13.81
31290 - Shuttle Bus Driver		18.75
31310 - Taxi Driver		16.10
31361 - Truckdriver Light		18.75
31362 - Truckdriver Medium		20.35
31363 - Truckdriver Heavy		23.11
31364 - Truckdriver Tractor-Trailer		23.11
99000 - Miscellaneous Occupations		
99020 - Cabin Safety Specialist		16.83
99030 - Cashier		11.90
99050 - Desk Clerk		14.00
99095 - Embalmer		34.10
99130 - Flight Follower		28.53
99251 - Laboratory Animal Caretaker I		13.64
99252 - Laboratory Animal Caretaker II		14.91
99260 - Marketing Analyst		35.17
99310 - Mortician		34.10
99410 - Pest Controller		20.07
99510 - Photofinishing Worker		16.34
99710 - Recycling Laborer		22.98
99711 - Recycling Specialist		28.16
99730 - Refuse Collector		20.81
99810 - Sales Clerk		12.74
99820 - School Crossing Guard		16.38
99830 - Survey Party Chief		28.48
99831 - Surveying Aide		17.70
99832 - Surveying Technician		27.06
99840 - Vending Machine Attendant		15.48
99841 - Vending Machine Repairer		19.67
99842 - Vending Machine Repairer Helper		15.48

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Note: Executive Order (EO) 13706 Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Service Contract Act for which the contract is awarded (and any solicitation was issued) on or after January 1 2017. If this contract is covered by the EO the contractor must provide employees

with 1 hour of paid sick leave for every 30 hours they work up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness injury or other health-related needs including preventive care; to assist a family member (or person who is like family to the employee) who is ill injured or has other health-related needs including preventive care; or for reasons resulting from or to assist a family member (or person who is like family to the employee) who is the victim of domestic violence sexual assault or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$4.54 per hour up to 40 hours per week or \$181.60 per week or \$786.93 per month

HEALTH & WELFARE EO 13706: \$4.22 per hour up to 40 hours per week or \$168.80 per week or \$731.47 per month\*

\*This rate is to be used only when compensating employees for performance on an SCA-covered contract also covered by EO 13706 Establishing Paid Sick Leave for Federal Contractors. A contractor may not receive credit toward its SCA obligations for any paid sick leave provided pursuant to EO 13706.

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor 3 weeks after 5 years and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor wherever employed and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year: New Year's Day Martin Luther King Jr.'s Birthday Washington's Birthday Memorial Day Independence Day Labor Day Columbus Day Veterans' Day Thanksgiving Day and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

THE OCCUPATIONS WHICH HAVE NUMBERED FOOTNOTES IN PARENTHESES RECEIVE THE FOLLOWING:

1) COMPUTER EMPLOYEES: Under the SCA at section 8(b) this wage determination does not apply to any employee who individually qualifies as a bona fide executive administrative or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than \$27.63 (or on a salary or fee basis at a rate not less than \$455 per week) an hour would likely qualify as exempt computer professionals (29 C.F.R. 541.400) wage rates may not be listed on this wage determination for all occupations within those job families. In addition because this wage determination may not list a wage rate for some or all occupations within those job families if the survey data indicates that the prevailing wage rate for the occupation equals or exceeds \$27.63 per hour conformances may be necessary for certain nonexempt employees. For example if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally because job titles vary widely and change quickly in the computer industry job titles are not determinative of the application of the computer professional exemption. Therefore the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

(1) The application of systems analysis techniques and procedures including consulting with users to determine hardware software or system functional specifications;

(2) The design development documentation analysis creation testing or modification of computer systems or programs including prototypes based on and related to user or system design specifications;

(3) The design documentation testing creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am.

If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime

(i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

**\*\* HAZARDOUS PAY DIFFERENTIAL \*\***

An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance explosives and incendiary materials. This includes work such as screening blending dying mixing and pressing of sensitive ordnance explosives and pyrotechnic compositions such as lead azide black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization modification renovation demolition and maintenance operations on sensitive ordnance explosives and incendiary materials. All operations involving re-grading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with or in close proximity to ordnance (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands face or arms of the employee engaged in the operation irritation of the skin minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving unloading storage and hauling of ordnance explosive and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance explosives and incendiary material differential pay.

**\*\* UNIFORM ALLOWANCE \*\***

If employees are required to wear uniforms in the performance of this contract

(either by the terms of the Government contract by the employer by the state or local law etc.) the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition where uniform cleaning and maintenance is made the responsibility of the employee all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount or the furnishing of contrary affirmative proof as to the actual cost) reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However in those instances where the uniforms furnished are made of "wash and wear" materials may be routinely washed and dried with other personal garments and do not require any special treatment such as dry cleaning daily washing or commercial laundering in order to meet the cleanliness or appearance standards set by the terms

of the Government contract by the contractor by law or by the nature of the work there is no requirement that employees be reimbursed for uniform maintenance costs.

\*\* SERVICE CONTRACT ACT DIRECTORY OF OCCUPATIONS \*\*

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations" Fifth Edition (Revision 1) dated September 2015 unless otherwise indicated.

\*\* REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE Standard Form 1444 (SF-1444) \*\*

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e. the work to be performed is not performed by any classification listed in the wage determination) be classified by the contractor so as to provide a reasonable

relationship (i.e. appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination (See 29 CFR 4.6(b)(2)(i)). Such conforming procedures shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees (See 29 CFR 4.6(b)(2)(ii)). The Wage and Hour Division shall make a final determination of conformed classification wage rate and/or fringe benefits which shall be paid to all employees performing in the classification from the first day of work on which contract work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or fully determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract. (See 29 CFR 4.6(b)(2)(v)). When multiple wage determinations are included in a contract a separate SF-1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
  
- 2) After contract award the contractor prepares a written report listing in order the proposed classification title(s) a Federal grade equivalency (FGE) for each proposed classification(s) job description(s) and rationale for proposed wage rate(s) including information regarding the agreement or disagreement of the authorized representative of the employees involved or where there is no authorized representative the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
  
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action together with the agency's recommendations and pertinent information including the position of the contractor and the employees to the U.S. Department of Labor Wage and Hour Division for review (See 29 CFR 4.6(b)(2)(ii)).
  
- 4) Within 30 days of receipt the Wage and Hour Division approves modifies or



**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE CHIEF FINANCIAL OFFICER**

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**DOING BUSINESS WITH INTEGRITY**

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***Introduction***

You are receiving this because you are a contractor or a vendor who does repeated business with the Office of the Chief Financial Officer (OCFO), Government of the District of Columbia, or you are an organization or individual outside the OCFO with whom we frequently interact.

Our purpose is to advise you of the high expectation of integrity that we strive to bring to bear in all of our business relationships.

***Environment of Trust***

The Office of the Chief Financial Officer is committed to maintaining working relationships that are founded on fair and honest exchanges in all of our business interactions. Our employees are held to high standards of ethical behavior in the conduct of their official business.

We want to share these expectations of ethical business practices with you to ensure that our business relationships are conducted with the highest level of honesty and integrity.

***OCFO Code of Conduct for Employees***

The OCFO Code of Conduct imparts three fundamental values for employees:

- Employees should conduct themselves in such a manner as to maintain and enhance the integrity and professional reputation of the OCFO organization
- Employees should not use their position to secure unwarranted privileges, awards, or exemptions for themselves or others
- Employees should avoid real or perceived conflicts of interest between the employee's private interest and the employee's official duties.

For your reference, the OCFO Code of Conduct can be accessed electronically at [www.cfo.dc.gov](http://www.cfo.dc.gov). Go to Information, click on Integrity and Oversight, then click on Integrity Documents to reach the Code of Conduct.



### ***Confidentiality of Financial and Other Information***

We expect our employees to maintain absolute confidentiality concerning all information that they obtain, observe, or create relating to the financial affairs of those we do business with. We vigorously investigate any compromise of confidentiality by employees or any attempts to improperly obtain such information by private parties or businesses.

### ***Bribery and Conflict of Interest***

In addition to our standards of conduct, there are certain criminal statutes in the federal criminal code relating to bribery and conflict of interest that apply not only to employees of the federal government, but also to employees of the District of Columbia.

- The offer of anything of value in expectation of specific performance by a government employee is a crime, and even the appearance of such activity should be avoided.
- Employees may not accept anything of value (other than their government salaries) for the performance of their duties. This is outlined below under Gratuities and Other Gift Rules.
- Our employees are required to report all offers of bribes and gratuities to us, and we ensure that these matters are investigated and addressed. Likewise, we encourage anyone who believes they may have been solicited for a bribe or gratuity by an OCFO employee to report the matter immediately, as indicated at the end of this document.
- We also expect our employees to avoid conflicts of interest or the appearance of conflicts of interest. A particularly sensitive issue for government employees is the offer of employment with a company doing business with the OCFO. At any point when a government employee is considering employment with a private company that has a business relationship with the government, that employee must discontinue work on any assignment involving that company or face the very real possibility of violating conflict of interest statutes. This could also jeopardize the company's eligibility to be awarded government contracts.
- Employees are also expressly forbidden from performing official duties in situations involving friends, relatives or persons or businesses with whom they, or their family members, have a financial relationship. At any point where such a relationship is discovered or develops, the employee must discontinue their involvement in the official matter. For the employee and the business entity to continue to conduct official business after such a conflict is evident, would be inappropriate and possibly illegal.

### ***Gratuities***

It is always gratifying to hear that our staff has provided exemplary service to those with whom we do business. Sometimes, however, the expression of appreciation is made in a form that is inappropriate for government employees to accept.

OCFO employees are prohibited by law from accepting money or other things of value as an appreciation for a job well done. Sometimes even the mere offer of something of value may violate bribery and gratuity statutes. A more appropriate expression of gratitude for the service rendered is a letter to the employee's supervisor. If you don't know who that is, you may simply send your letter to the Office of the Chief Financial Officer, and it will be routed to the proper official.

### ***Other Gift Rules***

Gifts of food and/or beverages, even during holiday seasons and other celebratory occasions, are not acceptable if the giver has a business relationship of any kind with the D.C. Government. Such offers, while well-intentioned, tend to give the impression of a special relationship between the giver and the government employee.

This rule does not apply to the offer and acceptance of an insignificant item, such as a soft drink, coffee, donuts and other modest items of food and refreshments when not offered as part of a meal. Additional information on gift rules and exceptions is contained in OCFO Code of Conduct, which can be accessed electronically at [www.cfo.dc.gov](http://www.cfo.dc.gov). Go to Information, click on Integrity and Oversight, then click on Integrity Documents to reach the Code of Conduct.

### ***Compliance with Contracting Rules and Regulations***

Ensuring compliance with the provisions of contracts is an important expectation of government employees. Even so, we have seen examples where the rules were not followed, usually based on the "need to get the job done." Such behavior puts both the government employee and the contractor in jeopardy.

If modifications to existing contracts are necessary, they should be formally pursued in accordance with OCFO contracting rules and regulations. No work outside the specifications of a contract should be performed without an approved contract modification. Performing work outside of contract specifications or beyond authorized funding, could result in a default for the contractor and denial of payment for such work. In the more extreme cases, failure to comply with contracting regulations could be considered fraud and may be investigated as a criminal violation.

### ***Reporting Misconduct, Fraud, Waste and Abuse***

The OCFO has a zero tolerance policy for fraud and misconduct involving its employees and programs. Similarly, we do not tolerate attempts to corrupt our employees.

The Office of Integrity and Oversight is an independent entity of the OCFO with responsibility for protecting the integrity of the OCFO and preventing fraud and other misconduct in OCFO programs. OIO conducts investigations of alleged employee misconduct and works closely with federal and District law enforcement agencies in investigating criminal offenses affecting the integrity of the OCFO.

We all want the government's business to be conducted fairly, impartially, and with the highest degree of integrity. The best way to ensure this is to report any indication that illegal acts or administrative misconduct may have occurred. Here is how you can report such matters, by telephone, in person, mail, or electronically:

**OCFO Office of Integrity and Oversight**

1100 4<sup>th</sup> Street, S.W.; Suite 750-E  
Washington, DC 20024  
(202) 442-6433

In addition to receiving your report, investigators are available to discuss any questions or concerns you may have about the matter. Reporting can also be done electronically at the OCFO website: [www.cfo.dc.gov](http://www.cfo.dc.gov). Under Information, click on the Integrity and Oversight link, and then click on Reporting Incidents and Concerns.

**OCFO Confidential Hotline**

In order to address any concern about reporting anonymously, the OCFO has contracted with an independent, third-party organization that provides a confidential hotline service. This hotline is available for reporting allegations of OCFO employee misconduct, and fraud, waste and abuse involving OCFO programs.

Reports can be made by telephone to this toll-free hotline, which is staffed 24 hours a day, at 1-877-252-8805, or it can be accessed at [www.ocfo.ethicspoint.com](http://www.ocfo.ethicspoint.com).

**District of Columbia Office of the Inspector General**

Reports of fraud, waste and abuse may be reported to the Office of the Inspector General by telephone at 1-800-521-1639, or electronically at [www.oig.dc.gov](http://www.oig.dc.gov).

# ATTACHMENT J.3

## BIDDER/OFFEROR CERTIFICATION FORM

<b>COMPLETION</b>			
The person(s) completing this form must be knowledgeable about the bidder's/offeror's business and operations.			
<b>RESPONSES</b>			
Every question must be answered. Each response must provide all relevant information that can be obtained within the limits of the law. Individuals and sole proprietors may use a Social Security number but are encouraged to obtain and use a federal Employer Identification Number (EIN). Provide any explanation at the end of the section or attach additional sheets with numbered responses. Include the bidder's/offeror's name at the top of each attached page.			
<b>GENERAL INSTRUCTIONS</b>			
This form contains four (4) sections. Section I concerns the bidder's/offeror's responsibility; Section II includes additional required certifications; Section III relates to the Buy American Act (if applicable); and Section IV requires the bidder's/offeror's signature.			
<b>SECTION I. BIDDER/OFFEROR RESPONSIBILITY CERTIFICATION</b>			
<i>Instructions for Section I: Section I contains eight (8) parts. Part 1 requests information concerning the bidder's/offeror's business entity. Part 2 inquires about current or former owners, partners, directors, officers or principals. Part 3 relates to the responsibility of the bidder's/offeror's business. Part 4 concerns the bidder's/offeror's business certificates and licenses. Part 5 inquires about legal proceedings. Part 6 relates to the bidder's/offeror's financial and organizational status. Part 7 requires the bidder/offeror to agree to update the information provided. Part 8 relates to disclosures under the District of Columbia Freedom of Information Act (FOIA).</i>			
<b>PART 1: BIDDER/OFFEROR INFORMATION</b>			
Legal Business Entity Name: <b>Fast Enterprises, LLC</b>	EIN: <b>13-3958609</b>	Solicitation/Contract #: <b>CFOPD-21-C-001</b>	
Address of the Principal Place of Business (street, city, state, zip code) <b>7229 S. Alton Way Centennial, CO 80112</b>	Telephone # and ext.: <b>303-770-3700</b>	Fax #: <b>208-773-4099</b>	
Email Address: <b>businessteam@fastenterprises.com</b>	Website: <b>www.FastEnterprises.com</b>		
Additional Legal Business Entity Identities: If applicable, list any other DBA, Trade Name, Former Name, Other Identity and EIN used in the last five (5) years and the status (active or inactive).			
Type:	Name:	EIN:	Status:
Limited Partnership	Fast LP	30-0951152	Active, Parent company of Fast Enterprises, LLC
Limited Liability Company	Fast Enterprises, LLC	13-3958609	Inactive, reincorporated under Fast LP
1.1 Business Type (Please check the appropriate box and provide additional information if necessary.):			
<input type="checkbox"/> Corporation (including PC)	Date of Incorporation:		
<input type="checkbox"/> Joint Venture	Date of Organization:		
<input checked="" type="checkbox"/> Limited Liability Company (LLC or PLLC)	Date of Organization: <b>1998</b>		
<input type="checkbox"/> Nonprofit Organization	Date of Organization:		
<input type="checkbox"/> Partnership (including LLP, LP or General)	Date of Registration or Establishment:		
<input type="checkbox"/> Sole Proprietor	How many years in business?:		
<input type="checkbox"/> Other	Date established?:		
If "Other," please explain:			
1.2 Was the bidder's/offeror's business formed or incorporated in the District of Columbia?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "No" to Subpart 1.2, provide the jurisdiction where the bidder's/offeror's business was formed or incorporated. Attach a Certificate or Letter of Good Standing from the applicable jurisdiction and a certified Application for Authority from the District, or provide an explanation if the documents are not available.			
State <u>New York</u> Country <u>US</u>			
1.3 Please provide a copy of each District of Columbia license, registration or certification that the bidder/offeror is required by law to obtain (other than those provided in Subpart 1.2). If the bidder/offeror is not providing a copy of its license, registration or certification to transact business in the District of Columbia, it shall either: (a) Certify its intent to obtain the necessary license, registration or certification prior to contract award; or (b) Explain its exemption from the requirement.			

<b>PART 2: INDIVIDUAL RESPONSIBILITY</b>	
<i>Additional Instructions for Section I, Parts 2 through 8: Provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).</i>	
Within the past five (5) years, has any current or former owner, partner, director, officer, principal or any person in a position involved in the administration of funds, or currently or formerly having the authority to sign, execute or approve bids, proposals, contracts or supporting documentation on behalf of the bidder/offeror with any government entity:	
2.1 Been sanctioned or proposed for sanction relative to any business or professional permit or license?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.2 Been under suspension, debarment, voluntary exclusion or determined ineligible under any federal, District or state statutes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.3 Been proposed for suspension or debarment?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.4 Been the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.5 Been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime, or subject to a judgment or a plea bargain for: (a) Any business-related activity; or (b) Any crime the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2.6 Been suspended, cancelled, terminated or found non-responsible on any government contract, or had a surety called upon to complete an awarded contract?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Please provide an explanation for each "Yes" in Part 2.	
<b>PART 3: BUSINESS RESPONSIBILITY</b>	
Within the past five (5) years, has the bidder/offeror:	
3.1 Been under suspension, debarment, voluntary exclusion or determined ineligible under any federal, District or state statutes?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.2 Been proposed for suspension or debarment?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.3 Been the subject of an investigation, whether open or closed, by any government entity for a civil or criminal violation for any business-related conduct?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.4 Been charged with a misdemeanor or felony, indicted, granted immunity, convicted of a crime, or subject to a judgment or plea bargain for: (a) Any business-related activity; or (b) Any crime the underlying conduct of which was related to truthfulness?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.5 Been disqualified or proposed for disqualification on any government permit or license?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.6 Been denied a contract award or had a bid or proposal rejected based upon a non-responsibility finding by a government entity?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.7 Had a low bid or proposal rejected on a government contract for failing to make good faith efforts on any Certified Business Enterprise goal or statutory affirmative action requirements on a previously held contract?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3.8 Been suspended, cancelled, terminated or found non-responsible on any government contract, or had a surety called upon to complete an awarded contract?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Please provide an explanation for each "Yes" in Part 3.	
<b>PART 4: CERTIFICATES AND LICENSES</b>	
Within the past five (5) years, has the bidder/offeror:	
4.1 Had a denial, decertification, revocation or forfeiture of District of Columbia certification of any Certified Business Enterprise or federal certification of Disadvantaged Business Enterprise status for other than a change of ownership?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Please provide an explanation for "Yes" in Subpart 4.1.	
4.2 Please provide a copy of the bidder's/offeror's District of Columbia Office of Tax and Revenue Tax Certification Affidavit.	
<b>PART 5: LEGAL PROCEEDINGS</b>	
Within the past five (5) years, has the bidder/offeror:	
5.1 Had any liens or judgments (not including UCC filings) over \$25,000 filed against it which remain undischarged?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 5.1, provide an explanation of the issue(s), relevant dates, the Lien Holder or Claimant's name, the amount of the lien(s) and the current status of the issue(s).	

5.2 Had a government entity find a willful violation of District of Columbia compensation or prevailing wage laws, the Service Contract Act or the Davis-Bacon Act?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5.3 Received any OSHA citation and Notification of Penalty containing a violation classified as serious or willful?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Please provide an explanation for each "Yes" in Part 5.	
<b>PART 6: FINANCIAL AND ORGANIZATIONAL INFORMATION</b>	
6.1 Within the past five (5) years, has the bidder/offeror received any formal unsatisfactory performance assessment(s) from any government entity on any contract?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.1, provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
6.2 Within the past five (5) years, has the bidder/offeror had any liquidated damages assessed by a government entity over \$25,000?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.2, provide an explanation of the issue(s), relevant dates, the government entity involved, the amount assessed and the current status of the issue(s).	
6.3 Within the last seven (7) years, has the bidder/offeror initiated or been the subject of any bankruptcy proceedings, whether or not closed, or is any bankruptcy proceeding pending?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.3, provide the bankruptcy chapter number, the court name and the docket number. Indicate the current status of the proceedings as "initiated," "pending" or "closed".	
6.4 During the past three (3) years, has the bidder/offeror failed to file a tax return or pay taxes required by federal, state, District of Columbia or local laws?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.4, provide the taxing jurisdiction, the type of tax, the liability year(s), the tax liability amount the bidder/offeror failed to file/pay and the current status of the tax liability.	
6.5 During the past three (3) years, has the bidder/offeror failed to file a District of Columbia unemployment insurance return or failed to pay District of Columbia unemployment insurance?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.5, provide the years the bidder/offeror failed to file the return or pay the insurance, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s).	
6.6 During the past three (3) years, has the bidder/offeror failed to comply with any payment agreement with the Internal Revenue Service, the District of Columbia Office of Tax and Revenue and the Department of Employment Services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.6, provide the years the bidder/offeror failed to comply with the payment agreement, explain the situation and any remedial or corrective action(s) taken and the current status of the issue(s).	
6.7 Indicate whether the bidder/offeror owes any outstanding debt to any state, federal or District of Columbia government.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If "Yes" to Subpart 6.7, provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
6.8 During the past three (3) years, has the bidder/offeror been audited by any government entity?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
(a) If "Yes" to Subpart 6.8, did any audit of the bidder/offeror identify any significant deficiencies in internal controls, fraud or illegal acts; significant violations of provisions of contract or grant agreements; significant abuse; or any material disallowance?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(b) If "Yes" to Subpart 6.8(a), provide an explanation of the issue(s), relevant dates, the government entity involved, any remedial or corrective action(s) taken and the current status of the issue(s).	
<b>PART 7: RESPONSE UPDATE REQUIREMENT</b>	
7.1 In accordance with the requirement of Section 302(c) of the Procurement Practices Reform Act of 2010 (D.C. Official Code § 2-353.02), the bidder/offeror shall update any response provided in Section I of this form during the term of this contract:	
(a) Within sixty (60) days of a material change to a response; and	
(b) Prior to the exercise of an option year contract.	

**PART 8: FREEDOM OF INFORMATION ACT (FOIA)**

8.1 Indicate whether the bidder/offeror asserts that any information provided in response to a question in Section I is exempt from disclosure under the District of Columbia Freedom of Information Act (FOIA), effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code §§ 2-531, et seq.). Include the question number(s) and explain the basis for the claim. (The District will determine whether such information is, in fact, exempt from FOIA at the time of request for disclosure under FOIA.)

Yes  No

**SECTION II. ADDITIONAL REQUIRED BIDDER/OFFEROR CERTIFICATIONS**

*Instructions for Section II: Section II contains four (4) parts. Part 1 requests information concerning District of Columbia employees. Part 2 applies to the bidder/offeror's pricing. Part 3 relates to equal employment opportunity requirements. Part 4 relates to First Source requirements.*

**PART 1. DISTRICT EMPLOYEES NOT TO BENEFIT**

The bidder/offeror certifies that:

1.2 No person listed in clause 13 of the Standard Contract Provisions, "District Employees Not To Benefit", will benefit from this contract.

1.3 The following person(s) listed in clause 13 of the Standard Contract Provisions may benefit from this contract. (For each person listed, attach the affidavit required by clause 13.)

(a) \_\_\_\_\_

(b) \_\_\_\_\_

**PART 2: INDEPENDENT PRICE DETERMINATION REQUIREMENTS**

The bidder/offeror certifies that:

2.1 The signature of the bidder/offeror is considered to be a certification by the signatory that:

(a) The contract prices have been arrived at independently without, for the purpose of restricting competition, any consultation, communication or agreement with any bidder/offeror or competitor related to:

- (i) Those prices;
- (ii) The intention to submit a bid/proposal; or
- (iii) The methods or factors used to calculate the prices in the contract.

(b) The prices in this contract have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid/proposal opening unless otherwise required by law; and

(c) No attempt has been made or will be made by the bidder/offeror to induce any other concern to submit or not to submit a contract for the purpose of restricting competition.

2.2 The signature on the bid/proposal is considered to be a certification by the signatory that the signatory:

(a) Is the person in the bidder's/offeror's organization responsible for determining the prices being offered in this contract, and that the signatory has not participated and will not participate in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above; or

(b) Has been authorized, in writing, to act as an agent for the following principal in certifying that the principal has not participated, and will not participate, in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above:

James G. Harrison, Authorized Representative

*[Insert full name of person(s) in the organization responsible for determining the prices offered in this contract and the title of his or her position in the bidder's/offeror's organization]*

(i) As an authorized agent, certifies that the principals named in subparagraph 2.2(b) above have not participated, and will not participate, in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above; and

(ii) As an agent, has not participated and will not participate in any action contrary to subparagraphs 2.1(a)(i) through (a)(iii) above.

2.3 If the bidder/offeror deletes or modifies subparagraph 2.1(b) above, the bidder/offeror must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

**PART 3: EQUAL OPPORTUNITY AND HUMAN RIGHTS OBLIGATIONS**

3.1 I hereby certify that I am fully aware of the contents of Mayor's Order 85-85, Mayor's Order 2017-313 and the Office of Human Rights' regulations in Chapter 11 of title 4 of the DCMR, and agree to comply with them while performing this contract.

**PART 4: FIRST SOURCE OBLIGATIONS**

4.1 I hereby certify that I am fully aware of the requirements of the Workforce Intermediary Establishment and Reform of the First Source Amendment Act of 2011 (D.C. Law 19-84), and agree to enter into a First Source Employment Agreement with the Department of Employment Services if awarded any contract valued at \$300,000 or more which receives funds or resources from the District, or funds or resources which, in accordance with a federal grant or otherwise, is administered by the District government.

4.2 I certify that the Initial Employment Plan submitted with my bid or proposal is true and accurate.

<b>PART 5: EMPLOYMENT ELIGIBILITY OBLIGATIONS</b>	
5.1 I hereby certify that the Bidder/Offeree has verified the identity and employment eligibility of all of its employees.	
<b>PART 6: LANGUAGE ACCESS OBLIGATIONS</b>	
6.1 For contracts where the contracting agency is a "covered entity" or "covered entity with major public contact" as defined in Sections 2(2) and 2(3) of the Language Access Act of 2004 (D.C. Official Code § 2-1931(2) and § 2-1931(3)), I hereby certify that I will comply with Language Access compliance requirements of the contracting agency while performing this contract.	
<b>SECTION III. BUY AMERICAN ACT CERTIFICATION</b>	
<i>Instructions for Section III: Section III contains one (1) part which should only be completed if goods are being provided that are subject to the requirements of the Buy American Act.</i>	
<b>PART 1: BUY AMERICAN ACT COMPLIANCE</b>	
1.1 The bidder/offeree certifies that each end product, except the end products listed below, is a domestic end product (as defined in Paragraph 22 of the Standard Contract Provisions, "Buy American Act"), and that components of unknown origin are considered to have been mined, produced or manufactured outside the United	
not applicable	EXCLUDED END PRODUCTS
COUNTRY OF ORIGIN	
<b>SECTION IV. CERTIFICATION</b>	
<i>Instruction for Section IV: This section must be completed by all bidder/offerees.</i>	
I, <b>James G. Harrison</b> ], as the person authorized to sign these certifications, hereby certify that the information provided in this form is true and accurate.	
Name [Print and sign]: <b>James G. Harrison</b>	Telephone #: <b>877-275-3278</b>   Fax #:
Title: <b>Authorized Signatory</b>	Email Address: <b>businessteam@fastenterprises.com</b>
Date: <b>2-21-2021</b>	
<i>The District of Columbia is hereby authorized to verify the above information with appropriate government authorities. Penalty for making false statements is a fine of not more than \$1,000.00, imprisonment for not more than 180 days, or both, as prescribed in D.C. Official Code § 22-2405. Penalty for false swearing is a fine of not more than \$2,500.00, imprisonment for not more than three (3) years, or both, as prescribed in D.C. Official Code § 22-2404.</i>	



**Attachment J. 4 Key  
Personnel**

FAST identifies the following Key Personnel:

- Site Manager - Kim Osborn

**FAST DATA SERVICES SUBSCRIBER AGREEMENT**

This Subscriber Agreement (“Agreement”) is entered into as of the date indicated below, by and between

\_\_\_\_\_ ,  
a government agency (“Subscriber”), and Fast Data Services, LLC (“FDS”), effective on the date of execution of this Agreement by both Parties. Subscriber and FDS may be referred to herein as “Party” or “Parties”.

The services provided by FDS will include relevant services from the Contract to which this Agreement is attached, but are not limited to, identity and location services, fraud detection, public records searching, audit and collection services, data exchange services for the provision of intelligence, and additional services that FDS develops and integrates into its business from time to time. The services provided by FDS are called “FDS Services.”

In the provision of FDS Services, the parties anticipate a two-way exchange of data records between FDS and the Subscriber. These data records may contain public records, personally identifiable information, information regulated under one or more federal laws, the results of proprietary data analyses, and confidential business intelligence.

1. Subscriber Rights and Obligations.

As detailed below, the Subscriber will receive a license to use FDS services, subject to security and compliance conditions contained herein, if the Subscriber opts-in to Base FDS Services.

1.1 Restricted License. FDS grants to Subscriber a restricted personal, non-exclusive, non-transferable, non-sublicenseable, revocable license to obtain and use certain public record products and other products and services provided by FDS Services as permitted by this Agreement and all applicable laws, rules, regulations and regulatory directives. Subscriber may obtain and use FDS for Subscriber’s own internal business purposes consistent with this Agreement and for no other purpose. Except for the limited access and use rights granted in this Agreement, FDS retains all right, title and interest in FDS Services and Subscriber



is not granted any ownership rights or title thereto. FDS may immediately terminate this Agreement upon notice to Subscriber if:

- Subscriber has breached its obligations under this Agreement, and the breach (if capable of being remedied) is not remedied to FDS satisfaction within thirty (30) calendar days, or some other mutually agreed upon time frame, of Subscriber's receipt of written notice of the breach; or
- FDS reasonably believes that Subscriber is not in compliance with, or causes FDS or any third party not to be in compliance with, applicable federal or state laws and regulations, and the Subscriber has not resolved the compliance issue after at least a six month notice.

1.2 Audit. Upon 30 days advanced notice and subject to Subscriber's access and security policies and procedures, FDS may audit once per calendar year (but more frequently if the annual audit reveals a compliance issue) Subscriber's use of FDS Services for the purpose of investigating and confirming that Subscriber's use of the FDS Services is in compliance with this Agreement and applicable law. Subscriber will cooperate and provide FDS all documentation reasonably requested relating to Subscriber's account. Violations related to Subscriber's use of the data records provided hereunder that are discovered in any audit may be subject to immediate action including, but not limited to, suspension of the provision of FDS Services. If the FDS Services are suspended, they will be reinstated immediately upon satisfactory resolution or remediation of any violations triggering the suspension. In the event any other violations requiring correction are discovered, the District will be provided notice and a minimum of thirty (30) thirty days to cure such violation prior to suspension of the services under this Subscriber Agreement or the associated Contract.

1.3 Security Incident Response. Subscriber will promptly (but in no event later than within twenty-four hours after becoming aware of the occurrence) notify FDS of any breach of security in which an unauthorized person has gained access to the FDS Services.

Subscriber will develop and maintain an Incident Response Plan. Subscriber will be solely responsible for responding to breaches originating from Subscriber's infrastructure, hardware, users, or user accounts or credentials, whether valid, stale, expired, spoofed or otherwise invalid. FDS has no liability for such breaches or the response to them.

## 2. FDS Rights and Obligations

In addition to providing the license referenced above, FDS has certain rights and obligations under this agreement, as detailed below.

2.1 Provision of Services. FDS shall maintain and use Confidential Information to provide the FDS Services in accordance with this Agreement and for no other purpose. Except for the limited access and use rights granted in this Agreement, Subscriber retains all right, title and interest in its Confidential Information and FDS is not granted any ownership rights or title thereto. Subscriber may immediately terminate this Agreement upon notice to FDS if:

- FDS has breached its obligations under this Agreement, and the breach (if capable of being remedied) is not remedied to Subscriber's satisfaction within thirty (30) days, or some other mutually agreed upon time frame, of FDS's receipt of written notice of the breach; or
- Subscriber reasonably believes that FDS is not in compliance with, or causes Subscriber or any third party not to be in compliance with, applicable federal or state laws and regulations.

2.2 Right to Use Subscriber Data. FDS Services are provided in part by applying analytic tools to the pooled data of all subscribers, associated public records, and other data. FDS may maintain data it receives from Subscriber in the FDS data warehouse, and may only use such data as described herein as long as the FDS data warehouse is substantially compliant with the most stringent combination of the moderate baseline controls contained in NIST 800-53, Rev. 4 and IRS Pub 1075. Upon written request from Subscriber, FDS will return or destroy all Subscriber data in its possession within 30 days of receipt of the request.

### 2.2.1 Base FDS Services.

- (i) Base FDS Services are services whereby subscribers' data, models derived from subscribers' data and/or other data are used to answer a question and/or return an indicator.
- (ii) Base FDS Services do not involve the distribution of Subscriber's data to other subscribers.

- (iii) FDS may use Subscriber data to provides FDS Services to Subscriber and FDS Base Services to other subscribers.

#### 2.2.2 Cross Subscriber Services.

- (i) Some FDS Services may be provided by using Subscriber Data from multiple subscribers (“Cross Subscriber Services”).
- (ii) Subscriber will be given the option to opt-in to any Cross-Subscriber services before Subscriber data is used to provide Cross Subscriber Services to any other subscriber.
- (iii) Opting-in to receive Cross Subscriber services requires opting-in to contribute towards Cross Subscriber Services.

#### 2.2.3 FDS Summary Information.

- (i) FDS may de-identify, anonymize and aggregate data related to Subscriber’s usage of FDS services, collectively referred to as “FDS Summary Information”. FDS Summary Information will not contain Personally Identifiable Information (“PII”) or Subscriber’s Confidential Information.
- (ii) FDS may compile, combine, or incorporate such Summary Information with or into FDS Summary Information obtained from other users of FDS services, and may generate, use, reproduce, publicize or otherwise leverage the FDS Summary Information in any manner consistent with FDS’s business needs.

Without limiting the above, FDS can use the FDS Summary Information to develop and improve FDS products and services, to create and distribute reports and other materials, to provide additional services to its customers, to advertise the benefits of FDS services, and for additional services that FDS develops and integrates into its business from time to time.

- (iii) FDS Summary Information that identifies the Subscriber will not be distributed, publicized or shared without the consent of the Subscriber.

- (iv) FDS is the owner of all right, title and interest in and to Summary Information. The rights listed in this provision survive expiration and termination of the Subscriber Agreement, and FDS is not required to return or destroy any Summary Information. This provision should not be read to conflict with any other contract terms in this or any other contract documents; rather, this provision supplements or supersedes, as appropriate, all contract terms related to the same or similar subject matter.

2.3 Security. FDS will not breach or permit the breach of the security of Personal Information which FDS receives under this Agreement. FDS will maintain a security posture substantially compliant with most stringent combination of the moderate baseline security controls contained in NIST 800-53, Rev.4 and IRS Pub. 1075. FDS agrees to subject its systems to annual third-party assessments, including penetration testing and vulnerability assessments. FDS also agrees to leverage industry leading security software to protect and assess the security of FDS systems, and to leverage native tools to track security and compliance tasks and evidence. FDS is not an owner or licensee of Subscriber's Confidential Information. FDS will notify Subscriber of any security incident involving Personal Information contained in Subscriber's Confidential Information within 24 hours after the discovery of a security incident where misuse of the Personal Information occurred or is likely to occur. FDS will cooperate with Subscriber by sharing information relevant to the incident, and in any other way required by law. FDS shall develop and maintain an Incident Response Plan. These security measures are FDS's minimum responsibility with respect to the security of Subscriber's Confidential Information.

2.4 Disclaimer of Warranties. FDS Services are provided "as-is", with no warranties of any kind, whether express, implied in fact or by operation of law or statute, including without limitation, those as to quality, non-infringement, accuracy, completeness, timeliness, response times, uptimes, application availability or currentness, and those warranties that might be implied from a course of performance or dealing or trade usage and warranties of merchantability and fitness for a particular purpose. FDS and its representatives, including parents, subsidiaries, and affiliates, shall not be liable to Subscriber or other third parties for any claim relating to FDS's procuring, compiling, collecting, interpreting, reporting, communicating, or delivering FDS Services

2.5 Insurance. FDS will always carry insurance as required by the Contract.

3. Mutual Clauses

3.1 Confidentiality

3.1.1 Services Information. Subscriber shall hold in confidence and shall not disclose, beyond the extent required by law, in whole or in part, information relating to FDS's business, including, without limitation, products, services, systems, processes, data sources, test results, and other FDS technical and financial information, as well as FDS Services and information derived from the FDS Services ("Services Information"), and any analyses, compilations and reports derived from any of the foregoing. Subscriber may not disassemble, decompile, or in any way reverse engineer any information derived from FDS Services.

3.1.2 Confidential Information. The Parties acknowledge that they and their employees or agents may, in the course of performing the Services under this Agreement, be exposed to or acquire information that is confidential to the other Party or the other Party's clients or vendors. Any and all information of any form obtained by a Party or its employees or agents in the performance of this Agreement shall be deemed to be confidential information of the disclosing Party, including Subscriber Data and Personally Identifiable Information (PII), collectively called "Confidential Information". Any reports or other documents or items (including software) that result from the use of the Confidential Information by the receiving Party shall be treated in the same manner as Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by the receiving Party) publicly known; (b) is furnished by the disclosing Party to others without restrictions similar to those imposed by this Agreement; (c) is rightfully in the receiving Party's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; (d) is obtained from a source other than the disclosing Party without the obligation of confidentiality, (e) is disclosed with the written consent of the disclosing Party, or; (f) is independently developed by employees, agents, or subcontractors of the receiving Party who can be shown to have had no access to the Confidential Information.

3.1.3 Non-Disclosure. The Parties agree to hold Confidential Information in confidence, using at least the same degree of care that the receiving Party uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties (other than its subcontractors), or use Confidential Information for any purposes whatsoever other than the provision of Services to Subscriber hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. The Parties will each use commercially reasonable efforts to assist the other Party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, the receiving Party will advise the disclosing Party within 24 hours in the event that it learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement, and the receiving Party will, at its expense, cooperate with the disclosing Party in seeking injunctive relief or other equitable relief in the name of the disclosing Party or the receiving Party against any such person. The receiving Party agrees that, except as directed by the disclosing Party, it will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Agreement, and that upon termination of this Agreement or at Subscriber's request, the receiving Party will turn over to the disclosing Party all documents, papers, and other matter in its possession that embody Confidential Information.

3.1.4 Security and Access Policies and Procedures. The Parties each agree to comply with all reasonable requests by the other Party to ensure the confidentiality and non-disclosure of a disclosing Party's Confidential Information, including without limitation (i) obtaining non-disclosure agreements from the receiving Party's employees and agents who are performing or accessing Services and providing copies of such agreements to the disclosing Party; (ii) performing criminal background checks on each of its employees and agents who are performing or accessing Services, and maintaining records of those background checks in the Party's files for a period of six years past the contract expiration or termination; (iii) at Subscriber's sole discretion and expense, requiring FDS employees who are physically present in Subscriber's state to submit to a criminal background check through the state's chief law enforcement agency; and (iv)



complying with the security and access policies and procedures related to Federal Tax Information pursuant to IRS Publication 1075. If one Party determines that the other Party has made an unreasonable request, the Parties will attempt to negotiate an agreement. If the Parties cannot successfully negotiate an agreement related to the unreasonable request, the unreasonable request need not be complied with.

3.1.5 Access Restrictions. The Parties may only use FDS Services, Services Information, and Confidential Information as permitted under this Agreement. FDS Services may only be accessed from within the United States. Subscriber must not access and/or use the FDS Services via mechanical, programmatic, robotic, scripted or other automated search means, other than through batch or machine-to-machine applications approved by FDS.

Each Party will:

- limit access to FDS Services, Services Information, and Confidential Information to only those employees who have a need to access in connection with the duties and obligations of their employment;
- advise its employees having access to FDS Services, Services Information, or Confidential Information of the proprietary and confidential nature thereof and of the obligations set forth in this Agreement;
- safeguard the Services Information and Confidential Information using reasonable and appropriate administrative, technical, and physical security safeguards at least as strong as those used to protect the Party's own data;
- employ appropriate policies and procedures to control access and security of usernames, passwords, and terminal access for FDS Services and Confidential Information;
- track and monitor its access to FDS Services, Services Information, and Confidential Information and maintain logs evidencing such tracking and monitoring for at least 2 years;
- prevent any use not in conformance with this Agreement; and
- maintain records sufficient to demonstrate compliance with its obligations under this Agreement.

3.1.6 Injunctive Relief. The breach of this Section 3.1, including disclosure of any Confidential Information, will cause

irreparable injury to the disclosing Party that is inadequately compensable with monetary damages. Accordingly, a Party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Each Party acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the other Party and are reasonable in scope and content.

3.2 Compliance with Law. The Parties understand and agree that FDS Services may contain sensitive information that is governed by various state and federal laws. The Parties each certify that each will comply with all applicable federal, state, and local laws. Regulations, policies, and ordinances may be adopted or amended from time to time, including, but not limited to:

3.2.1 Gramm-Leach-Bliley Act Data. The Gramm-Leach-Bliley Act (15 U.S.C. §6801-6809) and its implementing regulations (collectively, “GLBA”) is a federal law enacted in the United States to control the ways that financial institutions deal with the private information of individuals. Data provided by FDS Services may include private financial information from Financial Institutions, subject to the GLBA. Subscriber hereby certifies that the specific purpose(s) for which such FDS Services will be requested, obtained and used by Subscriber is one or more of the following permitted uses under the GLBA:

- To protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;
- To comply with federal, state, or local laws, rules, and other applicable legal requirements.

3.2.2 Drivers Privacy Protection Act Data. The Driver’s Privacy Protection Act (18 U.S.C. §2721, *et seq.*) and related laws (collectively, “DPPA”) is a federal law that governs the privacy and disclosure of personal information gathered by State Departments of Motor Vehicles. Data provided by FDS Services may include data subject to DPPA. Subscriber hereby certifies that it will request, obtain, and use such FDS Services only for one of the following permissible uses under the DPPA:

- Use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a federal, state, or local agency in carrying out that agency’s functions.

- Use in connection with any civil, criminal, administrative, or arbitral proceeding, in any federal, state, or local court or agency, or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court.

3.2.3 Death Master File (“DMF”) Data. Certain data provided by FDS as part of FDS Services may include information obtained from the Limited Access Death Master File (LADMF) made available by the US Department of Commerce National Technical Information Service (NTIS) and subject to regulations found at 15 CFR Part 1110. All FDS subscribers are required to comply with all applicable laws and, if Subscriber is granted access to LADMF data, Subscriber will be certified compliant with 15 CFR 1110 prior to receiving LADMF data.

3.2.4 Fair Credit Reporting Act. FDS is not a “consumer reporting agency,” as defined by the Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.) (“FCRA”) and FDS Services do not constitute a “consumer report,” as defined by FCRA and shall not be subject to the FCRA requirements relating to disputes, access, accuracy or otherwise. FDS Services may not be used in whole or in part as a factor in determining eligibility for credit, insurance, or employment or for any other purpose contemplated by the FCRA.

3.2.5 Federal Tax Information. Federal Tax Information (FTI) is a term of art defined in IRS Publication 1075, and consists of federal tax returns and return information (and information derived from it) that is in Subscriber’s possession or control. Subscriber retains liability for FTI, and should make every effort to not transmit it for storage by FDS. FDS will not store FTI.

### 3.3 Limitation of Liability.

(a) Except as provided in paragraphs (b) and (c) of this clause, and except to the extent that FDS (“the Contractor”) is expressly responsible under this contract for deficiencies in the services required to be performed under it (including any materials furnished in conjunction with those services), the Contractor shall not be liable for loss of or damage to property of the Government that—

(1) Occurs after Government acceptance of services performed under this contract; and

(2) Results from any defects or deficiencies in the services performed or materials furnished.

(b) The limitation of liability under paragraph (a) of this clause shall not apply when a defect or deficiency in, or the Government's acceptance of, services performed or materials furnished results from willful misconduct or lack of good faith on the part of any of the Contractor's managerial personnel. The term "Contractor's managerial personnel," as used in this clause, means the Contractor's directors, officers, and any of the Contractor's managers, superintendents, or equivalent representatives who have supervision or direction of—

(1) All or substantially all of the Contractor's business;

(2) All or substantially all of the Contractor's operations at any one plant, laboratory, or separate location at which the contract is being performed; or

(3) A separate and complete major industrial operation connected with the performance of this contract.

(c) Contractor's total liability to the Government for any given loss or damage shall be fixed at the amount that its insurance policy or policies required by the Contract provide coverage for such loss or damage. The District will be covered by other FDS insurance policies and limits to the extent that those policies and limits relate directly to the services being provided to the District hereunder.

### 3.4 Right to Suspend or Terminate Services.

3.4.1 In addition to the termination rights set forth in this Agreement, upon notice to Subscriber (which notice shall be delivered to Subscriber concurrent with any activity under this provision), FDS may suspend delivery of the FDS Services, in whole or in part: (i) if Subscriber has breached its material obligations, or failed to satisfy the material requirements of, this Agreement, (ii) the requirements of applicable law, rule or regulation have not or will not be met, or (iii) to investigate, respond to and/or remedy a suspected or actual concern on information security, privacy, defamation, criminal activity or legal compliance, until such

breach, non-compliance or investigation is remedied to FDS' reasonable satisfaction.

3.4.2 Either Party may terminate this Agreement upon thirty (30) days prior written notice in the event of either Party's failure to perform.

3.4.3 Subscriber may terminate this Agreement upon written notice in the event Subscriber fails to receive funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Subscriber, in the exercise of its reasonable administrative discretion, to meet its payment obligations under this Agreement.

#### 4. General Provisions

4.1 Relationship of the Parties. The parties are independent contractors. Nothing in this Agreement or in the activities contemplated by the parties hereunder shall be deemed to create an agency, partnership, employment, outsourced servicer or joint venture relationship between the parties.

4.2 Severability; Survival. If any provision of this Agreement is or becomes void or unenforceable by law, the other provisions shall remain valid and enforceable. All provisions in this Agreement that relate to disclaimer of warranties, access and use of FDS Services, audit, limitation of liability, confidentiality of FDS information, and payment for FDS Services, shall survive any termination of this Agreement.

4.3 Assignment. This Agreement and the license granted hereunder may not be assigned, transferred, or sublicensed by the Parties, in whole or in part.

4.4 Governing Law. This Agreement is governed by and construed in accordance with the laws of Subscriber's State, without regard for principles of conflicts of laws.

4.5 Venue and Jurisdiction. Any claim, action, or suit (collectively, "Proceeding") between the Parties, that arises from or relates to this Agreement must be brought and conducted within the trial courts located in the State and county of Subscriber's main office; provided, however, that if a Proceeding must be brought in a federal forum, then unless otherwise prohibited by law, it will be brought and conducted within the United States District Court for the district in which Subscriber's main office is located. FDS hereby

consents to the *in personam* jurisdiction of these courts. Nothing in these provisions shall be construed as a waiver of the sovereignty or governmental immunity Subscriber enjoys as a state agency, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or a waiver of any defenses to Proceedings or consent to jurisdiction based thereon.

4.6 Notices. All notices required under this Agreement will be in writing and addressed to the Party's authorized representative, as identified below. Mailed notices are deemed received five days after the postmark date when properly addressed and deposited prepaid with the U.S. Postal Service. Faxed notices are deemed received upon electronic confirmation of successful transmission to the designated fax number. E-mail notices are deemed received upon electronic confirmation of receipt. Notices delivered by personal delivery are deemed received when delivered to the address specified for the receiving party's authorized representative. FDS shall send to Subscriber's contact person as identified below copies of all notices that FDS sends to Subscriber.

To FDS:  
Fast Data Services, LLC  
Attn: Legal  
7229 South Alton Way  
Centennial, Colorado 80112  
Phone: (303) 770-3700  
E-mail: legal@fastdataservicesllc.com

To Subscriber:

\_\_\_\_\_  
Attn:

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Address:

\_\_\_\_\_  
Phone:

\_\_\_\_\_  
Fax:

\_\_\_\_\_  
E-mail:

4.7 Tax Certification. The undersigned certifies that he/she is authorized to act on behalf of FDS and that FDS is, to the best of the undersigned's knowledge and for a period of no fewer than three calendar years preceding the Effective Date of this Agreement, not in violation of any applicable tax laws including rules, regulations, charter provisions, or ordinances implemented to enforce any of the applicable tax laws.



4.8 Amendments. No amendment to this Agreement is effective unless it is in writing signed by the Parties, and all approvals required by applicable law have been obtained.

4.9 Integration and Merger. This Agreement constitutes the entire agreement between the parties on the subject matter thereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

For FDS:

James G. Harrison  
Signature  
James G. Harrison; member  
Name and Title

5-20-21

Date

For Subscriber:

Drakus Wiggins  
Signature

Drakus Wiggins, Contracting Office  
Name and Title

05/24/2021

Date

---

*Appendix 1*  
*Opt-Ins*

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## Base FDS Services

- Subscriber wishes to participate in Base FDS Services – annual Access Fee applies

## Cross-Subscriber Services

### DEX

DEX is a data exchange service which Subscribers can use to submit data for cross-referencing by other Subscribers. Such information often includes information such as names, SSNs, IP addresses, and bank accounts connected with fraudulent activity. FDS interacts with DEX only as necessary to facilitate its security, storage, and transfer. Each Subscriber owns the data it contributes to DEX, and FDS claims no rights, title or interest in it. A Subscriber's data can be deleted from the data exchange if the Subscriber opts out of DEX at any time.

- Subscriber wishes to participate in DEX



**NON-DISCLOSURE AGREEMENT**

FAST ENTERPRISES, LLC, a New York Limited Liability Company, ("FAST") is providing the District of Columbia Government (the "District" or "Agency") access to FAST products, tools, inventions, innovations, design concepts, program code, knowledge capital and professional services.

The following articles govern the procedures by which the undersigned ("I", "me", "my") will handle FAST confidential information. Specifically:

1. FAST declares that the following are confidential ("Confidential Material"):
  - a) Any data, products, inventions, innovations, program source code, program object code, program executables, data designs, data definitions, programming aids, tools, utilities, configurations, drawings, formulae, algorithms, ideas, designs, concepts, know-how, discoveries, techniques, training material, documents, manuals, methodologies, specifications, models, and other knowledge capital, electronic or otherwise, owned by FAST whether copyrightable or patentable or not;
  - b) Information relating to the technology, customers, business plans, promotional and marketing activities, pricing policies, finances and other business affairs of FAST;
  - c) Any documents or material which are marked "Confidential" by FAST;
2. FAST will disclose such Confidential Material to individuals as required for:
  - a) The implementation, maintenance and support of FAST software for the Agency's use;
  - b) Use of FAST software by the Agency.
3. I agree to receive any such Confidential Material in confidence and to use such Confidential Material solely for the purpose defined in Section 2 above. I further agree to take either:
  - a) Such measures as I would take in protecting the confidentiality of my own confidential information or
  - b) Such measures as a reasonable person would take in protecting the confidentiality of his or her own confidential information,whichever represents the higher standard, in protecting the confidentiality of the Confidential Material.
4. I agree that any Confidential Material that I receive can only be used for purposes outlined in Section 2 above. Other uses can be made only after obtaining the written permission of FAST.
5. I agree not to remove Confidential Material from any District or FAST devices provided to me. Further, I agree to utilize Confidential Material outside of the project site only to the extent necessary to provide services remotely, if authorized by the District.

6. I agree that I will not disclose any Confidential Material, directly or indirectly, to any party other than the Agency without first obtaining the written permission of FAST and the Agency.
7. I agree that all Confidential Material provided under the terms of this Agreement shall remain the property of FAST and shall be returned to FAST upon its request, including any and all copies I might produce.
8. Nothing herein shall be construed as giving me any license or right in connection with the Confidential Material disclosed to me.
9. My obligation to maintain information in confidence shall not extend to such portions of the information that, at the time of disclosure to me, are general knowledge in the public domain.
10. I understand that my obligation to protect the confidentiality of the Confidential Material extends beyond my involvement with the Agency and beyond my involvement with FAST. Furthermore, my obligation to protect the confidentiality of the Confidential Material is not subject to changes in my employment status.
11. I understand that access to the Confidential Material is provided on a need-to-know basis. If, for any reason, such need no longer exists, I agree that I will return all Confidential Material to FAST, including any and all copies I may have produced.
12. I understand that Confidential Material is provided to me as-is and FAST makes no warranties with respect to Confidential Material.
13. This Agreement shall be construed and governed in accordance with the laws of the District of Columbia.
14. If any term of this Agreement should be declared void or unenforceable, such declaration will have no effect on the remaining terms herein.

I HAVE READ THIS AGREEMENT CAREFULLY AND I UNDERSTAND AND ACCEPT THE OBLIGATIONS WHICH IT IMPOSES UPON ME WITHOUT RESERVATION. NO PROMISES OR REPRESENTATIONS HAVE BEEN MADE TO ME TO INDUCE ME TO SIGN THIS AGREEMENT. I SIGN THIS AGREEMENT VOLUNTARILY AND FREELY.

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



ATTACHMENT J.7



**FAST Centralized Tech  
Statement of Work**



## Revision History

Change Record			
Date	Author	Version #	Description of Change
2020-06-24	Tyler Rust	0.0.1	Initial Draft
2020-06-25	Latigo Biggins	1.0.0	Initial Document
2020-06-26	Latigo Biggins	1.0.1	Minor changes based on technical writer feedback
2020-12-02	Latigo Biggins	1.0.2	Updates to the Scope of Work section

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# 1 Overview

This document outlines the FAST Centralized Tech (FCT) services, along with specifications for their delivery. The objective of these services is to provide flexible, quality FAST technical mentorship, review, and support to clients at levels that align with the project's expectations and adjust as appropriate based on changing conditions.

This document is intended to clarify the roles and responsibilities of FAST Centralized Tech to best meet the objectives of these services, which can be roughly categorized in the following two roles and various models offered:

- FAST Application Technical role:
  - Support model: FCT resources lead the work.
  - Assistance model: Project resources lead the work and are assisted by FCT.
- Database Administration (DBA) role:
  - Support model: FCT DBAs and team members lead the work.
  - Assistance model: Project resources leads the work and are assisted by FCT DBAs and team members.
  - Review model: FCT DBAs and team members review settings, configuration, and activity and submit recommendations.

## 1.1 Termination of Service

**1.2** The Client has the right to terminate these services by giving at least 30 days' notice in writing to FAST. The notice requirement is waived if FAST commits a breach of service and, in the case of a breach capable of remedy, fails to remedy the breach within 14 days of being requested to do so.

FCT services are provided under the following guidelines:

- Work is performed by FAST employees.
- No part of these services is subcontracted.
- Work is performed within the United States.
- Team members are submitted by FAST to the client for provisioning and authorization.
- FAST maintains and regularly provides a list of employees with authorized access.
- FCT roles and service levels determine the primary ownership of various technical tasks.
  - **Note:** Additional details are available in the *FAST Centralized Tech Responsibility Matrix* template.
- A team member's access is requested based on the principle of least privilege, as required by the role they are expected to play.

- **Note:** Additional details can be found in the *FAST Centralized Tech Required Permissions* document.
- Access to client systems takes place from FAST laptops.
  - FAST laptops are inventoried, encrypted, regularly updated, and running up-to-date antivirus software.
  - **Note:** FAST is in the process of applying the Center for Internet Security (CIS) Benchmarks to harden these laptops.
- Remote access should take place via a virtual private network (VPN) and/or virtual desktop infrastructure (VDI) solution.
  - Multi-factor authentication enforcement is recommended.
- System access should be performed from agency-managed equipment.
  - No client data is received, processed, transmitted, or stored on FAST-owned equipment.

The client has the right to terminate the services if FAST fails to provide the safeguards described above.

- **Note:** If FAST is unable to perform its obligations under the terms of this *Statement of Work* because of acts of God, strikes, failures of a carrier or utilities, equipment or transmission failures, damages that are reasonably beyond its control, or any other cause that is reasonably beyond its control, FAST shall not be liable for uncompleted units of work and their associated damages. Performance under this *Statement of Work* shall resume when FAST is able to substantially perform its duties.

## 1.3 Scope of Work

FAST Centralized Tech services are customized for each client engagement to provide FAST technical mentorship, review, and support at levels that align with the project's expectations and adjust as appropriate based on changing conditions. The focus Centralized Team is on items related to the installation, configuration and maintenance of the FAST product on the project's infrastructure platform. The Centralized Team is extremely effective at this work because it is performed across multiple projects that have been standardized in as many ways as feasible. The Centralized Team will assist with items outside the normal scope of work when required for the success of the project, however, the preference is to have onsite project personnel perform the work on items they are capable of and have the capacity for. Services available are outlined the *FAST Centralized Tech Responsibility Matrix*, which includes items from the categories in the following list:

- Recurring meetings with on-site resources
- Coordination of changes with client technical staff
- On-call support and activities outside business hours
  - FAST application outages
  - Significant project issues
  - Job streams
- Tech Production Support Delivery Workbench template items
- Reporting
  - Delivery Workbench task summary
  - Notification of staffing changes
  - Environment uptime reporting
  - Job stream overview and statistics (if not already provided by FAST Monitoring Services)
- Technical training
  - On-site technical resources knowledge transfer
  - On-site development resources training on tech related topics
- Support for other project teams (Training, Conversion, Testing, Development)
- Technical documentation
  - Admin binder
- FAST application technical support
  - Installation, configuration and maintenance
  - Certificate support application, communication and data encryption
  - FAST application migrations and server updates
  - Outage response
  - Environment restores
- FAST Central Repository (FCR) support
  - Installation, configuration and maintenance
  - Security configuration
  - Job stream configuration and monitoring, e.g. USPS data load
- Performance-tuning
  - Job stream optimization



- Business object log review
  - Query reviews
- Sync and service packs
  - FAST application sync, service pack and hotfix load
  - Review of technical team areas included in updates
  - FCR sync packs
  - Architecture syncs
  - Health check syncs
- Security and compliance
  - Assistance with documentation and configuration of tech team related compliance requirements
  - Compliance audit participation, e.g. Internal Revenue Service (IRS) or Social Security Administration (SSA)
  - Internal audit support
  - Guidance for security configuration of the FAST application
- File share security support (if applicable)
- Service accounts and domain group support
  - Requirements and recommendations
  - Permission specifications
- Disaster Recovery
  - Planning
  - Testing
  - Execution
- Infrastructure consultation
  - Assistance with specifications and requirements analysis
  - Hardware refresh support
  - Maintenance and patching planning and support
- Database Administration
  - Annual database archiving
  - Backup and maintenance plans
  - Backup/restore testing
  - Security configuration

- Instance and database level settings
- Centralized Tech initiatives
  - Standardization
  - FAST best practice implementation
  - FAST updates and process changes
- Technical QA Reviews
  - Goal is to perform these as projects join the Centralized program and every few years after that point
- FAST project best practices and standards (typical examples included below)
  - Environment set support
  - Security synchronization between environments
  - Staging flattening
- Site visits, as appropriate
  - Rollouts
  - Security audits
  - QA reviews

## 1.4 Provisioning Requirements

Account provisioning and authorization are required for the FAST Centralized Tech (FCT) team members. FAST complies with all client requirements and policies for provisioning. These requirements can include background checks, fingerprinting, confidentiality agreements, and training.

FCT provides advance notification to the client when additional FCT team members start. The client is expected to make a best-effort attempt to provision the new accounts within 10 business days of receiving the required paperwork. If the client is not able to provision FCT team members within that timeframe, FCT may not be able to provide full support for issues.

FCT should notify clients within one business day if employment is ceased for an FCT team member. The client is responsible for ceasing the account.

## 1.5 Inspections

The client has the right to inspect the FAST facilities and operations where the FCT services are performed. Clients must provide FAST with at least 10 business days' notice prior to visiting any FAST facility.

## 1.6 References

The following documents are references for this *Statement of Work*. These documents are utilized by FAST in their performance of the CTS services and therefore may be updated by FAST from time to time to reflect modifications to the services. FAST will not make any modifications to the services that decrease or negatively impact the CTS services being provided unless such changes are mutually agreed upon by FAST and the District.

- *Exhibit A - Memo: FAST Centralized Tech Support*
- *Exhibit B - Memo: FAST Centralized Tech DBA Support*
- *Exhibit C - Memo: FAST Centralized Tech Remote Access*
- *Exhibit D - FAST Centralized Tech Responsibility Matrix: CTS and FHS*
- *Exhibit E - FAST Centralized Tech Required Permissions*
- *Exhibit F - FAST Centralized Tech Project Onboarding Checklist*

## 2 Service Prerequisites

The prerequisites in the table below are required for successfully transitioning to FCT services:

Prerequisite	Description
<p><b>Confirm FCT methodology is acceptable</b></p>	<p>The FCT service is predicated on supporting FAST projects using a consistent methodology and materially following FAST best practices, which include:</p> <ul style="list-style-type: none"> <li>• The Delivery Workbench</li> <li>• On-site FAST Health Check and Monitoring Services</li> <li>• Regular FAST application service packs and recurring architecture syncs</li> <li>• Regular FCR service packs and reoccurring key FCR component syncs</li> <li>• Staging restores, security flattening, database maintenance, and infrastructure recommendations</li> </ul>
<p><b>Determine service level</b></p>	<p>Discuss and agree upon the level of service that best serves the project. This decision is largely based upon on-site resource availability and roles required for the project.</p> <ul style="list-style-type: none"> <li>• <b>Note:</b> Refer to the <i>Memo: Centralized Tech Support</i>, <i>Memo: Centralized Tech Assistance</i>, and <i>Memo: Centralized Tech DBA Support</i> documents.</li> </ul>

Prerequisite	Description
<b>Determine roles</b>	<p>Discuss and agree on the project roles filled by FCT resources, such as Application Support Tech, Database Support Tech, and Database Administrator.</p> <ul style="list-style-type: none"> <li>• <b>Note:</b> Refer to the <i>FAST Centralized Tech Required Permissions</i> document.</li> </ul>
<b>Review Onboarding Checklist</b>	<p>Review the <i>Onboarding Checklist</i> to guide discussions about setup needs.</p> <ul style="list-style-type: none"> <li>• <b>Note:</b> Refer to the <i>FAST Centralized Tech Project Onboarding Checklist</i> document.</li> </ul>
<b>Provision accounts</b>	<p>Provision and authorize the FCT team members per the client’s standard process. Accounts are provisioned for all FCT team members assigned to the engagement during the transition to this service and as new FCT team members are onboarded. FCT team members are responsible for maintaining their accounts and keeping them active.</p> <ul style="list-style-type: none"> <li>• <b>Note:</b> Necessary client forms and instructional steps should be configured and uploaded to FAST FCR by the on-site FAST Project Manager. These materials provide a centralized location to manage or view account provisioning updates or changes.</li> </ul>
<b>Provision workstations</b>	<p>FCT team members perform all work for a project from workstations under the control of the client to ensure that data is accessed in accordance with client policies and procedures. FAST recommends that the implementation allow at least two FCT resources to work concurrently.</p> <ul style="list-style-type: none"> <li>• <b>Note:</b> Refer to the <i>Memo: FAST Centralized Tech Remote Access</i> document.</li> </ul>
<b>Verify access</b>	<p>Once accounts and workstations have been provisioned, FCT team members verify they have the necessary access to appropriately support the project. Verification includes:</p> <ul style="list-style-type: none"> <li>• VPN connectivity (if applicable)</li> <li>• Workstation connectivity (VDI or Remote Desktop Protocol—RDP)</li> <li>• Workstation software</li> <li>• FAST application and FCR environment access</li> <li>• Direct database access via SQL Server Management Studio</li> <li>• Server access via RDP</li> </ul>

Prerequisite	Description
<b>Set up the Delivery Workbench</b>	FCT tracks all notable work in the Delivery Workbench manager in the project’s FCR application. This tracking is heavily driven by various templates available to encourage proactive monitoring and standardized approaches to common technical tasks.
<b>Send Delivery Workbench monitoring data</b>	Sending tech-specific Delivery Workbench data to FAST via the existing on-site Monitoring Services is a prerequisite for transitioning to FCT. This data is used for reporting purposes, organizes the FCT team members’ work, and assists in guiding the FCT meetings.
<b>Schedule recurring meetings</b>	<p>The FCT team schedules recurring meetings—either weekly or biweekly—with any on-site resources who interface with FCT regularly. These meetings can include technical, development, and/or management resources.</p> <p>The purpose of these meetings is to coordinate remote work being completed by FCT with any other on-site project work. The meetings also serve to provide transparency and aid communication between the project and FCT.</p> <p>Meeting agendas and minutes are included in and are based on Delivery Workbench data from site FCR.</p>
<b>Communicate transition</b>	Notify the project staff of the transition to FCT services. The project staff should include the new FAST-managed FCT distribution group on all emails regarding technical issues.

## 3 Resource Coverage

FAST Centralized Tech utilizes redundant coverage, where resources rotate to provide a high-quality service level to projects. This approach helps ensure that issues are addressed quickly and that, as time goes on, there is a pool of resources familiar with the project to provide supplemental assistance as required.

### 3.1 Redundant Coverage

Two FCT team members are actively assigned to monitoring emails and alerts for each project. One is considered the primary resource and the other the secondary resource. The primary resource is the first to respond to any new requests or technical issues. The secondary resource serves as a backup to the primary and can take on additional work as needed.

Planned or unplanned out-of-office time by either the primary or secondary FCT resource is communicated to the project site as soon as possible. If additional coverage is needed or there is a significant issue, FCT may use additional resources who have been authorized by the project.

## 3.2 Rotating Schedule

FCT uses a rotating schedule to ensure that multiple team members are familiar with each client and project setup. FCT team members typically rotate on a quarterly basis. When possible, the FCT resources rotate from the primary to secondary resource role and bring on a new FCT resource as the primary. The rotation approach provides primary resources additional time to complete any outstanding tasks from their rotations.

- **Note:** FCT may temporarily adjust resource rotation when it makes sense to do so (e.g., while executing larger units of work, such as version upgrades, hardware refreshes, or when requested by the client for a specific reason).

## 4 Requests

There are several options for requesting FCT for support or assistance based on the urgency of the need. These requests, based on a client or FCT resource's discretion, may be added as Delivery Workbench items for tracking and reporting purposes.

### 4.1 Non-urgent Requests

Non-urgent requests can be communicated to FCT resources in multiple ways, including:

1. Email, which is the preferred method
  - **Note:** FAST provides each project with a dedicated FAST distribution group.
2. Direct contact, which is defined as an interaction with an FCT resource via a call, text exchange, meeting, or collaboration tool sanctioned by the project
3. During meetings

FCT responds to non-urgent requests submitted during business hours on the same business day, to requests submitted after hours on the next business day, and to requests submitted on weekends and holidays within 24 hours.

### 4.2 Urgent Requests

For urgent requests that require immediate resolution, FCT should be notified directly. The recommended contact order is as specified below, but other options can be employed, as appropriate:

1. Direct contact with the primary FCT resource
2. Direct contact with the secondary FCT resource
3. Phone call to the FCT toll-free number listed in the [General Content Information](#) section below
4. Direct contact with other FCT resources provisioned for the project
5. Escalation to FCT leadership listed in the [FAST Centralized Tech Leadership](#) section below

FCT team member contact information is available in several locations, including:

- As provided to the project as part of the onboarding process
- In the Health Check manager’s Health Check Contacts section in the site FCR environment
- As documented in the *Centralized Tech Monthly Summary Reports*

### 4.3 General Contact Information

The FAST Centralized Tech team can be reached using the following contact information:

- Toll-free phone number: (877) 500-1713
- Email address: [CentralizedTechSupport@gentax.com](mailto:CentralizedTechSupport@gentax.com)

### 4.4 FAST Centralized Tech Leadership

The FAST Centralized Tech leadership is outlined in the table below. These contacts can be used by the client in emergency situations after first trying to contact the FCT team members assigned to the project. The leadership team is also available for feedback, client concerns, or to address changes required to FCT services.

Name	Role	Phone Number	Email Address
<b>Tyler Rust</b>	Centralized Project Manager – East Team	(720) 273-2928	<a href="mailto:trust@gentax.com">trust@gentax.com</a>
<b>David Wiederecht</b>	Centralized Project Manager – West Team	(567) 343-3463	<a href="mailto:dwiederecht@gentax.com">dwiederecht@gentax.com</a>
<b>Latigo Biggins</b>	Tech Team Director	(720) 284-9894	<a href="mailto:lbiggins@gentax.com">lbiggins@gentax.com</a>



**ATTACHMENT J.8**  
Confidentiality and Non-Disclosure Affidavit

This Confidentiality and Non-Disclosure Affidavit ("Affidavit") is entered into by FAST Enterprises, LLC ("Contractor").

1. The Contractor and the Office of Chief Financial Officer of the District of Columbia ("OCFO") have entered into contract CFOPD-21-C-001, as amended (the "Contract").
2. In performing these activities, Contractor understands that all information provided to it by the OCFO, including, but not limited to, the Office of Tax and Revenue ("OTR") or any other agency within the OCFO is confidential (1) which are District tax returns or return information (2) which is identified as confidential at the time of disclosure or (3) which is such that a reasonable person would consider, from the nature of the information and circumstances of disclosure, is confidential, with the exception of information that is shown to have been:
  - (a) Rightfully in the possession of Contractor prior to the date of disclosure of such information to Contractor, as evidenced by written documents; or
  - (b) In the public domain prior to the date of disclosure to Contractor; or
  - (c) Supplied to Contractor by a third party who is under no obligation to the OCFO to maintain such information in confidence; or
  - (d) Developed by or for Contractor independently of the disclosure made under this Affidavit.
3. Any Federal tax returns or return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of the Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract. Inspection by or disclosure to anyone other than an officer or employee of the contractor is prohibited.
4. In order to safeguard District and Federal confidential information from unauthorized disclosure by Contractor in performance of its tasks under the Contract, Contractor agrees to comply with and assume responsibility for compliance by its employees of the following requirements:
  - (a) All work will be done under the supervision of Contractor or Contractor employees.
  - (b) The Contractor and the Contractor's employees with access to or who use FTI must meet the background check requirements defined in IRS Publication 1075.
  - (c) Any such confidential information made available in any format shall be used only for the purpose of carrying out the provisions of the Contract.



- (d) Such confidential information will be treated as confidential and will not be divulged or made known in any manner to any person except as may be necessary in the performance of the Contract or as may be required by law, regulation or legal process. Thus, Contractor shall limit disclosure of such information within its own organization to only its partners, directors, officers, principals, or employees having a need to know, or partners, directors, officers, principals, or employees of affiliated entities or subcontractors having a need to know. Any personal or tax information protected by law from disclosure inadvertently given to Contractor by the OCFO, OTR, or any other department within the OCFO is protected tax information and is not to be disclosed under the confidentiality provisions of sections 820.01(d)(1) and (3), 821(d)(2), 1805.04, 2018, 2210, 3719, 4406 of the Title 47 of the D.C. Official Code, sections 508.1 and 608.1 of the District of Columbia Municipal Regulations, and I.R.C. § 6103.
- (e) Disclosure to anyone other than such directors, officers, or employees, of Contractor, or other than an OCFO official involved in review and evaluation of the functions of the OCFO, is prohibited.
- (f) All such confidential information will be accounted for upon receipt and properly stored before, during, and after processing.
- (g) In addition, all related output will be given the same level of protection as required for the source tax information material. All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. No work involving returns and return information furnished under the Contract will be subcontracted without prior written approval of the IRS.
- (h) All computer systems processing, storing and transmitting confidential information must meet or exceed reasonable computer access protection controls. To meet these requirements, the operating security features of the system must have the following minimum requirements: a security policy, accountability procedures and documentation. Reasonable security features must be activated to protect against unauthorized use of and access to confidential information.
- (i) In addition, all computer systems receiving, processing, storing or transmitting Federal Tax Information must meet the requirements defined in IRS Publication 1075. To meet functional and assurance requirements, the security features of the environment must provide for the managerial, operational, and technical controls. All security features must be available and activated to protect against unauthorized use of and access to Federal Tax Information.
- (j) Contractor agrees that, at the time the work is completed, at the request of the OCFO, any such confidential information processed during the performance of the Contract will be completely purged from all data storage components of Contractor's computer facilities, and no output will be retained by Contractor; provided, however, Contractor may retain a copy of such information to the extent required by professional standards, Contractor's policies or in connection with computer system backups. If immediate purging of all information storage components is not possible, Contractor certifies that any such information, including any



Federal Tax Information, remaining in any storage component will be safeguarded to prevent unauthorized disclosures.

- (k) Contractor will be responsible for the destruction of spoilage or any known intermediate hard copy printouts related to the confidential information, and will provide the OTR or representative designated by the OCFO with a statement containing the date of destruction, description of material destroyed, and the method used. Contractor may retain a copy of such information to the extent required by professional standards or Contractor's policies. However, any Federal Tax Information processed, as described above in this paragraph, will be given to the OCFO or his or her designee. If this is not possible, Contractor will be responsible for the destruction of the spoilage or any intermediate hard copy printouts, and will provide the above-referenced statement to the OCFO or his or her designee.
- (l) Contractor will maintain a list of employees authorized access to such information. Contractor will provide this list to, OTR, or the designated OCFO agency and provide updates of any changes to that list promptly after they occur. Such list will be provided upon request to the IRS reviewing office. No work involving Federal Tax Information furnished under this contract will be subcontracted without prior written approval of the IRS. Contractor shall include with each list and update an Affidavit Acknowledgment Form (enclosed) signed by each employee authorized to access to such information.
- (m) This Affidavit shall not be construed as creating, conveying, transferring, granting or conferring upon Contractor or any other person any rights, license or authority in or to the information exchanged, except the limited right to use such information for the purposes specified in the Contract.
- (n) No license or conveyance of any intellectual or property rights is granted or implied by this Affidavit or the Contract.
- (o) Neither the OCFO nor its representative agencies has an obligation under this Affidavit to purchase any service, goods, or intangibles from Contractor or any other person.
- (p) Furthermore, Contractor hereby acknowledges and agrees that the exchange of information under the Contract shall not commit or bind the District or its representative agencies and/or employees to any present or future contractual relationship (except as specifically stated herein), nor shall the exchange of information be construed as an inducement to act or not to act in any given manner.
- (q) No specification in this Affidavit of any particular remedy shall be construed as a waiver or prohibition of any other remedies in the event of a breach, or threatened breach of this Affidavit.
- (r) This Affidavit is made under and shall be construed according to the laws of the District. In the event that this Affidavit, is breached, any and all disputes must be settled in a court of competent jurisdiction in the District of Columbia. The parties agree to waive any right to a trial by jury.



- (s) If any of the provisions of this Affidavit are found to be unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provision(s) shall be deemed modified to the limited extent required to permit enforcement of the Contract as a whole.
  - (t) The OCFO will have the right to void the contract if the Contractor fails to provide the safeguards described above.
5. **INSPECTION.** The IRS and the OCFO, with 24 hour notice, shall have the right to send its inspectors into the offices and plants of the Contractor to inspect facilities and operations performing any work with FTI under this contract for compliance with requirements defined in IRS Publication 1075. The IRS' right of inspection shall include the use of manual and/or automated scanning tools to perform compliance and vulnerability assessments of information technology (IT) assets that access, store, process or transmit FTI. On the basis of such inspection, corrective actions may be required in cases where the contractor is found to be noncompliant with contract safeguards.

6. **CRIMINAL/CIVIL SANCTIONS**

- (a) Each officer or employee of any person (including Contractor) to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRCs 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.
- (b) Each officer or employee of any person (including Contractor) to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of the Contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRCs 7213A and 7431.



(c) Additionally, it is incumbent upon the Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(d) Contractor will participate in safeguard awareness training, provided by OTR, prior to accessing and/or handling Federal Tax Information. Contractor hereby certifies that each individual understands the OCFO's security policy and procedures for safeguarding IRS information. Contractor will maintain their authorization to access Federal Tax Information through annual recertification. The initial certification and recertification will be documented and placed in the OCFO's files for review. As part of the certification and at least annually afterwards, Contractors will be advised by the OCFO of the provisions of IRCs 7431, 7213, and 7213A. The training provided by the OCFO before the initial certification and annually thereafter will also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. For both the initial certification and the annual certification, Contractor will sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

WHEREFORE, Contractor acknowledges that they have read and understand this Affidavit and voluntarily accept the duties and obligations set forth herein.

CONTRACTOR:

By: James G. Harrison Date: 5-20-21

Name: James G. Harrison

Title: Member

**ATTACHMENT J.9**

**Confidentiality and Non-Disclosure Affidavit  
Acknowledgment Form**

for

The Confidentiality and Non-Disclosure Affidavit understood and agreed to by **FAST Enterprises, LLC** ("Contractor") related to the Contract No. **CFOPD-21-C-001**, entered into between the Contractor and the Office of Chief Financial Officer of the District of Columbia ("OCFO")

WHEREFORE, as an employee, or as a subcontractor, of the Contractor, I, solely and individually, acknowledge:

- 1) HEREBY, I have received the Confidentiality and Non-Disclosure Affidavit,
- 2) HEREBY, I have read and understand the Confidentiality and Non-Disclosure Affidavit, and
- 3) WHEREAS, I voluntarily accept the duties and obligations and shall comply with the policies set forth therein and any revisions made thereto.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Name of Employer: \_\_\_\_\_

Date: \_\_\_\_\_

*James G. Harrison*  
James G. Harrison  
Member  
Fast Enterprises  
5-20-2021