

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



Office of Management and Administration
Office of Contracts

May 8, 2018

Herb Delehanty
CEO
Delehanty Consulting LLC

RE: Notification of Award
Solicitation No. CFOPD-18-R-009
Gaming System Procurement Consulting Services

Dear Mr. Delehanty:

The Office of the Chief Financial Officer (“OCFO”) is pleased to award Contract Number CFOPD-18-C-009 for Gaming System Procurement Consulting Services as a result of the subject solicitation.

This letter is also to notify you that in accordance with Section I.30 –Insurance “The Contractor shall obtain the minimum insurance coverage set forth below prior to award of the contract and within ten (10) calendar days after being called upon by the District to do so and keep such insurance in force throughout the contract period.” Please provide the applicable proof of insurance coverage within ten (10) calendar days of receipt of this notification.

Please address the rider to the attention of the Administrative Assistant at the following address:

Office of Management and Administration
Office of Contracts
Attn: Chrishelle Minor
1100 4th Street SW, Suite E610
Washington, DC 20024
DorethaD.Johnson@dc.gov

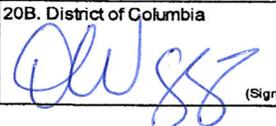
The Contracting Officer's Technical Representative is Christina R. Harris, Paralegal Specialist, Office of Lottery and Charitable Games. You will be contacted by Office of Lottery and Charitable Games in the very near future to schedule a start up meeting.

Congratulations on receipt of this contract. If you have any questions, you may contact Samira Davis, Contract Specialist, at 202-442-6428.

Sincerely,

A handwritten signature in blue ink, appearing to read 'DWG', is written over the typed name.

Drakus Wiggins, CPPB, CPPO
Contracting Officer
Office of Contracts

| | | | | | | | |
|---|---|--|-----------|---|---------------------|--|-------|
| AWARD/CONTRACT | | 1. Solicitation Number CFOPD-18-R-009 | | Page of Pages 1 70 + Attachments | | | |
| 2. Contract Number CFOPD-18-C-009 | | 3. Effective Date See section 20 C. | | 4. Requisition/Purchase Request/Project No. | | | |
| 5. Issued By Office of the Chief Financial Officer Office of Contracts 1100 - 4th Street, SW., Suite E610 Washington, DC 20024 | | Code | | 6. Administered By (If other than line 5) Office of Lottery and Charitable Games 2235 Shannon Place, SE, 5th Floor Washington, DC 20020 Gwen Washington Tel: 202- 645-8959 | | | |
| 7. Name and Address of Contractor (No. Street, city, country, state and ZIP Code) Delehanty Consulting LLC 742 Basswood Ave. Verona, WI53593 Herb Delehanty: herb@delehantyconsulting.com, Tel. 608 832 1751 | | Code | | 8. Delivery <input checked="" type="checkbox"/> FOB Destination <input type="checkbox"/> Other (See Schedule Section F) | | | |
| | | | | 9. Discount for prompt payment | | | |
| | | Code | | 10. Submit Invoices to the Address shown in Line 12 (2 copies unless otherwise specified) | | | |
| 11. Ship to/Mark For Office of the Chief Financial Officer Office of Lottery and Charitable Games 2235 Shannon Place, SE, 5th Floor Washington, DC 20020 Gwen Washington Tel: 202- 645-8959 | | Code | | 12. Payment will be made by Office of the Chief Financial Officer Office of Management and Administration Financial Operations/Accounts Payable 1100 4th Street, SW Suite E600 Washington, DC 20024 oma.invoicing @dc.gov | | | |
| 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 | Gaming System Procurement Consulting Services | 1 | Lot | | \$217,500.00 | | |
| Total Amount of Contract | | | | | \$217,500.00 | | |
| 16. Table of Contents | | | | | | | |
| (X) | Section | Description | Pages | (X) | Section | Description | Pages |
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| Contracting Officer will Complete Item 17 or 18 as Applicable | | | | | | | |
| 17 <input checked="" type="checkbox"/> CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return <u>1 pdf</u> copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.) | | | | 18 <input type="checkbox"/> AWARD (Contractor is not required to sign this document.) Your offer on Solicitation Number _____ including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the items listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your offer, and (b) this award/contract. No further contractual document is necessary. | | | |
| 19A. Name and Title of Signer (Type or print) HERB DELEHANTY PRINCIPAL | | | | 20A. Name of Contracting Officer Drakus Wiggins | | | |
| 19B. Name of Contractor  | | 19C. Date Signed 4/30/2018 | | 20B. District of Columbia  | | 20C. Date Signed 5/8/18 | |
| <small>(Signature of person authorized to sign)</small> | | | | <small>(Signature of Contracting Officer)</small> | | | |

SECTION B

CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE

B.1 GENERAL INFORMATION

The Office of the Chief Financial Officer (“OCFO”) for the District of Columbia (“District”) and the Office of Contracts on behalf of the Office of Lottery and Charitable Games (“Lottery”) is awarding a consultant (“Contractor”) to provide consulting services for the Lottery’s gaming system procurement process.

B.2 CONTRACT TYPE

The District hereby awards award of a requirements contract.

B.3 PRICING SCHEDULE

B.3.1 The District will purchase its requirements of the services included herein from the Contractor. The estimated quantities stated in the Price Schedule reflect the best estimates available. The estimate shall not be construed as a representation that the exact quantity that 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 all required quantities.

- a) The District will order the services in accordance with Section G.7, Ordering Clause.
- b) There is no limit on the number of orders that may be issued.
- c) Any order issued during the effective period of this Contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The Contract shall govern the Contractor's and District's rights and obligations with respect to that order to the same extent as if the order were completed during the Contract's effective period.

B.3.2 The Contractor’s pricing shall be firm, fixed for the Base Period and Option Periods, if exercised, of the Contract.

B.3.3 ALL-INCLUSIVE PRICING

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

B.4 PRICE SCHEDULE

B.4.1 Base Period

| CLIN | Item Description | Estimated Quantity | Firm Fixed Unit Price | Total Estimated Price |
|--|--|---------------------------|------------------------------|------------------------------|
| Phase One - Overview of the DC Lottery's Competitive Gaming Landscape | | | | |
| 001 | Overview of the DC Lottery's Competitive Gaming Landscape Report | 1 Deliverable | \$17,250 | \$17,250 |
| Total – (CLIN 001) | | | \$17,250 | |

| CLIN | Item Description | Estimated Quantity | Firm Fixed Unit Price | Total Estimated Price |
|------------------------------------|--------------------------------------|---------------------------|------------------------------|------------------------------|
| Phase Two – RFP Development | | | | |
| 002 | Market Study Recommendation & Report | 1 Deliverable | \$8,280 | \$8,280 |
| 003 | RFP Development Services | 1 RFP | \$65,120 | \$65,120 |
| Total – (CLIN 002-003) | | | \$73,400 | |

| CLIN | Item Description | Estimated Quantity | Firm Fixed Unit Price | Total Estimated Price |
|---------------------------------------|-------------------------------|---------------------------|------------------------------|------------------------------|
| Phase Three – RFP Solicitation | | | | |
| 004 | Responses to Vendor Questions | 3 Deliverables | \$3,910 | \$11,730 |
| Total – (CLIN 004) | | | \$11,730 | |

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| CLIN | Item Description | Estimated Quantity | Firm Fixed Unit Price | Total Estimated Price |
|--|--|--------------------|-----------------------|-----------------------|
| Phase Four – RFP Proposals Evaluation | | | | |
| 005 | Initial Narrative of Evaluation Findings | 1 Deliverable | \$45,440 | \$45,440 |
| 006 | Consensus Reports | 5 Deliverables | \$4,780 | \$23,900 |
| 007 | Site Visits Evaluation Reports | 6 Deliverables | \$5,240 | \$31,440 |
| 008 | Proposer Presentation Reports | 3 Deliverables | \$4,780 | \$14,340 |
| Total – (CLINs 005-008) | | | \$115,120 | |
| Base Period Total - (CLINs 001-008) | | | \$217,500 | |

B.4.2 Option Period One

| CLIN | Item Description | Estimated Quantity | Firm Fixed Unit Price | Total Estimated Price |
|--|---------------------------------------|--------------------|-----------------------|-----------------------|
| Phase Four – RFP Proposals Evaluation | | | | |
| 100 | Consensus Reports | 2 Deliverables | \$5,700 | \$11,400 |
| 101 | BAFO Narrative of Evaluation Findings | 1 Deliverable | \$6,210 | \$6,210 |
| Total – (CLINs 100-101) | | | | \$17,610 |

SECTION C

DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 **SCOPE**

The Office of the Chief Financial Officer (“OCFO”) for the District of Columbia (“District”) and the Office of Contracts on behalf of the Office of Lottery and Charitable Games (“Lottery”) is awarding consulting services for the Lottery’s gaming system.

C.2 **BACKGROUND**

The DC Lottery’s mission is to provide revenue-generating entertainment through the sale of innovative lottery products and promotions that directly benefits the residents and the economic vitality of the District of Columbia. Since its inception, the DC Lottery’s total contribution has been over \$1.8 billion to the District's General Fund. The Lottery's annual transfer to the General Fund remains a vital component in aiding the city's economy, thereby benefiting all residents of the District of Columbia, as well as suburban commuters and tourists. The General Fund supports services such as education, recreation and parks, public safety, housing, and senior and child services. The DC Lottery directly benefits its players by paying out more than 50 percent of annual sales in prize money, which totals more than \$3 billion to date. The Lottery also directly benefits local businesses by providing commissions to retailers licensed to sell DC Lottery games and offering contracting opportunities.

The DC Lottery is rated one of the top ten performing lotteries in the nation. The DC Lottery is unique. It is the only city lottery in the United States and operates with federal restrictions that prevent it from selling in certain areas that have the highest day-time population. The Washington D.C. metropolitan area is the eighth most expensive media market in the U.S.

The Lottery has approximately 430 licensed retail locations. The Lottery uses a third-party provider for its lottery gaming system. The gaming system includes approximately 520 retailer terminals and approximately 300 player self-service terminals

The Lottery’s current gaming system contract expires March 2020. The Lottery plans to issue an RFP for a replacement contract in the Fall of 2017, awarding a resultant gaming system contract in the Fall of 2018, and fully implementing the awarded gaming system in the Winter of 2020.

C.3 **REQUIREMENTS**

C.3.1 **General Requirements**

- (1) The Contractor shall provide a combination of resources that have experience in the following:
 - a. lottery gaming contracts;
 - b. traditional, video lottery and other gaming systems, networks and peripheral gaming related software and equipment;
 - c. non-traditional lottery games and other types of gaming opportunities;

- d. emerging gaming system technologies
 - e. retailer terminals;
 - f. player activated self-service terminals;
 - g. Internal Control Systems;
 - h. communications network technologies and methodologies;
 - i. high volume transaction processing systems;
 - j. vendor performance monitoring;
 - k. business Intelligence tools and integration;
 - l. lottery subscription systems;
 - m. prize claim processes;
 - n. gaming systems promotion;
 - o. gaming system integration to lottery loyalty programs;
 - p. instant ticket ordering system that uses analytics to recommend appropriate orders based on best-selling games and retailer history;
 - q. instant ticket warehouse, distribution and accounting;
 - r. instant ticket manufacturing and related services;
 - s. lottery back end management systems;
 - t. lottery sales force automation systems;
 - u. operational issues related to lottery systems;
 - v. pick and pack integration with gaming systems for retail distribution of instant tickets;
 - w. gaming system security; and
 - x. Multi-State Lottery Association (“MUSL”) rules and security standards.
- (2) The Contractor and its resources shall be free of the following disallowed background issues, as such issues will be grounds for the District to take necessary actions provided in the Contract, not limited to termination for default. The disallowed background issues are:
- a. Any felony convictions;
 - b. Any gambling related convictions;
 - c. Any convictions for crimes involving moral turpitude;
 - d. Any convictions involving fraud; and
 - e. Any convictions for crimes involving theft.
- (3) Upon issuance of a task order for a Phase, the Contractor shall perform the requirements in accordance with that respective Phase.
- (4) For all Phases, the Contractor shall develop expert documentation of high professional quality and content as required by the Contract. The Consultant shall revise documents as needed to meet the District’s acceptance.
- (5) Upon issuance of a task order, the Contractor shall provide a written description of its planned approach to provide the services and deliverables for said task order and the Contractor shall provide written project progress and status reports at least weekly from issuance of a task order until completion of said task order.

C.3.2 Phase One – Overview of the DC Lottery’s Competitive Gaming Landscape

- (1) The Contractor shall provide an overview report of DC Lottery's competitive gaming landscape based on thorough market research.
- (2) The report shall provide an overview of traditional lottery games that have not yet been implemented in the District. The report shall provide an analysis of the expected costs and revenue associated with implementing such games in the District. As part of Phase Two, the Contractor may be required to assist with the drafting of provisions for the Gaming System RFP that will invite vendors to submit, as a contract option, specifications and costs associated with implementing such traditional lottery games.
- (3) The report shall provide an overview of non-traditional lottery games and other types of gaming opportunities that are authorized in other US jurisdictions, but have not yet been authorized or implemented in the District. The report shall provide an analysis of the expected costs and revenue associated with implementing such games in the District. As part of Phase Two, the Contractor may be required to assist with the drafting of provisions for the Gaming System RFP that will invite vendors to submit, as a contract option, specifications and costs associated with implementing such non-traditional lottery games and other types of gaming in the District. Any such additional gaming opportunities will only be implemented if District and/or federal laws are modified by District and/or federal officials to authorize any such non-traditional lottery and other gaming options in the District.
- (4) The written report deliverable, shall be due four weeks from issuance of the task.
- (5) Work associated with the deliverables required in Phase One and Phase Two of this Statement of Work may occur concurrently.

C.3.3 Phase Two – RFP Development

- (1) The Contractor shall provide a written recommendation and report based on conducting a market study regarding whether combining online gaming and instant tickets into one contract is in the best interest of the District. The report shall also include any other lottery functions to be included as part of the Gaming System RFP.
- (2) The Contractor shall collaborate with the Lottery to develop an RFP for the procurement of a gaming system provider ("Gaming System RFP") based on the needs of the Lottery.
- (3) The Contractor shall be available for the Lottery to rely upon for expertise in the drafting and finalization of the RFP. The Contractor shall attend at least two in person meetings at the Lottery office and be available, at minimum, once a week for phone or video conference meetings with the Lottery to discuss the RFP.

Gaming System Procurement Consulting Services

- (4) The Contractor's services shall include drafting, suggesting, and editing the RFP scope of work (SOW) and other terms and conditions language, the evaluation criteria, the point distribution used to score proposals responding to the RFP, and the RFP's pricing structure to ensure the RFP includes all relevant pricing line items.
- (5) The Contractor shall ensure that the evaluation criteria requests the pertinent information of offeror's technical approach to each SOW requirements and request relevant information regarding offeror's expertise and past performance.
- (6) The written recommendation and report deliverable, based on conducting a market study, shall be due four (4) weeks from issuance of the task.
- (7) This phase will be completed no later than six (6) weeks from the issuance of the task.
- (8) The deliverables of all written information required by the Lottery from the Contractor towards RFP finalization shall be due as directed by Lottery.

C.3.4 Phase Three – RFP Solicitation

- (1) The District's Contracting Officer will issue and manage the Gaming System RFP procurement process.
- (2) The Contractor shall assist the Lottery by drafting written responses to questions submitted by vendors and be available to hold telephone discussions with the Contracting Officer on vendor questions, for approximately three (3) rounds of questions once the RFP is issued.
- (3) The deliverables for this phase are written responses to vendor questions, due upon request from the Contracting Officer.

C.3.5 Phase Four – RFP Proposals Evaluation

- (1) The Contractor shall participate on the District's selection panel as a non-voting technical advisor to thoroughly evaluate proposal responses to the Gaming System RFP. All meetings for this phase, with the exception of any proposer site visit, will be in the District.
- (2) As part of the selection panel, the Contractor shall attend an onsite kick-off meeting to receive the proposals and evaluation instructions.
- (3) The Contractor shall perform an evaluation of all proposals received of findings, strengths, weaknesses, and clarifications needed for each proposal's technical and price responses.
- (4) The Contractor shall attend approximately five (5) onsite consensus meetings, which may be on nonconsecutive days, to discuss findings amongst the panel members in accordance with the evaluation instructions.
- (5) The Contractor shall provide the Contracting Officer, in advance of the first consensus meeting and in accordance with the evaluation instructions, its written narrative of evaluation findings for each proposal's technical and price responses. The narrative shall include areas in each proposal that may warrant negotiations toward any contract and the rationale based on the Contractor's expertise.
- (6) The District anticipates multiple consensus meetings. The Contractor shall provide the Contracting Officer a written consensus report, per consensus meeting, after each meeting. The consensus report shall include the consensus narrative of the strengths, weaknesses, and other factors with each proposal that each panel member agrees; the consensus score among the members for each proposal for each factor and sub-factor; and, if applicable, any recommended discussion questions and oral presentations to address weaknesses determined by the panel as a consensus. Further details regarding the content of the consensus report will be provided at the kick-off meeting.
- (7) The District may require the panel to conduct proposer site visits. In such case, the Contractor shall attend proposer site visits, as directed, which will be within the U.S. and may be on nonconsecutive days. The District may require the proposers to conduct an oral presentation/demonstration. The Contractor shall provide the Contracting Officer with a written evaluation report after each proposer's site visit that includes an evaluation of the oral presentation/demonstration, if conducted.
- (8) The District may require the proposers to conduct oral presentations/demonstrations, at the District's office. In such case, the Contractor shall attend onsite, at the District's office, the proposer presentations, which may be on nonconsecutive days. The Contractor shall provide a written evaluation report after each proposer's presentation.

- (9) The District may issue a request for Best and Final Offer (BAFO) to offerors. In such case, upon the District's receipt of the BAFOs, the Contractor shall attend an onsite BAFO kick-off meeting to receive the BAFO proposals and evaluation instructions.
- (10) As part of the BAFO process, the Contractor shall attend approximately two (2) onsite BAFO consensus meetings to discuss findings amongst the panel members in accordance with the evaluation instructions.
- (11) The Contractor shall provide the Office of Contracts, in advance of the first BAFO consensus meeting and in accordance with the evaluation instructions, its written narrative of the BAFO evaluation findings for each proposal's technical and price responses. The narrative shall include areas in each proposal that may warrant negotiations toward any contract and the rationale based on the Contractor's expertise.
- (12) The deliverables for this phase are:
 - a. Initial written narrative of evaluation findings, due upon request from the Contracting Officer,
 - b. Written consensus reports, due two (2) days after the consensus meeting;
 - c. Written site visit evaluation reports, due five (5) days after the site visit;
 - d. Written proposer presentation evaluation reports, due two (2) days after the presentation; and
 - e. BAFO written narrative of evaluation findings, if applicable, due upon request from the Contracting Officer.

C.3.6 CONFLICT OF INTEREST

C.3.6.1 The procurement process and the obligations imposed by District of Columbia law require the Office of the Chief Financial Officer, Office of Contracts to ensure that the competitive process operates in a fair and equitable manner. Outside of this Contract, the Contractor, including its personnel and subcontractors utilized in conjunction with this Contract (collectively referenced in this section as "the Contractor") is prohibited from participating in or benefiting from the RFP that will be created pursuant to the specifications in this Contract.

C.3.6.2 Confidentiality: The Contractor will have access to information not generally available to the public. The Contractor shall not use such information obtained for any personal benefit, monetary or otherwise, nor copy and/or disseminate any information at any time prior to, during, or after his or her work on this Contract.

C.3.6.3 Conflict of Interest: A conflict of interest or the appearance of a conflict of interest may occur if the Contractor is directly or indirectly involved with an organization that will submit a proposal for evaluation for the RFP. The Contractor shall not have any professional, personal, or other interest, including, but not limited to, the representation of other clients, that would conflict with his or her obligations under this Contract. Examples of potential conflicts are as follows (not an exhaustive list):

Gaming System Procurement Consulting Services

- A. The Contractor's solicitation, acceptance, or agreement to accept from anyone any benefit, monetary, or otherwise, as consideration for his or her advice, recommendation, or services related to the resulting RFP.
- B. The Contractor's affiliation with an organization that may submit a proposal for evaluation:
 - i. Current employment or consideration of employment;
 - ii. Membership on a board or committee; or
 - iii. Ownership in the organization;
- C. The Contractor's personal relationship with someone who has an interest in the RFP, including affiliation or relationship by marriage or through family membership, professional partnership, personal friendship, or any other relationship that could give the appearance of a conflict of interest.

C.3.6.4 For the District to evaluate any potential conflict of interest that may exist or may be perceived to exist, the Contractor shall disclose its client and employment relationship(s), prior and ongoing, with any company or organization requested by the District.

C.3.6.5 The Contractor warrants and agrees that it will not knowingly or willfully acquire any interest that would create a conflict of interest.

C.3.6.6 If any conflict of interest arises under this Contract, the Contractor shall immediately notify the Contracting Officer and the COTR in writing.

C.3.6.7 If, in the reasonable judgment of the Contracting Officer, a known conflict substantially impacts the fair and equitable performance of this Contract, the Contract may be deemed voidable or terminated, depending on the circumstances surrounding the conflict.

C.3.7 PROHIBITION AGAINST THE PURCHASE OF LOTTERY TICKETS

The Contractor's personnel (including, but not limited to, partners, temporary employees, subcontractors and consultants) who are performing services directly under or related to the Contract, including members of their households, are prohibited from purchasing any the DC Lottery tickets, playing any the DC Lottery games, claiming any the DC Lottery prize or engaging in any the DC Lottery promotions during the term of the Contract and any extensions thereof. The Contractor shall ensure that this requirement is made known to all personnel involved with the performance of this Contract.

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 Inspection of Supplies

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

supplies. Supplies are nonconforming when they are defective in material or workmanship or otherwise not in conformity with contract requirements. The District may reject nonconforming supplies with or without disposition instructions.

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

days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the District will have the right to return the rejected materials at Contractor's risk and expense or contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the District thereby.

E.1.3 Inspection of Services

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

E.2 **ACCEPTANCE**

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

E.3 **WARRANTY OF SERVICES**

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

E.3.2 Warranty Provision:

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

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

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

SECTION F

PERIOD OF PERFORMANCE AND DELIVERABLES

F.1 TERM OF CONTRACT

The term of the Contract shall be for a period of one year from date of award specified on the cover page of this contract.

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.2.1 The District may extend the term of this Contract for a period of four (4), one-year option periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the District will give the Contractor 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.9 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 for this contract is:

Drakus Wiggins, CPPO, CPPB
District of Columbia Office of the Chief Financial Officer
1100 4th Street, SW, Suite E610
Washington, DC 20024
Telephone: 202-442-7121
Fax: 202-442-6454
Email: 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:

Christina Harris
Paralegal Specialist
Office of the Chief Financial Officer
Office of Lottery and Charitable Games
Tel: 202- 645-8078
Fax: 202- 645-8077
Email: christina.harris@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 30th 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.2 PAYMENT

- G.2.1 The contractor shall charge the agreed upon fees to the participants fund that it administers.
- G.2.2 The contractor shall provide quarterly financial statements with the amount of fees charged for the period. The District will reconcile the fee statements and approve. If there is a discrepancy, the contractor shall reimburse the funds. The District reserves the right to conduct post payment reviews or audits.

G.3 INVOICE SUBMITTAL

- G.3.1 The Contractor shall send proper invoices no more than on a monthly basis or as otherwise specified in this Section G. Invoices shall be prepared and submitted to the Office of Lottery and Charitable Games to the email address below with concurrent copies to the COTR.

Office of the Chief Financial Officer
Office of Lottery and Charitable Games
Financial Administration/Accounts Payable
Attention: Director of Financial Administration
2235 Shannon Place SE
Washington, DC 20020
Email: DCLotteryAP@dc.gov

- G.3.2 Invoices shall not contain charges for items not listed in the Pricing Schedule of Section B of the contract. Work performed outside this contract, for which there was no prior modification to include it under Section C, Description/Specification/Work Statement, shall not be included.
- G.3.3 An invoice is a written request for payment under the contract for supplies delivered or services rendered. In order to be proper, an invoice must include as applicable, the following:
- (1) Name and address of the Contractor;
 - (2) Invoice date;
 - (3) Contract number or other authorization for supplies delivered or services performed;
 - (4) Description, quantity, unit of measure, unit price and extended price of supplies delivered or services performed;

- (5) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms);
- (6) Name and address of Contractor official to whom the payment is to be sent (*must be the same as that on the contract or accompanied by a proper notice of assignment*);
- (7) Name (*where practicable*), title, phone number, mailing address of person to be notified in event of defective invoice; and
- (8) Any other information or documentation required by the Contract or Contracting Officer (*such as evidence of shipment*).

G.3 STATEMENT SUBMITTAL

G.3.1 The Contractor shall submit financial statements with an outline of fees charged for the performance of the services on a quarterly basis or as otherwise specified in this Section G.

- a. The Statements shall not contain charges for items not listed in the Schedule of Fees. Work performed outside this contract, for which there was no prior modification to include under Section C, Description/Specification/Work Statement, shall not be included.
- b. The Statements shall be prepared and submitted to the COTR.

G.4 THE QUICK PAYMENT PROVISIONS

G.4.1 Interest and 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.*, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1.5% 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 15th day after the required payment date for any other item.

G.4.1.2 Any amount of an interest penalty which remains unpaid at the end of any 30-day period shall be added to the principal amount of the debt and thereafter interest penalties shall accrue on the added amount.

G.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 a contract:

- a. Pay the subcontractor for the proportionate share of the total payment received from the District that is attributable to the subcontractor for work performed under the contract; or

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

G.4.2.2 The Contractor shall pay any lower-tier subcontractor or supplier interest penalties on amounts due to the subcontractor or supplier beginning on the day after the payment is due and ending on the date on which the payment is made. Interest shall be calculated at the rate of 1.5% 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 15th day after the required payment date for any other item.

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 of Columbia is a party. The District of Columbia 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.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.

G.7 ORDERING CLAUSE

- G.7.1 Any supplies and services to be furnished under this contract must be ordered by issuance of delivery orders, task orders, or purchase orders by the CO. Such orders may be issued during the term of this contract.
- G.7.2 All orders are subject to the terms and conditions of this contract. In the event of a conflict between an order and this contract, the contract shall control.
- G.7.3 If mailed, an order is considered "issued" when the District deposits the order in the mail. Orders may be issued by facsimile or by electronic commerce methods.

SECTION H

SPECIAL CONTRACT REQUIREMENTS

H.1 STAFFING

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

H.2 SUBCONTRACTS

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior, written consent of the Contracting Officer in consultation with the COTR. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this Contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder, including any work conducted by a subcontractor.

H.3 CERTIFIED BUSINESS ENTERPRISE SUBCONTRACTING REQUIREMENTS

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

- (a) Subcontract at least 35% of the dollar volume to small business enterprises, as defined in D.C. Code §2-218.32; or
- (b) If there are insufficient qualified small business enterprises to completely fulfill the requirement set forth in H.3.1(a), then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any qualified certified business enterprises, as defined in D.C. Code §§2-218.31-39a; provided, that all reasonable efforts shall be made to ensure that qualified small business enterprises are significant participants in the overall subcontracting work.
- (c) For each government-assisted project for which a certified business enterprise is utilized to meet the subcontracting requirements set forth above in H.3.1(a) or H.3.1(b), the certified business enterprise shall perform at least 35% of the contracting effort with its own organization and resources.

- (d) Beneficiaries certified as a small business enterprise, local business enterprise, or disadvantaged business enterprise shall not have to comply with Sections H.3.1(a) or H.3.1(b).

H.3.2

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

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

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

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

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

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

H.3.7 A Beneficiary shall submit within 15 days of contract award, to the Contracting Officer, project manager, District of Columbia Auditor and the Director of the Department of Small and Local Business Development copies of the executed contracts with the subcontracts identified in the

subcontracting plan. Failure to submit copies of the executed contracts shall render the underlying contract voidable by the District.

- H.3.8 The Beneficiary shall provide written notice to the Department of Small and Local Business Development and District of Columbia Auditor upon the initiation and completion of a project.
- H.3.9 Within 15 days after the end of each quarter, the Beneficiary shall provide a quarterly report to the Department of Small and Local Business Development, the Contracting Officer, project manager and the District of Columbia Auditor which shall include a list of each subcontractor identified in the subcontracting plan and for each subcontract:
- (a) The price to be paid by the contractor to the subcontractor;
 - (b) A description of the goods procured or the services contracted for;
 - (c) The amount paid by the contractor to the subcontractor under the subcontract; and
 - (d) A copy of the fully executed subcontract, if it was not provided in a prior quarterly report. If not included, the Beneficiary shall not receive credit toward the subcontracting requirements of this section for that subcontract.
- H.3.10 The Beneficiary shall meet on an annual basis with the Department of Small and Local Business Development, the Contracting Officer, project manager and the District of Columbia Auditor to provide an update of the subcontracting plan for utilization of small business enterprises and certified business enterprises. The Department of Small and Local Business development shall provide the Beneficiary with a 30-day written notice of the meeting.
- H.3.11 A Beneficiary and/or certified business enterprise subject to this section, that fails to meet the requirements of this section shall be subject to penalties set forth in D.C. Code §2-218.63.
- H.3.12 Waiver of Subcontracting Requirements
- (a) The Director of the Department of Small and Local Business Development may waive the subcontracting requirements only if there is insufficient market capacity for the goods and services that comprise the project and such lack of capacity leaves the contractor commercially incapable of achieving the subcontracting requirements.
 - (b) Prior to submission of bids or proposals, the Beneficiary may request a waiver of the subcontracting requirements by timely filing a written request with to the point of contact on Page 1 of this solicitation, to the attention of the Contracting Officer detailing the reasons justifying a waiver, including the Beneficiary's efforts to secure involvement by Certified Business Enterprises, no later than **11/28/2017**. The Contracting Officer will, in turn, use the Beneficiary's information to submit a waiver request to the Director of the Department of Small and Local Business Development.
 - (c) The Contracting Officer will provide written notice of the waiver determination to the Beneficiary prior to the acceptance of bids or proposals and upon a decision of the waiver by the Director of the Department of Small and Local Business Development.

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

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

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

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

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

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

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

H.4 WARRANTIES

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

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

H.5 DISCLOSURE OF LITIGATION

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

H.6 CONTINUITY OF SERVICES

The Contractor recognizes that the services provided under this contract are vital to the District of Columbia and must be continued without interruption and that, upon contract expiration or termination, a successor, either the District Government or another Contractor, at the District's option, may continue to provide these services. If another Contractor is awarded a future contract for performance of the required services, the original Contractor shall cooperate fully with the District and the new Contractor in any transition activities that the Contracting Officer deems necessary during the term of the contract. To that end, the Contractor agrees to exercise its best efforts and cooperation to effect 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 key personnel specified in the contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified key personnel for any reason, the Contractor shall notify the CO at least thirty (30) calendar days in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact upon the contract. The Contractor shall obtain written approval of the CO for any proposed substitution of key personnel.

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

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direction of the CO, or the duly authorized representative of the CO as is necessary to ensure accomplishment of the contract objectives.

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. Service Contract Act OF 1965.

I.2 WAIVER

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

I.3 INDEMNIFICATION

- I.3.1 The Contractor agrees to defend, indemnify and hold harmless the District, its officers, agencies, departments, agents, and employees (collectively the “District”) from and against any and all

claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits, costs and expenses incidental thereto (including cost of defense and attorneys' fees), resulting from, arising out of, or in any way connected to activities or work performed by the Contractor, Contractor's officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor in performance of this Contract. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed in performance of this Contract. The Contractor shall also repair or replace any District property that is damaged by the Contractor, Contractor's officers, employees, agents, servants, subcontractors, or any other person acting for or by permission of the Contractor while performing work hereunder.

I.3.2 The indemnification obligation under this section shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Contract. The District agrees to give Contractor written notice of any claim of indemnity under this section. Additionally, Contractor shall have the right and sole authority to control the defense or settlement of such claim, provided that no contribution or action by the District is required in connection with the settlement. Monies due or to become due the Contractor under the contract may be retained by the District as necessary to satisfy any outstanding claim which the District may have against the Contractor.

I.4 TRANSFER

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

I.5 TAXES

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

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

Exempt From Maryland Sales Tax, Registered With The Comptroller Of The Treasury – Exemption No. 09339

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

I.6 OFFICIALS NOT TO BENEFIT

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

I.7 DISPUTES

- 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.

1.8 CHANGES

The Contracting Officer may, at any time, by written order, and without notice to the surety, if any, make changes in the contract within the general scope hereof. If such changes cause an increase or decrease in the cost of performance of this contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment under this paragraph must be asserted within ten (10) days from the date the change is offered, provided, however, that the Contracting Officer, if he determines that the facts justify such action, may receive, consider and adjust any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the failure to agree shall be considered a dispute. Nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

1.9 TERMINATION FOR DEFAULT

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

under provisions of this clause. The Contractor shall work with any subsequent contractor to ensure a smooth transfer of information for a period of sixty (60) days.

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

I.10 TERMINATION FOR CONVENIENCE

- A. The District may, at any time, terminate performance of work under this contract in whole or 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. 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: (i) Stop work as specified in the notice; (ii) 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; (iii) Terminate all contracts to the extent they relate to the work terminated; (iv) 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 shall have the right to settle or pay any termination settlement proposal arising out of those terminations; (v) 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; (vi) As directed by the Contracting Officer, transfer title and deliver to the District: (a) the fabricated and unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and (b) 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; (vii) Complete performance of the work not terminated; (viii) 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; (ix) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in the subparagraph (vi) above; provided, however, that the Contractor is not required to extend credit to any purchase, and may acquire the property under the conditions prescribed by, and at prices approved by the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the District under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.
- B. After the expiration of ninety (90) days (or such longer period as may be agreed to) after receipt by the Contracting Officer of acceptable inventory schedules, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality of termination inventory not previously disposed of excluding items authorized for disposition by the Contracting Officer. The Contractor may request the District to remove those items or enter into an agreement for their storage. Within fifteen (15) days, the District will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within forty-five (45) days from submission of the list, and shall correct the list, as necessary, before final settlement.
- C. After termination, the Contractor shall submit a final 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 not 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.

- D. 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 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, or paragraph F., below, exclusive of costs shown in subparagraph F (iii) below, may not exceed the total contract price as reduced by: (a) the amount of payments previously made, and (b) 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 of 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: (i) The contract price for completed supplies or services accepted by the District (or sold or acquired under subparagraph A(ix), above, not previously paid for, adjusted for any saving of freight and other charges. (ii) The total of—
- (a) 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(i), above;
 - (b) 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(i) above; and
 - (c) A sum, as profit on subparagraph F. (i) 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 (c) and shall reduce the settlement to reflect the indicated rate of loss. (iii) The reasonable cost of settlement of the work terminated, including (a) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data; (b) The termination and settlement of subcontracts (excluding the amounts of such settlement); and (c) 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 E., 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 paragraph C., E. or I., of this clause except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph C. or I., 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 C., E. or I., the District shall pay the Contractor:

(a) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (b) the amount finally determined on an appeal. In arriving at the amount due the Contractor under this clause, there shall be deducted: (i) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract; (ii) Any claim which the District has against the Contractor under this contract; and (iii) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the District.

- I. 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 90 days from the effective date of termination unless extended in writing by the Contracting Officer.
- J. The District may, under the terms and conditions it prescribes, make any 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. 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 ten 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 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.
- K. 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 three (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 Procurement Practices Act of 1985, as amended, or
 - (B) The contract provision against contingent fees.
- B. If a contract is terminated pursuant to this section, the Contractor: (i) May be paid only the actual costs of the work performed to the date of termination, plus termination costs, if any; and (ii) shall refund all profits or fixed fees realized under the contract.
- C. The rights and remedies contained in this Clause are in addition to any other rights or remedies provided by law, and the exercise of any of them is not a waiver of any other right or remedy provided by law.

I.12 EXAMINATION OF THE BOOKS

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

I.13 NON-DISCRIMINATION CLAUSE

- (a) The Contractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human

Rights Act, approved December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code §2-1402.11) (2001 Ed.) (“Act” as used in this Section). The Contractor shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, Contractor agrees and any subcontractor shall agree to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause as provided in Section 251 of the Act.

- (b) Pursuant to rules of the Office of Human Rights, published on August 15, 1986 in the D.C. Register, Mayor’s Order 2002-175 (10/23/02), 49 DCR 9883 and Mayor’s Order 2006-151 (11/17/06), 52 DCR 9251, 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 RESERVED

I.15 RECOVERY OF DEBTS OWED THE DISTRICT

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

I.16 NON-DISCLOSURE AGREEMENT

- A. The Contractor shall maintain as confidential, and shall not disclose to third parties without the District's prior written consent, any District information including, but not limited to, the District's business activities, practices, systems, conditions, products, services, public information and education plans and related materials, and game and marketing plans.
- B. The Contractor shall at all times obtain the prior written approval from the Contracting Officer before it, any of its officers, agents, employees or subcontractors, either during or after expiration or termination of the contract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.
- C. No information regarding the Contractor's performance of the contract shall be disclosed by the Contractor to anyone other than District Government officials unless written approval is obtained in advance from the Contracting Officer.
- D. The District shall ensure that its personnel do not disclose to any non-District person or organization information concerning the process the Contractor uses to provide services under the awarded contract.

I.17 GOVERNMENT PROPERTY

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

I.18 RIGHTS IN DATA

A. Definitions

1. "Products" - A deliverable under any contract that may include commodities, services and/or technology furnished by or through Contractor, including existing and custom Products, such as, but not limited to: a) recorded information, regardless of form or the media on which it may be recorded; b) document research; c) experimental, developmental, or engineering work; d) licensed software; e) components of the hardware environment; f) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings); g) third party software; h) modifications, customizations, custom programs, program listings, programming tools, data, modules, components; and i) any intellectual property embodied therein, whether in tangible or intangible form, including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, and object code.

2. "Existing Products" - Tangible Products and intangible licensed Products that exist prior to the commencement of work under the contract. Existing Products must be identified on the Product prior to commencement of work or else will be presumed to be Custom Products.

3. “Custom Products” - Products, preliminary, final or otherwise, which are created or developed by Contractor, its subcontractors, partners, employees, resellers or agents for the District under the contract.

4. “District” – The District of Columbia and its agencies.

B. Title to Project Deliverables

The Contractor acknowledges that it is commissioned by the District to perform services detailed in the contract. The District shall have ownership and rights for the duration set forth in the contract to use, copy, modify, distribute, or adapt Products as follows:

1. Existing Products: Title to all Existing Licensed Product(s), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall: (1) remain with Contractor or third party proprietary owner, who retains all rights, title and interest (including patent, trademark or copyrights). Effective upon payment, the District is granted an irrevocable, non-exclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, adapt (unless Contractor advises the District as part of Contractor’s proposal that adaptation will violate existing agreements or statutes and Contractor demonstrates such to the District’s satisfaction) and distribute Existing Product to District users up to the license capacity stated in the contract with all license rights necessary to fully effect the general business purpose(s) of the project or work plan or contract; and (2) be licensed in the name of the District. The District agrees to reproduce the copyright notice and any other legend of ownership on any copies authorized under this paragraph.

2. Custom Products: Effective upon Product creation, Contractor hereby conveys, assigns, and transfers to the District the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all patent, trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor.

C. Transfers or Assignments of Existing or Custom Products by the District

The District may transfer or assign Existing or Custom Products and the licenses thereunder to another District agency. Nothing herein shall preclude the Contractor from otherwise using the related or underlying general knowledge, skills, ideas, concepts, techniques and experience developed under a project or work plan in the course of Contractor’s business.

D. Subcontractor Rights

Whenever any data, including computer software, are to be obtained from a subcontractor under the contract, the Contractor shall use this clause, **Rights in Data**, in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the District’s

or the Contractor's rights in that subcontractor data or computer software which is required for the District.

E. Source Code Escrow

1. For all computer software furnished to the District with the rights specified in section B.2, the Contractor shall furnish to the District, a copy of the source code with such rights of the scope as specified in section B.2 of this clause. For all computer software furnished to the District with the restricted rights specified in section B.1 of this clause, the District, if the Contractor either directly or through a successor or affiliate shall cease to provide the maintenance or warranty services provided the District under the contract or any paid-up maintenance agreement, or if the Contractor should be declared insolvent by a court of competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the current version of the source code supplied under the contract, and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

2. If the Contractor or Product manufacturer/developer of software furnished to the District with the rights specified in section B.1 of this clause offers the source code or source code escrow to any other commercial customers, the Contractor shall either: (1) provide the District with the source code for the Product; (2) place the source code in a third party escrow arrangement with a designated escrow agent who shall be named and identified to the District, and who shall be directed to release the deposited source code in accordance with a standard escrow arrangement acceptable to the District; or (3) will certify to the District that the Product manufacturer/ developer has named the District as a named beneficiary of an established escrow arrangement with its designated escrow agent who shall be named and identified to the District, and who shall be directed to release the deposited source code in accordance with the terms of escrow.

3. The Contractor shall update the source code, as well as any corrections or enhancements to the source code, for each new release of the Product in the same manner as provided above, and certify such updating of escrow to the District in writing.

F. Indemnification and Limitation of Liability

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

I.19 PATENTS

The Contractor shall hold and save the District, its officers, agents, servants and employees harmless from liability of any nature or kind, including costs, expenses, for or on account of any

patented or unpatented invention, article, process, or appliance, manufactured or use in the performance of this contract, including their use by the District, unless otherwise specifically stipulated in this contract.

I.20 RESPONSIBILITY FOR SUPPLIES TENDERED

The Contractor shall be responsible for the materials or supplies covered by this contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notification of rejection. Upon failure to do so within ten days after notification, the District may return the rejected materials or supplies to the Contractor at the Contractor's risk and expense.

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 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 EXPIRATION OR CANCELLATION

In the event this contract is cancelled because of non-availability of funds or non-appropriation of funds for any subsequent fiscal year, there shall be a cancellation ceiling of zero dollars representing reasonable pre-production and non-recurring cost, which would be applicable to the items of the life of the contract. If the contract is canceled due to unavailability of funds, the Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies delivered or services performed under the contract.

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.

1.25 CONTRACTS THAT CROSS FISCAL YEARS

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

1.26 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.

I.27 AMERICANS WITH DISABILITIES ACT OF 1990 (“ADA”)

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

I.28 FREEDOM OF INFORMATION ACT (“FOIA”)

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

I.29 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. District provided materials and data shall be considered proprietary, unless otherwise noted by the District. The Contractor shall identify and mark all proprietary materials.

I.30 INSURANCE

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

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

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

1. Commercial General Liability Insurance. The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate; Bodily Injury and Property Damage including, but not limited to: premises-operations; broad form property damage; Products and Completed Operations; Personal and Advertising Injury; contractual liability and independent contractors. The policy coverage shall include the District of Columbia as an additional insured, shall be primary and non-contributory with any other insurance maintained by the District of Columbia.
2. Automobile Liability Insurance. The Contractor shall provide automobile liability insurance to cover all owned, hired or non-owned motor vehicles used in conjunction with the performance of this contract. The policy shall provide a \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
3. Workers' Compensation Insurance. The Contractor shall provide Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.
4. Employer's Liability Insurance. The Contractor shall provide employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.

B.

PRIMARY AND NONCONTRIBUTORY INSURANCE

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

1. The additional insured is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

C. **DURATION**. The Contractor shall carry all required insurance until all contract work is accepted by the District of Columbia, and shall carry listed coverages for five (5) years following final acceptance of the work performed under this contract.

D. **LIABILITY**. These are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE**

CONTRACTOR’S LIABILITY UNDER THIS CONTRACT.

- E. CONTRACTOR’S PROPERTY. Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.
- F. MEASURE OF PAYMENT. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all 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 his insurance coverages renew during the contract.
- H. CERTIFICATES OF INSURANCE. The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Evidence of insurance shall be submitted to:

The Government of the District of Columbia

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

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

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

- I.31.1** For contracts for services in the amount of \$300,000 or more, the Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code § 2-219.01 et seq. (First Source Act).
- I.31.2** The Contractor shall enter into and maintain during the term of the contract, a First Source Employment Agreement (Employment Agreement) with the District of Columbia Department of Employment Service’s (DOES), in which the Contractor shall agree that:
 - (a) The first source for finding employees to fill all jobs created in order to perform the contract shall be the First Source Register; and

- (b) The first source for finding employees to fill any vacancy occurring in all jobs covered by the Employment Agreement shall be the First Source Register.

- I.31.3** The Contractor shall not begin performance of the contract until its Employment Agreement has been accepted by DOES. Once approved, the Employment Agreement shall not be amended except with the approval of DOES.
- I.31.4** The Contractor agrees that at least 51% of the new employees hired to perform the contract shall be District residents.
- I.31.5** The Contractor's hiring and reporting requirements under the First Source Act and any rules promulgated thereunder shall continue for the term of the contract.
- I.31.6** The CO may impose penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract, for a willful breach of the Employment Agreement, failure to submit the required hiring compliance reports, or deliberate submission of falsified data.
- I.31.7** If the Contractor does not receive a good faith waiver, the CO may also impose an additional penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the contract for each percentage by which the Contractor fails to meet its hiring requirements.
- I.31.8** Any contractor which violates, more than once within a 10-year timeframe, the hiring or reporting requirements of the First Source Act shall be referred for debarment for not more than five (5) years.
- I.31.9** The contractor may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board as provided in Section I.7, Disputes.
- I.31.10** The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.

I.32 COVENANT AGAINST CONTINGENT FEES

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

I.33 HEALTH AND SAFETY STANDARDS

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

I.34 FORCE MAJEURE

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

I.35 GOVERNING LAW

This contract shall be governed by, and construed in accordance with, the laws of the District of Columbia, including, but not limited to, the District of Columbia Procurement Practices Reform Act (PPRA) and D.C. MUN. REGS. tit. 27.

I.36 ORDER OF PRECEDENCE

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

- (1) Contract
- (2) Contract Attachments
- (3) BAFO Proposal dated February 28, 2018
- (4) Proposal Dated December 18, 2017

SECTION J

ATTACHMENTS

The following attachments are hereby incorporated.

| Attachment Number | Document |
|--------------------------|---|
| J.1 | U.S. Department of Labor Wage Determination No. 2015-4281 Revision 6, Dated 05/08/2017 |
| J.2 | Department of Employment Services First Source Employment Agreement |
| J.3 | Doing Business with Integrity |

WD 15-4281 (Rev.-7) was first posted on www.wdol.gov on 08/01/2017

| | | |
|--|--|-------------------------------------|
| REGISTER OF WAGE DETERMINATIONS UNDER | | U.S. DEPARTMENT OF LABOR |
| THE SERVICE CONTRACT ACT | | EMPLOYMENT STANDARDS ADMINISTRATION |
| By direction of the Secretary of Labor | | WAGE AND HOUR DIVISION |
| | | WASHINGTON D.C. 20210 |

| | | |
|-----------------|---------------------|-----------------------------------|
| Daniel W. Simms | Division of | Wage Determination No.: 2015-4281 |
| Director | Wage Determinations | Revision No.: 7 |
| | | Date Of Revision: 07/25/2017 |

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.20 for calendar year 2017 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 \$10.20 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 2017. 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.

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 | | 18.06 |
| 01012 - Accounting Clerk II | | 20.28 |
| 01013 - Accounting Clerk III | | 22.68 |
| 01020 - Administrative Assistant | | 31.98 |
| 01035 - Court Reporter | | 21.84 |
| 01041 - Customer Service Representative I | | 14.94 |
| 01042 - Customer Service Representative II | | 16.81 |
| 01043 - Customer Service Representative III | | 18.33 |
| 01051 - Data Entry Operator I | | 14.88 |
| 01052 - Data Entry Operator II | | 16.23 |
| 01060 - Dispatcher, Motor Vehicle | | 19.28 |
| 01070 - Document Preparation Clerk | | 16.17 |
| 01090 - Duplicating Machine Operator | | 16.17 |
| 01111 - General Clerk I | | 14.88 |
| 01112 - General Clerk II | | 16.24 |
| 01113 - General Clerk III | | 18.74 |
| 01120 - Housing Referral Assistant | | 25.29 |
| 01141 - Messenger Courier | | 16.18 |
| 01191 - Order Clerk I | | 15.12 |
| 01192 - Order Clerk II | | 16.50 |
| 01261 - Personnel Assistant (Employment) I | | 18.15 |
| 01262 - Personnel Assistant (Employment) II | | 20.32 |
| 01263 - Personnel Assistant (Employment) III | | 22.65 |
| 01270 - Production Control Clerk | | 25.24 |
| 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 | 17.24 |
| 01410 - Supply Technician | 31.98 |
| 01420 - Survey Worker | 20.03 |
| 01460 - Switchboard Operator/Receptionist | 15.07 |
| 01531 - Travel Clerk I | 14.80 |
| 01532 - Travel Clerk II | 15.91 |
| 01533 - Travel Clerk III | 17.08 |
| 01611 - Word Processor I | 16.56 |
| 01612 - Word Processor II | 18.59 |
| 01613 - Word Processor III | 20.79 |
| 05000 - Automotive Service Occupations | |
| 05005 - Automobile Body Repairer, Fiberglass | 28.60 |
| 05010 - Automotive Electrician | 23.51 |
| 05040 - Automotive Glass Installer | 22.15 |
| 05070 - Automotive Worker | 22.15 |
| 05110 - Mobile Equipment Servicer | 19.04 |
| 05130 - Motor Equipment Metal Mechanic | 24.78 |
| 05160 - Motor Equipment Metal Worker | 22.15 |
| 05190 - Motor Vehicle Mechanic | 24.78 |
| 05220 - Motor Vehicle Mechanic Helper | 18.49 |
| 05250 - Motor Vehicle Upholstery Worker | 21.63 |
| 05280 - Motor Vehicle Wrecker | 22.15 |
| 05310 - Painter, Automotive | 23.51 |
| 05340 - Radiator Repair Specialist | 22.15 |
| 05370 - Tire Repairer | 14.44 |
| 05400 - Transmission Repair Specialist | 24.78 |
| 07000 - Food Preparation And Service Occupations | |
| 07010 - Baker | 14.14 |
| 07041 - Cook I | 15.15 |
| 07042 - Cook II | 17.61 |
| 07070 - Dishwasher | 10.72 |
| 07130 - Food Service Worker | 11.01 |
| 07210 - Meat Cutter | 20.10 |
| 07260 - Waiter/Waitress | 10.67 |
| 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 | 10.54 |
| 11060 - Elevator Operator | 12.66 |
| 11090 - Gardener | 18.52 |
| 11122 - Housekeeping Aide | 12.66 |
| 11150 - Janitor | 12.66 |
| 11210 - Laborer, Grounds Maintenance | 13.82 |
| 11240 - Maid or Houseman | 12.22 |
| 11260 - Pruner | 12.25 |
| 11270 - Tractor Operator | 16.94 |
| 11330 - Trail Maintenance Worker | 13.82 |
| 11360 - Window Cleaner | 14.28 |
| 12000 - Health Occupations | |
| 12010 - Ambulance Driver | 22.31 |
| 12011 - Breath Alcohol Technician | 21.35 |
| 12012 - Certified Occupational Therapist Assistant | 27.96 |
| 12015 - Certified Physical Therapist Assistant | 25.93 |

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| 12020 - Dental Assistant | 19.78 |
| 12025 - Dental Hygienist | 45.00 |
| 12030 - EKG Technician | 33.48 |
| 12035 - Electroneurodiagnostic Technologist | 33.48 |
| 12040 - Emergency Medical Technician | 22.31 |
| 12071 - Licensed Practical Nurse I | 19.07 |
| 12072 - Licensed Practical Nurse II | 21.35 |
| 12073 - Licensed Practical Nurse III | 24.13 |
| 12100 - Medical Assistant | 17.17 |
| 12130 - Medical Laboratory Technician | 18.98 |
| 12160 - Medical Record Clerk | 18.80 |
| 12190 - Medical Record Technician | 21.04 |
| 12195 - Medical Transcriptionist | 20.50 |
| 12210 - Nuclear Medicine Technologist | 39.16 |
| 12221 - Nursing Assistant I | 11.74 |
| 12222 - Nursing Assistant II | 13.19 |
| 12223 - Nursing Assistant III | 14.40 |
| 12224 - Nursing Assistant IV | 16.16 |
| 12235 - Optical Dispenser | 20.67 |
| 12236 - Optical Technician | 17.38 |
| 12250 - Pharmacy Technician | 18.12 |
| 12280 - Phlebotomist | 17.93 |
| 12305 - Radiologic Technologist | 33.85 |
| 12311 - Registered Nurse I | 27.64 |
| 12312 - Registered Nurse II | 33.44 |
| 12313 - Registered Nurse II, Specialist | 33.44 |
| 12314 - Registered Nurse III | 40.13 |
| 12315 - Registered Nurse III, Anesthetist | 40.13 |
| 12316 - Registered Nurse IV | 48.10 |
| 12317 - Scheduler (Drug and Alcohol Testing) | 25.90 |
| 12320 - Substance Abuse Treatment Counselor | 27.04 |
| 13000 - Information And Arts Occupations | |
| 13011 - Exhibits Specialist I | 21.37 |
| 13012 - Exhibits Specialist II | 26.46 |
| 13013 - Exhibits Specialist III | 32.37 |
| 13041 - Illustrator I | 20.48 |
| 13042 - Illustrator II | 25.38 |
| 13043 - Illustrator III | 31.03 |
| 13047 - Librarian | 37.95 |
| 13050 - Library Aide/Clerk | 16.35 |
| 13054 - Library Information Technology Systems Administrator | 34.26 |
| 13058 - Library Technician | 20.89 |
| 13061 - Media Specialist I | 22.66 |
| 13062 - Media Specialist II | 25.36 |
| 13063 - Media Specialist III | 28.27 |
| 13071 - Photographer I | 16.65 |
| 13072 - Photographer II | 18.90 |
| 13073 - Photographer III | 23.67 |
| 13074 - Photographer IV | 28.65 |
| 13075 - Photographer V | 33.76 |
| 13090 - Technical Order Library Clerk | 20.54 |
| 13110 - Video Teleconference Technician | 23.38 |
| 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) 26.36 |
| 14072 - Computer Programmer II | (see 1) |

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| 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 | | 37.87 |
| 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 | | 36.80 |
| 15070 - Flight Instructor (Pilot) | | 52.81 |
| 15080 - Graphic Artist | | 30.47 |
| 15085 - Maintenance Test Pilot, Fixed, Jet/Prop | | 48.72 |
| 15086 - Maintenance Test Pilot, Rotary Wing | | 48.72 |
| 15088 - Non-Maintenance Test/Co-Pilot | | 48.72 |
| 15090 - Technical Instructor | | 28.79 |
| 15095 - Technical Instructor/Course Developer | | 35.22 |
| 15110 - Test Proctor | | 23.24 |
| 15120 - Tutor | | 23.24 |
| 16000 - Laundry, Dry-Cleaning, Pressing And Related Occupations | | |
| 16010 - Assembler | | 11.41 |
| 16030 - Counter Attendant | | 11.41 |
| 16040 - Dry Cleaner | | 14.66 |
| 16070 - Finisher, Flatwork, Machine | | 11.41 |
| 16090 - Presser, Hand | | 11.41 |
| 16110 - Presser, Machine, Drycleaning | | 11.41 |
| 16130 - Presser, Machine, Shirts | | 11.41 |
| 16160 - Presser, Machine, Wearing Apparel, Laundry | | 11.41 |
| 16190 - Sewing Machine Operator | | 15.71 |
| 16220 - Tailor | | 16.64 |
| 16250 - Washer, Machine | | 12.51 |
| 19000 - Machine Tool Operation And Repair Occupations | | |
| 19010 - Machine-Tool Operator (Tool Room) | | 24.71 |
| 19040 - Tool And Die Maker | | 28.29 |
| 21000 - Materials Handling And Packing Occupations | | |
| 21020 - Forklift Operator | | 18.11 |
| 21030 - Material Coordinator | | 25.24 |
| 21040 - Material Expediter | | 25.24 |
| 21050 - Material Handling Laborer | | 13.83 |
| 21071 - Order Filler | | 15.09 |
| 21080 - Production Line Worker (Food Processing) | | 18.11 |
| 21110 - Shipping Packer | | 17.65 |
| 21130 - Shipping/Receiving Clerk | | 17.65 |
| 21140 - Store Worker I | | 12.49 |
| 21150 - Stock Clerk | | 17.98 |
| 21210 - Tools And Parts Attendant | | 18.11 |
| 21410 - Warehouse Specialist | | 18.11 |
| 23000 - Mechanics And Maintenance And Repair Occupations | | |
| 23010 - Aerospace Structural Welder | | 32.92 |
| 23019 - Aircraft Logs and Records Technician | | 23.91 |
| 23021 - Aircraft Mechanic I | | 31.25 |
| 23022 - Aircraft Mechanic II | | 32.92 |
| 23023 - Aircraft Mechanic III | | 34.52 |
| 23040 - Aircraft Mechanic Helper | | 21.22 |
| 23050 - Aircraft, Painter | | 29.92 |
| 23060 - Aircraft Servicer | | 23.91 |
| 23070 - Aircraft Survival Flight Equipment Technician | | 29.92 |

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| 23080 - Aircraft Worker | 25.42 |
| 23091 - Aircrew Life Support Equipment (ALSE) Mechanic I | 25.42 |
| 23092 - Aircrew Life Support Equipment (ALSE) Mechanic II | 31.25 |
| 23110 - Appliance Mechanic | 21.75 |
| 23120 - Bicycle Repairer | 14.43 |
| 23125 - Cable Splicer | 31.48 |
| 23130 - Carpenter, Maintenance | 22.45 |
| 23140 - Carpet Layer | 20.49 |
| 23160 - Electrician, Maintenance | 27.98 |
| 23181 - Electronics Technician Maintenance I | 30.17 |
| 23182 - Electronics Technician Maintenance II | 32.03 |
| 23183 - Electronics Technician Maintenance III | 33.75 |
| 23260 - Fabric Worker | 22.55 |
| 23290 - Fire Alarm System Mechanic | 22.91 |
| 23310 - Fire Extinguisher Repairer | 20.77 |
| 23311 - Fuel Distribution System Mechanic | 27.60 |
| 23312 - Fuel Distribution System Operator | 23.45 |
| 23370 - General Maintenance Worker | 21.43 |
| 23380 - Ground Support Equipment Mechanic | 31.25 |
| 23381 - Ground Support Equipment Servicer | 23.91 |
| 23382 - Ground Support Equipment Worker | 25.42 |
| 23391 - Gunsmith I | 20.77 |
| 23392 - Gunsmith II | 24.15 |
| 23393 - Gunsmith III | 27.00 |
| 23410 - Heating, Ventilation And Air-Conditioning Mechanic | 28.33 |
| 23411 - Heating, Ventilation And Air Contidioning Mechanic (Research Facility) | 29.84 |
| 23430 - Heavy Equipment Mechanic | 26.13 |
| 23440 - Heavy Equipment Operator | 22.91 |
| 23460 - Instrument Mechanic | 27.34 |
| 23465 - Laboratory/Shelter Mechanic | 25.64 |
| 23470 - Laborer | 14.98 |
| 23510 - Locksmith | 23.54 |
| 23530 - Machinery Maintenance Mechanic | 27.44 |
| 23550 - Machinist, Maintenance | 26.10 |
| 23580 - Maintenance Trades Helper | 18.27 |
| 23591 - Metrology Technician I | 27.34 |
| 23592 - Metrology Technician II | 28.79 |
| 23593 - Metrology Technician III | 30.19 |
| 23640 - Millwright | 28.19 |
| 23710 - Office Appliance Repairer | 22.96 |
| 23760 - Painter, Maintenance | 21.75 |
| 23790 - Pipefitter, Maintenance | 26.55 |
| 23810 - Plumber, Maintenance | 25.21 |
| 23820 - Pneudraulic Systems Mechanic | 27.00 |
| 23850 - Rigger | 27.72 |
| 23870 - Scale Mechanic | 24.15 |
| 23890 - Sheet-Metal Worker, Maintenance | 24.81 |
| 23910 - Small Engine Mechanic | 20.49 |
| 23931 - Telecommunications Mechanic I | 29.95 |
| 23932 - Telecommunications Mechanic II | 31.55 |
| 23950 - Telephone Lineman | 32.28 |
| 23960 - Welder, Combination, Maintenance | 24.34 |
| 23965 - Well Driller | 22.91 |
| 23970 - Woodcraft Worker | 27.00 |
| 23980 - Woodworker | 20.77 |
| 24000 - Personal Needs Occupations | |
| 24550 - Case Manager | 19.40 |

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| 24570 - Child Care Attendant | 12.79 |
| 24580 - Child Care Center Clerk | 17.77 |
| 24610 - Chore Aide | 11.57 |
| 24620 - Family Readiness And Support Services Coordinator | 19.40 |
| 24630 - Homemaker | 19.40 |
| 25000 - Plant And System Operations Occupations | |
| 25010 - Boiler Tender | 33.03 |
| 25040 - Sewage Plant Operator | 24.67 |
| 25070 - Stationary Engineer | 33.03 |
| 25190 - Ventilation Equipment Tender | 23.58 |
| 25210 - Water Treatment Plant Operator | 24.67 |
| 27000 - Protective Service Occupations | |
| 27004 - Alarm Monitor | 23.09 |
| 27007 - Baggage Inspector | 15.38 |
| 27008 - Corrections Officer | 25.08 |
| 27010 - Court Security Officer | 26.37 |
| 27030 - Detection Dog Handler | 20.57 |
| 27040 - Detention Officer | 25.08 |
| 27070 - Firefighter | 28.10 |
| 27101 - Guard I | 15.38 |
| 27102 - Guard II | 20.57 |
| 27131 - Police Officer I | 29.70 |
| 27132 - Police Officer II | 33.00 |
| 28000 - Recreation Occupations | |
| 28041 - Carnival Equipment Operator | 13.59 |
| 28042 - Carnival Equipment Repairer | 14.63 |
| 28043 - Carnival Worker | 9.24 |
| 28210 - Gate Attendant/Gate Tender | 15.74 |
| 28310 - Lifeguard | 11.59 |
| 28350 - Park Attendant (Aide) | 17.62 |
| 28510 - Recreation Aide/Health Facility Attendant | 12.85 |
| 28515 - Recreation Specialist | 21.82 |
| 28630 - Sports Official | 14.03 |
| 28690 - Swimming Pool Operator | 18.21 |
| 29000 - Stevedoring/Longshoremen Occupational Services | |
| 29010 - Blocker And Bracer | 27.98 |
| 29020 - Hatch Tender | 27.98 |
| 29030 - Line Handler | 27.98 |
| 29041 - Stevedore I | 25.78 |
| 29042 - Stevedore II | 29.33 |
| 30000 - Technical Occupations | |
| 30010 - Air Traffic Control Specialist, Center (HFO) (see 2) | 41.44 |
| 30011 - Air Traffic Control Specialist, Station (HFO) (see 2) | 28.58 |
| 30012 - Air Traffic Control Specialist, Terminal (HFO) (see 2) | 31.47 |
| 30021 - Archeological Technician I | 20.19 |
| 30022 - Archeological Technician II | 22.60 |
| 30023 - Archeological Technician III | 27.98 |
| 30030 - Cartographic Technician | 27.98 |
| 30040 - Civil Engineering Technician | 26.41 |
| 30051 - Cryogenic Technician I | 24.89 |
| 30052 - Cryogenic Technician II | 27.49 |
| 30061 - Drafter/CAD Operator I | 20.19 |
| 30062 - Drafter/CAD Operator II | 22.60 |
| 30063 - Drafter/CAD Operator III | 25.19 |
| 30064 - Drafter/CAD Operator IV | 31.00 |
| 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 |

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| 30086 - Engineering Technician VI | 52.76 |
| 30090 - Environmental Technician | 27.41 |
| 30095 - Evidence Control Specialist | 22.47 |
| 30210 - Laboratory Technician | 24.41 |
| 30221 - Latent Fingerprint Technician I | 33.09 |
| 30222 - Latent Fingerprint Technician II | 36.55 |
| 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 | 27.49 |
| 30390 - Photo-Optics Technician | 27.98 |
| 30395 - Radiation Control Technician | 27.49 |
| 30461 - Technical Writer I | 25.75 |
| 30462 - Technical Writer II | 31.51 |
| 30463 - Technical Writer III | 38.12 |
| 30491 - Unexploded Ordnance (UXO) Technician I | 26.34 |
| 30492 - Unexploded Ordnance (UXO) Technician II | 31.87 |
| 30493 - Unexploded Ordnance (UXO) Technician III | 38.20 |
| 30494 - Unexploded (UXO) Safety Escort | 26.34 |
| 30495 - Unexploded (UXO) Sweep Personnel | 26.34 |
| 30501 - Weather Forecaster I | 26.93 |
| 30502 - Weather Forecaster II | 32.75 |
| 30620 - Weather Observer, Combined Upper Air Or | (see 2) 25.19 |
| Surface Programs | |
| 30621 - Weather Observer, Senior | (see 2) 27.98 |
| 31000 - Transportation/Mobile Equipment Operation Occupations | |
| 31010 - Airplane Pilot | 31.87 |
| 31020 - Bus Aide | 14.32 |
| 31030 - Bus Driver | 20.85 |
| 31043 - Driver Courier | 15.38 |
| 31260 - Parking and Lot Attendant | 11.06 |
| 31290 - Shuttle Bus Driver | 16.83 |
| 31310 - Taxi Driver | 13.98 |
| 31361 - Truckdriver, Light | 16.83 |
| 31362 - Truckdriver, Medium | 18.28 |
| 31363 - Truckdriver, Heavy | 20.54 |
| 31364 - Truckdriver, Tractor-Trailer | 20.54 |
| 99000 - Miscellaneous Occupations | |
| 99020 - Cabin Safety Specialist | 15.54 |
| 99030 - Cashier | 10.51 |
| 99050 - Desk Clerk | 12.92 |
| 99095 - Embalmer | 27.90 |
| 99130 - Flight Follower | 26.34 |
| 99251 - Laboratory Animal Caretaker I | 13.24 |
| 99252 - Laboratory Animal Caretaker II | 14.47 |
| 99260 - Marketing Analyst | 33.51 |
| 99310 - Mortician | 34.10 |
| 99410 - Pest Controller | 18.70 |
| 99510 - Photofinishing Worker | 13.20 |
| 99710 - Recycling Laborer | 19.20 |
| 99711 - Recycling Specialist | 23.54 |
| 99730 - Refuse Collector | 17.01 |
| 99810 - Sales Clerk | 12.09 |
| 99820 - School Crossing Guard | 16.25 |
| 99830 - Survey Party Chief | 25.06 |
| 99831 - Surveying Aide | 15.57 |
| 99832 - Surveying Technician | 23.81 |
| 99840 - Vending Machine Attendant | 15.48 |
| 99841 - Vending Machine Repairer | 19.67 |

99842 - Vending Machine Repairer Helper

15.48

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.

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$4.41 per hour or \$176.40 per week or \$764.40 per month

HEALTH & WELFARE EO 13706: \$4.13 per hour, or \$165.20 per week, or \$715.87 per month

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

disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour Division's decision to the contractor.

6) Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination (See 29 CFR 4.6(b)(2)(iii)).

Information required by the Regulations must be submitted on SF-1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" should be used to compare job definitions to ensure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination (See 29 CFR 4.152(c)(1)).

BIDDER/OFFEROR CERTIFICATION FORM

| COMPLETION | | | |
|---|-------|--|---|
| The person(s) completing this form must be knowledgeable about the bidder's/offeror's business and operations. | | | |
| RESPONSES | | | |
| 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. | | | |
| GENERAL INSTRUCTIONS | | | |
| 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. | | | |
| SECTION I. BIDDER/OFFEROR RESPONSIBILITY CERTIFICATION | | | |
| <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> | | | |
| PART 1: BIDDER/OFFEROR INFORMATION | | | |
| Legal Business Entity Name: Delehanty Consulting LLC | | Solicitation #: CFOPD-18-R-009 | |
| Address of the Principal Place of Business (street, city, state, zip code) 742 Basswood Ave, Verona, WI 53593 | | Telephone # and ext.: 608 832 1751 | Fax #: |
| Email Address: herb@delehantyconsulting.com | | Website: www.delehantyconsulting.com | |
| 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: |
| | | | |
| | | | |
| I.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: June 23, 2005 | |
| <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: | | | |
| I.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 I.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>Wisconsin</u> | | Country <u>United States</u> | |
| I.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 I.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. | | | |
| PART 2: INDIVIDUAL RESPONSIBILITY | | | |

| | |
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| Additional Instructions for Section 1, 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). | |
| 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. | |
| PART 3: BUSINESS RESPONSIBILITY | |
| 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. | |
| PART 4: CERTIFICATES AND LICENSES | |
| 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. | |
| PART 5: LEGAL PROCEEDINGS | |
| 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. | |
| PART 6: FINANCIAL AND ORGANIZATIONAL INFORMATION | |
| 6.1 Within the past five (5) years, has the bidder/offeree 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/offeree 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/offeree 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/offeree 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/offeree failed to file/pay and the current status of the tax liability. NOTES: 1) Kentucky mistakenly filed a Notice of Lien in 2014. We have documentation verifying this was a mistake. 2) DC accepted an unsigned withholding tax filing for Delehanty Consulting from an unknown entity. It took several months for this to be resolved. Delehanty Consulting never owed the money. | |
| 6.5 During the past three (3) years, has the bidder/offeree 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/offeree 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/offeree 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/offeree 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/offeree 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/offeree been audited by any government entity? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| (a) If "Yes" to Subpart 6.8, did any audit of the bidder/offeree 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). | |
| PART 7: RESPONSE UPDATE REQUIREMENT | |
| 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/offeree 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) _____ N/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:

_____ Herbert Edward Delehanty Jr. Principal _____

[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 OBLIGATIONS

3.1 I hereby certify that I am fully aware of the contents of Mayor's Order 85-85 and the Office of Human Rights' regulations in Chapter 11 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.

SECTION III. BUY AMERICAN ACT CERTIFICATION

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.

PART I: BUY AMERICAN ACT COMPLIANCE

1.1 The bidder/offeror certifies that each end product, except the end products listed below, is a domestic end product (as defined in Paragraph 23 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 States.

none EXCLUDED END PRODUCTS

COUNTRY OF ORIGIN

SECTION IV. CERTIFICATION

Instruction for Section IV: This section must be completed by all bidder/offerors.

I, [**Herb Delehanty**], 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]: Herb Delehanty  | Telephone #: 608 832-1751 | Fax #: |
| Title: Principal | Email Address: herb@delehantyconsulting.com | |

Date:
12/13/2017

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.



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

DOING BUSINESS WITH INTEGRITY

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. 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. 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 4th 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. 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.

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.