

2. Contract Number **CFOPD-15-C-014B** 3. Effective Date See 20C 4. Requisition/Purchase Request/Project No. **RQ 870669**

5. Issued By Code Office of the Chief Financial Officer  
Office of Contracts  
1100 - 4th Street, SW., Suite E610  
Washington, DC 20024 8. Administered By (If other than line 5)

7. Name and Address of Contractor (No. Street, city, country, state and ZIP Code)  
Scientific Games International, Inc.  
1500 Bluegrass Lakes Parkway  
Alpharetta, GA 30004  
VP- Phil Bauer (770) 863-6783  
Phil.Bauer@scientificgames.com 8. Delivery  
 FOB Destination  Other (See Schedule Section F)  
9. Discount for prompt payment  
10. Submit Invoices to the Address shown in Line 12 Item  
(2 copies unless otherwise specified)

11. Ship to/Mark For Code D.C. Lottery and Charitable Games Board  
John Gorman  
Attn: Office of Financial Administration  
2235 Shannon Place, SE  
Washington, D.C. 20024  
john.gorman@dc.gov 12. Payment will be made by Code  
D.C. Lottery and Charitable Games Board  
Attn: Office of Financial Administration  
2235 Shannon Place, SE 5th Floor  
Washington, D.C. 20024

13. Contract Type **Firm Fixed Price** 14. Accounting and Appropriation Data

15A. Item	15B. Supplies/Services	See Section B.1 Pricing	15F. Amount
1	Instant Ticket Manufacturing Services	NTE \$980,000	NTE \$980,000
Total Amount of Contract			NTE \$980,000.00

16. Table of Contents

(X)	Section	Description	Pages	(X)	Section	Description	Pages
PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES			
X	A	Solicitation/Contract Form	1	X	I	Contract Clauses	45
X	B	Supplies or Services and Price/Cost	2	PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS			
X	C	Description/Specifications/Work Statement	11	X	J	List of Attachments	73
X	D	Packaging and Marking	28	PART IV - REPRESENTATIONS AND INSTRUCTIONS			
X	E	Inspection and Acceptance	29	X	K	Representations, Certifications and Other Statements of Offerors	
X	F	Deliveries or Performance	31				
X	G	Contract Administration Data	32				
X	H	Special Contract Requirements	38		L	Instructions, conditions & notices to offerors	
					M	Evaluation factors for award	

Contracting Officer will Complete Item 17 or 18 as Applicable

17  CONTRACTOR'S NEGOTIATED AGREEMENT (Contractor is required to sign this document and return 1 pdf copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. (Attachments are listed herein.)  
18  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) **Philip J. Bauer, VP Corporate Counsel** 20A. Name of Contracting Officer  
Joseph A. Giddis or Dorothy Fortune  
19B. Name of Contractor **Scientific Games International Inc.** 19C. Date Signed **12/20/14** 20B. District of Columbia 20C. Date Signed **12/23/2014**  
(Signature of person authorized to sign) (Signature of Contracting Officer)

**SECTION B**

**PRICE SCHEDULE**

**B.1 GENERAL INFORMATION**

B.1.1 The Office of the Chief Financial Officer (“OCFO”) for the District of Columbia (“District”) and the Office of Contracts on behalf of the D.C. Lottery and Charitable Games Control Board (“DCLB”) desires to enter into a contract with Scientific Games International, Inc. (“Contractor”) to manufacture instant ticket games to the DCLB.

B.1.2 This contract shall not be used by DCLB, any agency of the District, nor the Contractor as a vehicle for conducting gambling over the Internet, hosting iLottery, or conducting iGaming within the District of Columbia. Regardless of remarks to non-traditional lottery programs, either stated in the contract or incorporated by reference, Internet gambling shall be disallowed in conjunction with this contract. Any violation of this provision in conducting gambling over the Internet may cancel the contract pursuant to applicable rules governing contract termination.

**B.2 CONTRACT TYPE**

B.2.1 The District contemplates award of a requirements contract with firm fixed unit pricing and option pricing based on a fixed percentage fee structure for the 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 Pricing Schedule reflect the best estimates available. The estimate shall not be construed as a representation that the estimated quantity will be required or that conditions affecting requirements will be stable. The estimated quantities shall not be construed to limit the quantities which may be required from the Contractor by the District or to relieve the Contractor of its obligation to fill all such orders.

**B.3.2 BASE PRICING**

The DCLB provides as context the worksheet below entitled “Estimated Annual Ticket Volume” as guidance for its anticipated number of individual games launched per year as well as total tickets printed by price point per year. All ticket quantities listed on this worksheet are estimates and shall not represent a guarantee of ticket quantities to be printed.

<b>Estimated Annual Ticket Volume</b>						
Price Point	\$1	\$2	\$3	\$5	\$10	\$20

Estimated # of Games Launched per Year	13	13	2	11	6	1
Avg. # of Tickets (Print Run) per Game	600,000	360,000	360,000	360,000	240,000	480,000
Estimated Annual Volume of Tickets Printed	7,800,000	4,680,000	720,000	3,960,000	1,440,000	480,000

<b>Base Pricing Schedule</b>						
Price Point →	\$1	\$2	\$3	\$5	\$10	\$20
Ticket Size →	2.5" x 4"	4" x 4"	6" x 4"	7.5" x 4"	9" x 4"	9" x 4"
# of Tickets per Pack →	200	100	100	40	30	15
Ticket Volume (Print Run) per Game Ordered ↓	<i>Enter Cost per Thousand Below</i>					
0-99,000	\$262.0154	\$270.9406	\$282.4231	\$292.2882	\$301.3700	\$306.5393
100,000-199,999	\$136.2906	\$143.9387	\$153.7183	\$162.3062	\$170.1109	\$175.2801
200,000-399,999	\$60.7521	\$67.5716	\$76.2466	\$84.0060	\$90.9821	\$96.1514
400,000-599,999	\$41.8773	\$48.4986	\$56.9023	\$64.4605	\$71.2355	\$76.4047
600,000-799,999	\$34.9494	\$41.1189	\$48.9721	\$56.0364	\$62.3625	\$67.5318
800,000-999,999	\$27.0140	\$32.6598	\$39.7698	\$46.3555	\$52.1579	\$57.3272
1,000,000-1,199,999	\$22.7662	\$28.2175	\$35.0681	\$41.4593	\$47.0672	\$52.2365
2,000,000-2,399,999	\$15.9175	\$21.0498	\$27.4753	\$33.5475	\$38.8365	\$44.0057

<b>Option Year One Pricing Schedule</b>						
Price Point →	\$1	\$2	\$3	\$5	\$10	\$20
Ticket Size →	2.5" x 4"	4" x 4"	6" x 4"	7.5" x 4"	9" x 4"	9" x 4"
# of Tickets per Pack →	200	100	100	40	30	15

Ticket Volume (Print Run) per Game Ordered ↓	<i>Enter Cost per Thousand Below</i>					
0-99,000	\$262.0154	\$270.9406	\$282.4231	\$292.2882	\$301.3700	\$306.5399
100,000-199,999	\$136.2906	\$143.9387	\$153.7183	\$162.3062	\$170.1109	\$175.2800
200,000-399,999	\$60.7521	\$67.5716	\$76.2466	\$84.0060	\$90.9821	\$96.1514
400,000-599,999	\$41.8773	\$48.4956	\$56.9023	\$64.4605	\$71.2355	\$76.4047
600,000-799,999	\$34.9494	\$41.1189	\$48.9271	\$56.0364	\$62.3625	\$67.5318
800,000-999,999	\$27.0140	\$32.6598	\$39.7698	\$46.3555	\$52.1579	\$57.3272
1,000,000-1,199,999	\$22.7662	\$28.2175	\$35.0681	\$41.4593	\$47.0672	\$52.2365
2,000,000-2,399,999	\$15.9175	\$21.0498	\$27.4753	\$33.5475	\$38.8365	\$44.0057

<b>Option Year Two Pricing Schedule</b>						
Price Point →	\$1	\$2	\$3	\$5	\$10	\$20
Ticket Size →	2.5" x 4"	4" x 4"	6" x 4"	7.5" x 4"	9" x 4"	9" x 4"
# of Tickets per Pack →	200	100	100	40	30	15
Ticket Volume (Print Run) per Game Ordered ↓	<i>Enter Cost per Thousand Below</i>					
0-99,000	\$262.0154	\$270.9406	\$282.4231	\$292.2882	\$301.3700	\$306.5399
100,000-199,999	\$136.2906	\$143.9387	\$153.7183	\$162.3062	\$170.1109	\$175.2800
200,000-399,999	\$60.7521	\$67.5716	\$76.2466	\$84.0060	\$90.9821	\$96.1514
400,000-599,999	\$41.8773	\$48.4956	\$56.9023	\$64.4605	\$71.2355	\$76.4047
600,000-799,999	\$34.9494	\$41.1189	\$48.9271	\$56.0364	\$62.3625	\$67.5318
800,000-999,999	\$27.0140	\$32.6598	\$39.7698	\$46.3555	\$52.1579	\$57.3272
1,000,000-1,199,999	\$22.7662	\$28.2175	\$35.0681	\$41.4593	\$47.0672	\$52.2365
2,000,000-2,399,999	\$15.9175	\$21.0498	\$27.4753	\$33.5475	\$38.8365	\$44.0057

<b>Option Year Three Pricing Schedule</b>						
Price Point →	\$1	\$2	\$3	\$5	\$10	\$20
Ticket Size →	2.5" x 4"	4" x 4"	6" x 4"	7.5" x 4"	9" x 4"	9" x 4"
# of Tickets per Pack	200	100	100	40	30	15

→						
Ticket Volume (Print Run) per Game Ordered ↓	<i>Enter Cost per Thousand Below</i>					
0-99,000	\$262.0154	\$270.9406	\$282.4231	\$292.2882	\$301.3700	\$306.539
100,000-199,999	\$136.2906	\$143.9387	\$153.7183	\$162.3062	\$170.1109	\$175.280
200,000-399,999	\$60.7521	\$67.5716	\$76.2466	\$84.0060	\$90.9821	\$96.1514
400,000-599,999	\$41.8773	\$48.4956	\$56.9023	\$64.4605	\$71.2355	\$76.4047
600,000-799,999	\$34.9494	\$41.1189	\$48.9271	\$56.0364	\$62.3625	\$67.5318
800,000-999,999	\$27.0140	\$32.6598	\$39.7698	\$46.3555	\$52.1579	\$57.3272
1,000,000-1,199,999	\$22.7662	\$28.2175	\$35.0681	\$41.4593	\$47.0672	\$52.2365
2,000,000-2,399,999	\$15.9175	\$21.0498	\$27.4753	\$33.5475	\$38.8365	\$44.0057

<b>Option Year Four Pricing Schedule</b>						
Price Point →	\$1	\$2	\$3	\$5	\$10	\$20
Ticket Size →	2.5" x 4"	4" x 4"	6" x 4"	7.5" x 4"	9" x 4"	9" x 4"
# of Tickets per Pack →	200	100	100	40	30	15
Ticket Volume (Print Run) per Game Ordered ↓	<i>Enter Cost per Thousand Below</i>					
0-99,000	\$262.0154	\$270.9406	\$282.4231	\$292.2882	\$301.3700	\$306.539
100,000-199,999	\$136.2906	\$143.9387	\$153.7183	\$162.3062	\$170.1109	\$175.280
200,000-399,999	\$60.7521	\$67.5716	\$76.2466	\$84.0060	\$90.9821	\$96.1514
400,000-599,999	\$41.8773	\$48.4956	\$56.9023	\$64.4605	\$71.2355	\$76.4047
600,000-799,999	\$34.9494	\$41.1189	\$48.9271	\$56.0364	\$62.3625	\$67.5318
800,000-999,999	\$27.0140	\$32.6598	\$39.7698	\$46.3555	\$52.1579	\$57.3272
1,000,000-1,199,999	\$22.7662	\$28.2175	\$35.0681	\$41.4593	\$47.0672	\$52.2365
2,000,000-2,399,999	\$15.9175	\$21.0498	\$27.4753	\$33.5475	\$38.8365	\$44.0057

### B.3.2.1 OPTION PRICING

The Contractor shall state its price to provide each of the options listed in the Options Price List below. The option pricings required as a percentage are for Optional Ticket Features. The Optional Ticket Features shall be expressed as a firm-fixed percent of the total gross value (i.e. price point x print run) of the game by the Contractor per order. The price indicated will be an incremental price to be added to the price for the ticket order with the option. For example, if the

price for 500,000 tickets is \$100,000 and the price for the option of Color Change (Pulsing) is 5%, and DCLB orders 500,000 Color Change tickets, the total price is expected to be \$105,000. Insert No Cost (“N/C”) in the price column for any option offered at no additional cost. Insert Not Applicable (“N/A”) in the price column if the Contractor does not have the capability to provide a specific option. The Contractor shall add any additional task that is not listed below, but can be produced by the Contractor.

The District reserves the right to exercise each of the options listed in the Options Price List. The District will execute a contract modification or other written document which notifies the Contractor of the exercise of the option. The notice shall cite the option provision of the contract as authority for the action. The District and the Contractor shall execute a bilateral contract modification to exercise any negotiable option. The District shall exercise an option only after considering that sufficient budget authority is available; that the requirement covered by the option fulfills an existing District need; and that the exercise of the option will be the most advantageous method of fulfilling the District's need, when price and other factors are considered.

Options Price List

<b>OPTIONS PRICE LIST</b>	
<b>OPTION</b>	<b>PRICE</b>
1. Color Change (Pulsing)	____15.77738____(%)
2. Color Change on Re-Orders	____8.45217____(%)
3. Four-Color Process Ticket Back	____31.34824____(%)
4. Dual Pass Imaging	____8.80913____(%)
5. Dual Color Imaging	____36.70261____(%)
6. Multi Color Imaging – 3 Color 6.a. Multi-Color Imaging – 4 Color	____48.42934____(%) ____58.93767____(%)
7. Synchronized Imaging and Graphics	4.87355____(%)

8. Photo Realistic Printing	_____44.35597_____ (%)
9. Additional Ink Color	_____2.64274_____ (%)
10. Fluorescent Ink	_____5.28548_____ (%)
11. Metallic Ink	_____6.616639_____ (%)
12. Scented Ink – Standard Scents	____30.47498_____ (%)
12.a. Scented Ink – Custom Scents	____48.47498_____ (%)
13. Pearlescent Inks	_____5.28548_____ (%)
14. Glittering Inks	Not applicable
15. Multiple Scenes, Continuous	_____11.30783_____ (%)
16. Multiple Scenes, Individual	_____7.04347_____ (%)
17. 10-Point Foil Stock	____28.62966_____ (%)
18. Holographic Paper	____154.15971_____ (%)
19. Die-Cuts	____40.73839_____ (%)
20. Pack Inserts (Not Matching Book Number)	_____17.56000_____ (%)
21. Pack Activation Cards (Matching Book Number)	_____26.56000_____ (%)
22. Break Opens	<hr/> Not applicable

23. Perforated Stubs w/ Variable Imaging Information	___7.04730___(%)
24. Perforated Stubs w/out Variable Imaging Information	___3.52365___(%)
25. Accelerated Delivery	___15.26956___(%)
26. Secure Disposal Of Tickets (Per Pallet)	___5.25417___(%)
27. Retailer/Promotional Games	Negotiable based on specifications
28. Skyline and Pop Up Games	Negotiable based on specifications
29. Additional Ticket Sizes, Per Square Inch	Negotiable based on specifications
30. Two-sided Play Area	___74.87757___(%)
31. Embossed Tickets	Not applicable
32. Scored Tickets	___40.73839___(%)
33. Folded Tickets	Negotiable based on specifications
34. Dauber Marking System	Not applicable
35. Transparent Layer Marking System	___6.16639___(%)
36. Multi Game Production Run Discount	___-2.11739___(%)
37. Game Reprint Discount	___-4.63478___(%)

38. Connected & Perforated Pouches	Negotiable based on specifications
39. Separated Pouches	Negotiable based on specifications
40. Connected, Perforated Tickets In Pouch (State Maximum Strip Length Or Number Of Tickets)	Negotiable based on specifications
41. Individual Tickets In Pouch (State Maximum Number)	Negotiable based on specifications
42. Multiple Inserts In Pouch (State Maximum Number And Size)	Negotiable based on specifications
43. Varied Pouch Sizes, Per Square Inch	Negotiable based on specifications
44. Ticket Stock White Coated Two (2) Sides	_____4.40456_____ (%)
45. Ticket Stock White Coated On Front & .5 Coated On Back	_____3.52365_____ (%)
46 Color Processing Front of Ticket	Negotiable based on specifications
47. Integrated Overprint	_____1.64274_____ (%)
48. One Instant Ticket Vending Machine Game Cards Per Pack of Tickets	_____17.56000_____ (%)
49. 600 Instant Ticket Vending Machines Game Cards Per Game	Negotiable based on specifications

B.3.3 The Contractor's pricing shall be fixed and firm for the Base Period and Option Periods, if exercised, of the Contract term.

B.3.4 Royalties for Game Theme Trademarks, Copyrights, Licensed Properties, etc.

B.3.4.1 The Contractor's pricing does not include royalties to be paid for the use of intellectual property rights for game themes or designs not required to print standard instant tickets.

In the event the Contractor or the Contractor's affiliates own or are an authorized licensing representative for such rights and the District desires to use them, such rights shall be provided in a separate licensing agreement. In all other cases, where such rights are requested for a given game, the District shall be responsible for acquiring the right to use them. The Contractor's costs for such license agreements shall be covered under the license agreement cost reimbursement provision of the Contract.

#### B.3.5 Standard Items

B.3.5.1 The Contractor's standard inks, materials, and procedures, which meet all specified requirements of the Contract, shall be used in producing the instant tickets under this Contract. If any special items or steps are desired beyond these standard items, the Contractor shall endeavor to provide them, and shall quote the additional charge for them, if any, beforehand, for the District's consideration.

#### B.3.6 Inter-Relationship of Instant Ticket Options

B.3.6.1 Most of the option pricings shall be selectable independently of one another. However, some of the options may be inter-related because of equipment limitations or technical reasons. Such dependent options shall be notified to the District for consideration.

#### B.3.7 Taxes

B.3.7.1 The Contractor's price shall be based on no sales or use tax, no gambling-related tax, or no customs, duties, or importation taxes will be levied on the goods and services involved herein. If such taxes are levied on the goods and services involved here, the Contractor and the District shall negotiate an equitable adjustment to the pricing no higher than to the extent of such taxes.

## SECTION C

### DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

#### C.1 SCOPE

C.1.1 The Office of the Chief Financial Officer (“OCFO”) for the District of Columbia (“District”) and the Office of Contracts on behalf of the D.C. Lottery and Charitable Games Control Board (“DCLB”) desires to enter into a contract with a qualified Contractor) to manufacture instant ticket games. Tickets shall be delivered FOB destination to the DCLB’s warehouse located in Washington, DC.

C.1.2 The purpose of this contract is to provide ticket design and production, This contract shall not be used as a vehicle for conducting gambling over the Internet.

C.1.3 This contract shall not be used by DCLB, any agency of the District, nor the Contractor as a vehicle for conducting gambling over the Internet, hosting iLottery, or conducting iGaming within the District of Columbia. Regardless of remarks to non-traditional lottery programs, either stated in the contract or incorporated by reference, Internet gambling shall be disallowed in conjunction with this contract. Any violation of this provision in conducting gambling over the Internet may cancel the contract pursuant to applicable rules governing contract termination.

C.2 In order to be deemed a qualified Contractor, it is required that the Contractor has one or more current North American clients to whom it supplies lottery instant tickets comparable to those specified in this contract.

#### C.3 DCLB HISTORY AND CURRENT BUSINESS ENVIRONMENT

C.3.1 The DCLB is a revenue-generating agency of the District of Columbia Government (Government) and is a subordinate office located within the OCFO.

C.3.2 The DCLB’s Mission, Vision and Core Values are as follows:

1) **Mission:** 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.

2) **Vision:** To be the preferred lottery in the region by stimulating imagination and inspiring optimism through the delivery of an engaging gaming experience.

3) **Core Values:**

- a) Integrity
- b) Innovation
- c) Passion

- d) Excellence
- e) Community

C.3.3 In fiscal year 2011, DCLB sales totaled \$231.5 million. \$56.8 million of those sales were from Instant ticket products or scratch games. The DCLB forecasts instant ticket sales of \$60.0 million in the fiscal year that ends September 30, 2012. All revenue generated by the DCLB through the sale of lottery tickets, less prizes, operating expenses and reserves, is transferred to the Government’s General Fund.

C.3.4 The DCLB currently has instant ticket price points at \$1, \$2, \$3, \$5, \$10 and \$20. Historically, fifty-four (54) games were launched in fiscal year 2009; sixty-two (62) games were launched in fiscal year 2010; fifty-nine (59) in fiscal year 2011 and forty-six (46) games are being launched in fiscal year 2012. The reason for the decline in the number of games printed is that the average print runs are greater. The normal print run for games are between 240,000 to 960,000 tickets per game, with the lower print runs for games with higher price points.

C.3.5 The DCLB is working to aggressively expand its revenue generation capabilities in all phases of its enterprise, with a particular interest in expanding its footprint in the instant ticket portion of its business. Instant ticket sales represent a rapidly growing segment of the lottery industry and the DCLB is looking to enhance its revenue stream and ultimately the amount transferred to the Government’s General Revenue fund.

C.3.6 The DCLB has one of the highest per capita lottery purchase rates in North America, as evidenced in the following table. This is due largely to the DCLB’s success in attracting ticket purchasers from the residents of surrounding jurisdictions who commute to work in the District, and from the District’s very large tourist population. In order to achieve the DCLB’s goals and objectives, a greater emphasis must be placed on focused marketing objectives targeting these two groups.

DCLB 2010 Data, Ranked Against 44 U.S. Lotteries In Descending Order (highest to lowest)			
Population	Sales	Profit %	Per Capita Sales
44 <sup>th</sup>	33 <sup>rd</sup>	22 <sup>nd</sup>	2 <sup>nd</sup>
Source: NASPL 2010 Lottery Data			

C.3.7 The DCLB employs approximately 77 people and has one (1) headquarters office building and one (1) claim center office. The DCLB currently utilizes the LOTOS™ Back Office System (BOS) software system by Intralot, Inc. (Intralot) for receiving, picking, packing, and returning instant tickets. The DCLB accesses BOS system through a web browser connected to Intralot’s network.

- C.3.8 The DCLB's sales agent base is approximately 500. The DCLB is currently recruiting to expand its sales agent base.
- C.3.9 The DCLB currently utilizes 200 WinStation instant ticket vending machines (ITVMs). The DCLB also provides stackable instant ticket dispensers to all of its sales agents.
- C.3.10 The online gaming vendor, Intralot, operates and maintains the central gaming system which includes the instant gaming processing. Online is a term of art used in the lottery industry, which does not mean internet sales, but rather tickets that are sold through a lottery terminal (i.e. Powerball, Mega Millions, DC-3, etc.). The Internal Control System (ICS) supports the instant games by managing, monitoring and validating all the set parameters for each individual instant game.
- C.3.11 The online gaming vendor, Intralot, provides the telemarketing system ("Pick and Pack") currently being used to take instant ticket orders from agents. On a normal business day, orders are taken by terminal orders and the telemarketing ("Tel-Sell") representative. Sales agents can also purchase instant tickets at the distribution center. All instant ticket activity, whether initiated at the DCLB's warehouse or at the distribution center, is shared between the DCLB's ICS system and the Intralot LOTOS™ system through near real-time interfaces.
- C.3.12 Orders placed by the Tel-Sell staff are entered in the Pick and Pack system and filled by warehouse staff when invoices are printed, with each pack listed in numerical order. There is integration with Intralot's LOTOS™ inventory control, agent accounting, and prize validation back office systems. This integration ensures accurate instant ticket ordering, delivery, returns, validation, and billing. Instant ticket validation is performed by Intralot Photon and WinStation terminals at full-service agent locations and can be performed by self-service 2D barcode ticket checkers.
- C.3.13 The DCLB typically closes games when they reach the end of their sales cycle, or at other times at the sole discretion of the Executive Director of DCLB or his designee. Sales agents can continue to sell a game 180 days after end date and prizes can be claimed up to 180 days after the end date.
- C.3.14 A Contractor is not guaranteed any minimum amount of work. Historical data stated in herein regarding quantities of Instant Tickets printed, amount of sales, and number of deliveries to Retailers is for informational purposes only and is not a guarantee of any minimum or maximum quantities under this Contract.

#### **C.4 INSTANT PRODUCT DESCRIPTION**

- C.4.1 Instant games, often referred to as "scratch games" are designed as short-term games that provide instant gratification for the player, i.e., the player knows immediately whether he/she has a winning ticket and how much has been won. Specifically, a player purchases an instant ticket, reads the instructions, and removes the latex covered "play area" to determine if he/she has won and the amount of the prize.

C.4.2 The instant tickets are available at DCLB sales agent locations. Prize structures and amounts vary with each game, but typically range from \$1 to \$1,000,000. The winner may cash a winning ticket up to \$600 at DCLB sales agent locations. Prizes greater than \$600 and less than \$5001 must be redeemed at the DCLB's Claim Center or at one of the Agent Plus lottery retailers authorized to process up to \$5000. Prizes greater than \$5000 and less than \$200,000 must be claimed at the DCLB's Claim Center. Prizes \$200,000 or greater must be claimed at the DCLB's Headquarters.

C.4.3 Some instant games may offer the holder of non-winning tickets a second opportunity to win. By submitting a specified number of non-winning tickets, the player may enter a "second chance drawing" to win a wide variety of prizes.

## **C.5 GENERAL REQUIREMENTS**

C.5.1 The Contractor will be a manufacturer/supplier of instant ticket games and provide printing of those tickets to the DCLB.

C.5.2 The Contractor will provide instant ticket games for selected games as determined by the DCLB on an as-needed basis.

C.5.3 The following overall objectives shall be met by the Contractor:

- (1) Provide the design and development of instant ticket games;
- (2) make prize structure recommendations; and
- (3) provide instant ticket production/printing/security.

## **C.6 STAFFING REQUIREMENTS**

C.6.1 At a minimum, the Contractor shall provide staff in the positions outlined below for this Contract:

- (1) Account Manager - responsible for managing the Contractor's relationship with the DCLB. The Account Manager coordinates, directs and implements the Contractor's instant game development processes and confers with DCLB to assess needs, determine goals and establish plans while ensuring the accuracy of each phase of the production process. This position will also be responsible for managing all aspects of the DCLB's licensed product development process as it pertains to those licensed products owned by the Contractor or any partner or subsidiary of the Contractor.
- (2) Account Services Representative - The Account Services Representative is responsible for serving as the day-to-day liaison with the DCLB ensuring the successful and timely completion of Working Papers.

- (3) Quality Control - The individual or team whose responsibilities include the accuracy of all content in the Working Papers, printing processes and continuous quality inspection of final product.
- (4) Information Technology (IT) - The individual or team whose responsibilities include the accuracy of all game data in each instant game as specified in the Working Papers and security requirements.
- (5) Graphic Artists - The individual or team are responsible for creative design and final ticket graphic output.

C.6.2 The Contractor's staff must have knowledge and experience as it applies to the following job functions:

- (1) Prize structure design;
- (2) game design elements including names, themes, play formats, and color selection;
- (3) graphic design;
- (4) secure computer game tape/production file generation;
- (5) production scheduling;
- (6) secure instant ticket manufacturing processes;
- (7) quality control and assurance;
- (8) product management;
- (9) information technology;
- (10) accounting; and
- (11) security.

C.6.3 If any staff (Contractor employee or any subcontractors) working in the positions referenced in C.5.1 change during the term of the Contract, the Contractor shall replace such staff with staff comparable in qualifications as the original staff. The replacement shall be made subject to the DCLB's approval.

## **C.7 TICKET SUPPORT**

The Contractor shall provide ongoing assistance in the support of Instant Game products and shall provide the following:

- (1) Game Designs – The Contractor shall provide the DCLB with ticket artwork at least thirty (30) days prior to Working Papers development, prize structures and play styles for each instant game.
- (2) Trademark and Service Mark Search and Registration – The Contractor shall conduct trademark and service mark searches for all game names used during the term of the Contract and provide the DCLB with a written legal opinion as to the permissible use of each game name based upon a search of registrations and applications for registration filed with the United States Patent and Trademark office, applicable state agencies and other appropriate sources. (Note: Any trademarks and service marks owned by the DCLB need not be searched.) The Contractor shall keep all marks current, active, and protected during the term of Contract and any extension thereof. The Contractor shall not be responsible for providing an Intellectual Property legal opinion relating to licensed materials that are not provided by the Contractor.

## **C.8 TICKET ARTWORK**

- C.8.1 Except in cases where there is an additional play area on the back of the ticket, back artwork is not required until the Working Papers are delivered to the DCLB in accordance with the term of the Contract. If there is an additional play area on the back of the ticket, the Contractor shall provide to the DCLB for approval a conceptual art design for the front and back of tickets a minimum of thirty (30) days before Working Paper development begins.

## **C.9 PRIZE STRUCTURE(S)**

- C.9.1 The Contractor shall recommend the best possible prize structures to maximize instant game sales and net income. The Contractor shall guarantee that each book of tickets is produced based on randomization of all prizes. The Contractor shall propose the various levels of prizes and the combination of wins available in the game, the probability of winning prizes, the numbers of winners, and the cost of such prizes. The prize structure shall include, but not be limited to, the following:

- (1) Game name, number, date and version;
- (2) ticket price point;
- (3) production quantity;
- (4) revenue generated;
- (5) percent of prize payout;
- (6) each tier level for prizes and play action indicating how each tier is won;

- (7) overall probability of winning any prize in the game and consolidated probability if there is more than one way to win a prize;
- (8) number of winners per book;
- (9) prize cost and percent of prize fund dedicated to each prize level, subtotaled by low, mid, and high tiers as indicated in the Working Papers;
- (10) book size;
- (11) total number of books; and
- (12) ticket size.

C.9.2 The prize structure shall be submitted to the DCLB electronically in Excel format which will be able to be changed or revised by the DCLB. The DCLB may review the proposed prize structure and may indicate changes or instructions. The Contractor shall then produce the game in accordance with this final approved prize structure.

#### **C.10 INSTANT TICKET REQUIREMENTS FOR ALL GAMES**

C.10.1 The DCLB, as a District agency dealing with independent sales agents and the consuming public, requires a product of exceptionally high quality. Tickets may be inspected by the DCLB upon delivery. The DCLB shall have the right to inspect up to one hundred percent (100%) of the instant tickets for compliance with the specifications herein. However, inspection by the DCLB does not relieve the Contractor of its responsibility to meet all Contract requirements.

C.10.2 Instant Tickets shall meet the following minimum quality standards:

- (1) No scratches across the latex covering of the tickets;
- (2) no uneven, rough latex coverings;
- (3) no holes in the latex coverings exposing portions of the hidden symbols;
- (4) no latex coverings “dripping” on the design printing;
- (5) no latex coverings that smear or fail to come off when rubbed;
- (6) no overprint and display designs that is unclear or not crisply printed;
- (7) no tickets out of order within a book;
- (8) no lottery symbols that is chopped or incomplete;

- (9) no foil coating that rips away when the ticket is rubbed, if applicable;
- (10) no miscounted number of tickets in a book;
- (11) no perforations that allow tickets to fall out of books without pre-fold;
- (12) no tears in foil, if applicable;
- (13) no delamination of foil from paper stock, if applicable;
- (14) no inks offset on latex coverings from one ticket to another;
- (15) no off-register latex coverings or overprint designs;
- (16) no symbols not totally covered by the latex covering;
- (17) no symbols that smear under normal handling or with slight moisture;
- (18) no unevenly trimmed tickets;
- (19) no foil shaving within books, if applicable; and
- (20) any additional commonly accepted industry practices that may apply.

C.10.3 *Stock*. Tickets shall be printed on ten (10) point or heavier virgin card stock white coated on one (1) side, which shall be fully recyclable. The DCLB shall have the right to utilize other ticket stock types offered by the Contractor in the Option Price List.

C.10.4 *Inks*. Inks shall not smear, run, or stain under normal handling or use by consumers, nor shall they be chemically or dermatologic ally irritating under normal handling and use by consumers. Inks shall be resistant to water and other common solvents except in the latex and overprinting of the latex. Inks shall be of such a nature that there is no “offsetting” from the front of tickets to the back of tickets on an adjacent page and vice versa.

C.10.5 *Front Display Printing*. The front of the ticket shall be printed in up to four (4) graphic colors (not including black and white) which at the option of the Lottery may include full bleed.

C.10.6 *Ticket Patterns and Pick-Out*. No winning or losing game tickets shall be recognizable from any characteristics of the game tickets or ticket patterns other than the lottery symbols concealed by the rub-off material. It shall not be possible to ascertain whether a ticket is a winning or losing ticket, using any practical or economical technique, unless the application of the technique renders the ticket unsalable to the public or easily recognizable as having been tampered with.

- C.10.7 *Back of Ticket Bar Codes.* Each ticket must contain a bar code imaged on the back of the ticket. The bar code will consist of a game identification, the pack number, validation number and the individual ticket number. The Contractor shall place the bar code in a location suitable for reading by the validation equipment used by the DCLB. The bar code will have a quiet zone at each end. The format of the bar code will be detailed in the Working Papers. The bar code must meet American National Standards Institute (ANSI) specifications, achieve a first-time read rate of 95%, achieve a third-time read rate of 99% and be printed to DCLB specifications. The Contractor shall be able to support standard bar codes. The DCLB specifications are based on Intralot's terminal requirements and the specific terminals employed.
- C.10.8 *PDF417 (or Similar) Bar codes.* The Contractor shall be required to print PDF417 or other bar codes in the play area for all DCLB instant tickets. The addition of this bar code to the ticket design will be at no additional cost to the DCLB. The bar codes shall comply with the standards set by the DCLB. The Contractor shall not be obligated to provide a solution that infringes on a third parties' intellectual property.
- C.10.9 *Universal Product Code.* A Universal Product Code (UPC) shall be printed on the back of all instant tickets. The DCLB reserves the right to change the placement of the UPC. The UPC shall not be too close to the ticket Bar Code and shall not interfere with Bar Code scanning.
- C.10.10 *Game Play Symbols.* The game play symbols shall be legible and uniformly positioned and aligned on the tickets. Symbols shall be easily readable by the public and meet industry standards for height, depending on the particular game design and ticket layout chosen by the DCLB. The Contractor shall be able to supply a variety of type styles, sizes, and colors. Application of the game play symbols shall be performed in a random manner.
- C.10.11 *Captions.* To provide redundancy for security reasons and to prevent consumer disputes, each game play symbol shall be accompanied by a caption that spells out the game play symbol in type smaller than the symbol itself.
- C.10.12 *Retailer Verification Code.* Each ticket shall have a code with a minimum of three (3) characters for use by sales agents in verifying and paying low-end prizes.
- C.10.13 *Protective Coating.* The lottery symbols under the rub-off shall be covered with a transparent protective coating so that the play symbols are protected when the consumer rubs off the opaque covering.
- C.10.14 *Rub-Off Material.* The rub-off coating material shall be opaque and of such quality as to maintain the security of each of the game ticket's game play symbols. The rub-off material shall appear and feel "smooth and regular to the touch" and shall fragment when so removed without causing dusting. The rub-off material shall not be chemically or dermatologic ally irritating or cause harm to clothing when removed. Game tickets shall remain readable and able to be rubbed easily, but not so easily as to be affected by

heat, cold or friction between tickets, for a minimum of one (1) year from delivery date to the DCLB. The rub-off material shall be completely removable by scraping with a coin or other object. There shall be no visible removal of rub-off material upon one (1) rub using the edge of a penny at twenty-five (25) grams pressure. The rub-off material shall break at no more than seventy-five (75) grams pressure unless otherwise specified by the DCLB.

C.10.15 *Overprint.* Up to three (3) overprint colors, not including black or white shall be used. An overprint shall be a regular artistic design in the case of the spots covering game play symbols. The overprint covering game play symbols shall be clear, a color other than black, unblurred and sharp in order to facilitate detection of tampering.

C.10.16 *Back Display Printing.* The back of the ticket shall be printed in up to two (2) colors. Each ticket shall contain reference to the applicability of the DCLB's regulations and District law and shall contain wording approved by the DCLB. Additionally, for all games with a ticket size greater than 2" x 4", the ticket price point shall be shaded and highly visible on the back of the ticket.

C.10.17 *Validation Number (VIRN Number).* The DCLB requires a secure traceable ticket. Every ticket shall contain a VIRN number beneath the overprint. The VIRN number shall be a maximum of five (5) digits and shall be unique and non-repeating in the game as a whole. There shall not be a method to go from the validation number on the Contractor's validation tape directly to a book number. The VIRN number, along with the book/ticket number shall algorithmically determine whether a ticket is or is not a low tier winner and, if so, the amount of the prize won. This requirement is in addition to the high tier validation disk/tape described in this Contract.

C.10.18 *Void Tickets.* There shall not be any "void" or "dead" tickets in a book.

C.10.19 *Perforations.* The perforations between tickets shall allow tickets to be separated from each other, after one (1) pre-fold, but should not break apart in normal transit and handling.

C.10.20 *Book Size.* The consistency of the correctness of the count of tickets in a book is of extreme importance to the DCLB. Accordingly, the DCLB shall have the right to determine book sizes by game and/or price point.

C.10.21 *Ticket Numbers.* Each ticket shall bear an individual consecutive number starting with 001 within each book. The DCLB requires that a check digit be with the ticket number. Each ticket shall bear a book number. book numbers shall be consecutive (except for omissions) and non-duplicating in the game. The Contractor shall have procedures to assure that the same book number is on all tickets in the book and that book numbers are not duplicated. Each ticket shall also bear a game identifier. All ticket identification numbers and letters shall, at the discretion of the DCLB, be Bar Coded and OCR-A readable.

C.10.22 *Omissions*. No more than two percent (2%) of the books or tickets are to be omitted. If a greater number of books are omitted, they must be made up with the appropriate prize structure within the two percent (2%) maximum. However, all top prizes shall be exact in accordance with the game's prize structure.

C.10.23 *Book Packaging*. Each book shall be shrink wrapped so that the book number is visible. The DCLB shall have the right to use pouch game packaging or other special packaging.

C.10.24 *Transportation*.

- (1) The Contractor shall transport Instant Tickets to the DCLB's warehouse, or other locations designated by the DCLB, in locked and sealed trucks, unless the DCLB requests a different method. These trucks shall not contain any item(s) other than DCLB tickets or other DCLB related items during delivery.
- (2) Tickets shall be delivered within a maximum of twenty eight (28) working days from the date that the DCLB "signs-off" on the Working Papers, by signing and sending the approval page to the Contractor.

C.10.25 *Shipping Manifest and Omissions List*. At the time of the delivery, the Contractor shall provide the DCLB with a list of books delivered and omitted from being delivered. Omitted books shall be listed by the DCLB as ineligible to win any prize and shall not be considered as valid tickets in the game. The DCLB shall not be billed for such omitted books of tickets, but only for the books of tickets actually delivered.

C.10.26 *Instant Ticket/Book Reconstruction*.

- (1) Upon request by the DCLB, the Contractor shall reconstruct individual instant tickets or entire books of instant tickets. The Executive Director of the DCLB will provide to the Contractor a written list of employees authorized to request reconstructions. The Contractor shall reconstruct tickets only upon written request by an authorized DCLB employee and shall provide to the DCLB monthly a list of all instant tickets/books reconstructed during the prior month. This list shall include, at a minimum, the date of the request for reconstruction, the name of the individual requesting the reconstruction, and the book number and tickets reconstructed.
- (2) Reconstruction records shall be retained by the Contractor for three (3) years following the announced end of each game.

C.10.27 *Accountants Review*. The Contractor shall engage an independent Certified Public Accountant experienced in lottery operations and acceptable to the DCLB to review the procedures and controls employed by the Contractor during the production of each instant game. The Certified Public Accountant shall provide a report directly to the DCLB which shall state the tests performed on the Contractor's production procedures and the related findings. These tests shall include, but are not limited to, a review of the

controls on the computer tapes or other methods of seeding used in producing high tier, low-end winners and losers in accordance with the final approved prize structure.

C.10.28 *Validation Algorithm and Other Computer Information.* The Contractor shall submit via secure file transfer protocol (FTP) a computer file containing all prizes for the game, including grand prize entry tickets and annuity type prizes, if any. Low-tier prizes shall be separate from mid-tier and high-tier prizes or as specified in the Working Papers. The information shall include validation number, play spots and prize code (prize amount) for the tickets actually produced and delivered.

C.10.29 *Over/Under Allowance.* The DCLB will not accept over/under amounts in excess of plus/minus two (2%) percent of tickets from the amount specified in the Working Papers.

C.10.30 *Ticket Compatibility.* All Instant Tickets shall be compatible with all ticket dispensing systems (e.g. Counter units, Intralot WinStations) utilized by the DCLB during the term of the Contract.

C.10.31 *Required Standard Ticket Features.* The Contractor shall provide the following Standard Ticket Features for all Instant Tickets, which shall be included in the Contract price:

- (1) Ten (10) point or heavier virgin card stock white coated on one (1) side, fully recyclable;
- (2) Non-flood coat varnish with an option for a UV High Gloss Coat;
- (3) 4-Color Process not including black & white;
- (4) 2-color ticket back;
- (5) Multiple Scratch-Off areas, when required by design;
- (6) Multiple Full Bleed, when required by design;
- (7) Unusual Shaped scratch-off areas, when required by design;
- (8) Custom imaging symbols, when required by design;
- (9) Different pack sizes (ticket quantities) for each price point;

C.10.32 *Optional Ticket Features.* The DCLB may request customized instant ticket games that include optional ticket features specified in Section B of the Contract. The Contractor shall provide, only upon written authorization from the DCLB, the optional ticket features for instant ticket games.

## **C.11 INVENTORY CONTROL**

C.11.1 The Contractor shall maintain logs of game ticket stock inventory between all points of production and the delivery to the DCLB. Logs of all destroyed game ticket stock and game tickets shall also be maintained. The Contractor shall collect the above data in a timely manner.

## **C.12 QUALITY CONTROL**

C.12.1 The Contractor shall employ quality control procedures to ensure that all game tickets delivered meet all specifications and requirements of the Contract.

C.12.2 The DCLB may randomly select up to ten (10) games to be tested annually and the Contractor shall be responsible for reimbursing the DCLB for all costs associated with testing of the games. The Contractor's internal ticket testing facility is acceptable for the tests if the Contractor provides the test reports to the DCLB.

C.12.3 The purpose of the testing and physical observation of selected tickets production will be to determine if the ticket meets the following three (3) primary quality and security criteria:

- (1) Durability. Is construction of the ticket secure enough for the ticket to endure reasonable environmental rigors and still be readily marketable?
- (2) Ability to be compromised. Is construction of the ticket secure enough for the ticket to withstand attempts to determine if the ticket is a winning or a non-winning ticket without removing a readily noticeable amount of the coatings on the play area of the ticket within a reasonable time frame, by methods and materials available to the lottery agents?
- (3) Alterability. Is construction of the ticket secure enough for the ticket to withstand attempts to alter the play data, prize amounts, or bar code and produce a redeemable winning ticket from a non-winning ticket, and/or increase the prize amount on the ticket by methods and materials available to the public?

C.12.4 Failure of any ticket to pass any of the tests will be cause for additional testing. The objective of the additional testing will be to:

- (1) Determine the repeatability and practicality of the method and;
- (2) Determine the range of ticket production pools in which the problem is repeated.

C.12.5 The DCLB reserves the right to cancel an order with the Contractor at any time if the DCLB's tests show any representative sample of production tickets to be practically compromised or vulnerable to compromise. Tickets shall not bear any words, symbols,

numbers or marks of any kind that in any way would permit a person to determine the location of a winning ticket.

C.12.6 The Contractor shall be responsible for payment of the prize amount of any apparent winning ticket from misprints, omit packs or quality control packs presented to the DCLB by a player, except in the event of theft, fraud or wrongdoing.

**C.13 END OF PRODUCTION PRIZE STRUCTURE**

C.13.1 After all tickets have been produced, the Contractor shall promptly provide the DCLB with an “end of production” prize structure which accurately states the total number of tickets delivered and the actual number of winners. Additionally, multiple tiers of the same prize value shall be consolidated on a separate report.

**C.14 ATTAINMENT OF PRIZE STRUCTURE**

C.14.1 The only variance between the “end of production” prize structure and the final approved prize structure to be tolerated will be that which occurs in the omitted books. If the number of voided books alters higher tier prizes, the DCLB may require the reprint of all voided books at no additional cost to the DCLB. All prizes of \$1000 or more shall be exact to the approved prize structure. Prizes of \$999 or less shall be within a 2.0% variation.

**C.15 VALIDATION ASSISTANCE**

The Contractor shall assist the DCLB in the analysis and validation of questionable tickets in a timely manner.

**C.16 COMPUTER SYSTEMS SOFTWARE AND ACCOUNTING**

C.16.1 The Contractor’s accounting methods shall be kept in accordance with Generally Accepted Auditing Standards (GAAS) and in accordance with Generally Accepted Accounting Principles (GAAP).

**C.17 SECURITY**

C.17.1 *Plant Security.* The printing plant or other facility where tickets are manufactured shall be equipped with a plant security system to be reviewed and approved by the DCLB. The system shall ensure that game tickets and materials are protected from theft, alteration and destruction, not only during manufacturing process, but also while in storage on the Contractor premises.

### C.17.2 *Security Breach.*

- (1) Upon discovery of any breach of security experienced by the Contractor during the term of the Contract, especially theft or disappearance of any paper stock, tickets, waste, printing plates, imagery tapes, program tapes or the like, the Contractor shall notify the Executive Director within three (3) hours of discovery of a security breach. Leaving a voice mail with the Executive Director (or designee) shall be sufficient notification in the event the Executive Director does not answer the telephone call or is not available in person. Written notification by “electronic mail” or “facsimile” shall be sufficient with respect to written notice required to be delivered within twenty-four (24) hours. The DCLB shall be the sole judge of the adequacy of the steps taken and shall have the right to specify other steps to be taken.
- (2) The DCLB shall have the right to require at any time such further and additional security measures as it deems necessary and/or appropriate to ensure the integrity of the operation of the DCLB.
- (3) The DCLB reserves the right, at any time and without prior notice, to expand its background investigation, to inspect and otherwise evaluate all phases of performance specified in the Contract and the premises in which such work is performed.

### **C.18 BUSINESS RECOVERY PLAN**

C.18.1 The Contractor shall have an up to date Business Recovery Plan which shall be documented, maintained and periodically tested to ensure minimal interruption to service provided to the DCLB in case of an emergency or disaster at the Contractor’s facility. This plan shall be reviewed and approved by the DCLB.

### **C.19 PROBLEM TRACING**

C.19.1 The Contractor shall build into its system of game construction a means to be able to trace the extent of any problems, including but not limited to printing problems, which may be discovered while a game is in operation.

### **C.20 NONCONFORMING TICKETS**

C.20.1 Nonconforming tickets (any ticket which deviates from any specifications) may be rejected by the DCLB. If the number of such tickets rejected is more than one percent (1%) of the ordered quantity of tickets, the Contractor shall replace such tickets at no additional costs to the DCLB, as soon as is reasonably possible, given the availability of material and production times. If the quantity of tickets rejected is less than the above percent for such game, the Contractor need not replace nonconforming tickets. This remedy is in addition to any other remedy provided for in this Contract or any other remedy provided by law.

## **C.21 SAMPLE TICKETS**

C.21.1 The Contractor shall provide twenty (20) books of actual-sized sample tickets to the DCLB for each game. These samples shall be non-winning tickets and shall bear the words “SAMPLE” on the back. There shall be no additional compensation to the Contractor for these sample tickets. The specified samples shall be delivered along with the initial ticket shipment for each game.

## **C.22 ITVM CARDS**

C.22.1 The Contractor shall produce and deliver ITVM cards for each Instant ticket game ordered. The ITVM cards shall be printed on 10pt C2S Cover stock and trimmed to a final size of 4” x 4”. ITVM cards are four color process on the front; blank on the back. Final ITVM artwork shall be approved by the DCLB and shall be incorporated into the Working Papers for the instant game. All ITVM cards will, at the DCLB’s discretion, include a QR code which will link to a mobile-optimized site that supports the instant ticket game in a manner to be determined by the DCLB. The Contractor shall be required to work with the DCLB, the DCLB’s advertising vendor, or any other agent of the DCLB, to ensure the QR code successfully links to mobile-optimized site. The Contractor shall not be required to develop the mobile-optimized site, but rather to only print the QR code onto the ITVM card and guarantee the QR code has been quality tested and is readable by industry standard QR code scanner applications. In the event that the printed QR code fails to properly scan, the Contractor shall be required to reprint and deliver replacement ITVM game cards at no additional cost to the DCLB.

C.22.2 The IVTM cards shall either be included in every pack of instant tickets delivered (one per pack) or delivered separately and directly to the DCLB warehouse. Priced as options.

## **C.23 WORKING PAPERS**

C.23.1 The Contractor shall provide one (1) electronic version and one (1) hard copy to be overnighted of the Working Papers. Working Papers, at a minimum, shall include the following:

- (1) Detailed ticket description and artwork, including black/white and color version of ticket covered and uncovered (100%) with indication of “press side”, and ticket back (100%) including placement of Bar Code and UPC code on ticket;
- (2) Detailed game specifications including prize structure and programming parameters;
- (3) Complete set of Game Rules once the game is executed;
- (4) Production, packaging and shipping information;
- (5) Production timeline to include:

- (a) Working Papers signed date;
  - (b) approximate printing date;
  - (c) approximate delivery date to distribution warehouse; and
  - (d) game launch date.
- (6) Deliverables schedule including:
- (a) 100% black and white stats and disk containing symbols;
  - (b) disk color draw downs and color composites that are provided for color approvals during the pre-manufacturing phase;
  - (c) validation tapes; and
  - (d) book tapes.

C.23.2 All Working Papers shall be approved by DCLB prior to ticket production.

**C.24 MATERIAL, SUPPLIES AND EQUIPMENT**

C.24.1 All material, supplies and equipment offered and furnished must be new or certified as new, except as otherwise agreed to in writing by the DCLB.

**SECTION D  
PACKAGING AND MARKING**

**D.1 PACKAGING**

D.1.1 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**

Inspection of all goods and services provided by the Contractor under this contract shall be performed by the Contracting Officer's Technical Representative ("COTR") identified in Section G.2.

**E.2 INSPECTION OF SERVICES**

E.2.1 Definition. "Services" as used in this clause includes services performed, workmanship, and material furnished or utilized in the performance of services.

E.2.2 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.

E.2.3 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.

E.2.4 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.2.5 If any of the services do not materially 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.

E.2.6 If the Contractor fails to promptly perform the services again or take the necessary action to ensure future performance in conformity to contract requirements, to the reasonable satisfaction of the District, the District may (1) by contract or otherwise, perform the services and charge the Contractor any actual cost incurred by the District that is directly related to the performance of such services, or (2) terminate the contract for default.

**E.3 ACCEPTANCE**

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

#### **E.4 WARRANTY OF SERVICES**

**The time period for this warranty is the life of the contract plus all Active options and extensions.**

- E.4.1 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.
- E.4.2 If the Contractor is required to correct or re-perform, it shall be at no cost to the District, and any services corrected or re-performed 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 re-perform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the actual direct cost occasioned to the District thereby, or make an equitable adjustment in the contract price.
- E.4.3 If the District does not require correction or re-performance, the Contracting Officer shall make an equitable adjustment in the contract price.

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

**F.1 CONTRACT PERIOD**

F.1.1. The base paid period shall be one (1) year from the date of award.

F.1.2 Option to Extend the Term of the Contract

F.1.2.1 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 at least ninety (90) days before the contract expires. The preliminary written notice does not commit the District to an extension of this option. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the contract.

F.1.2.2 If the District exercises this option, the extended contract shall be considered to include this option provision.

F.1.2.3 The price for the option period shall be as specified in Section B of the contract.

**F.2 DELIVERABLES**

F.2.1 All deliverables shall be submitted in accordance with the Statement of Work in Section C of the contract.

F.2.2 Reports that are required are to be submitted to the District as a deliverable(s) shall be delivered in accordance with the Statement of Work contained in Section C. If the report(s) is not submitted as part of the deliverables, final payment to the Contractor shall not be paid.

F.2.3 The Contractor shall submit to the District, as a deliverable, the report described in section H.4.5 that is required by the 51% District Residents New Hires Requirements and First Source Employment Agreement. If the Contractor does not submit the report as part of the deliverables, final payment to the Contractor shall not be paid pursuant to section G.4.2.

**SECTION G**  
**CONTRACT ADMINISTRATION DATA**

**G.1 CONTRACT ADMINISTRATION**

G.1.1 Contracting Officer (CO)

Contracts will be entered into and signed on behalf of the District only by contracting officers. The contact information for the Contracting Officer is:

Joseph Giddis, Director or designee  
District of Columbia Office of the Chief Financial Officer  
1100 4th Street, SW, Suite E610  
Washington, DC 20024

G.1.2 The District will provide prompt written notice to the Contractor in connection with a change of the Contracting Officer.

**G.2 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER**

G.2.1 The CO is the only person authorized to approve changes in any of the requirements of this contract.

G.2.2 The Contractor shall not be required to comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the CO.

G.2.3 In the event the Contractor effects any change at the instruction or request of any person other than the CO, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

**G.3 CONTRACTING OFFICER TECHNICAL REPRESENTATIVE (COTR)**

G.3.1 The COTR is responsible for general administration of the contract and advising the CO 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:

G.3.1.1 Keeping the CO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CO of any potential problem areas under the contract;

G.3.1.2 Coordinating site entry for Contractor personnel, if applicable;

G.3.1.3 Reviewing invoices for completed work and recommending approval by the CO if the Contractor's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;

G.3.1.4 Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with the District's payment provisions; and

G.3.1.5 Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, equipment) and invoice or vouchers.

G.3.2 The address and telephone number of the COTR is:

John Gorman  
Strategic Development Specialist  
D.C. Lottery and Charitable Games Control Board  
2235 Shannon Place SE,  
Washington, DC 20020-5739  
[John.Gorman@dc.gov](mailto:John.Gorman@dc.gov)  
202-645-8968

G.3.2.1 The COTR shall NOT have the authority to:

1. Award, agree to, or sign any contract, delivery order or task order. Only the CO shall make contractual agreements, commitments or modifications;
2. Grant deviations from or waive any of the terms and conditions of the contract;
3. Increase the dollar limit of the contract or authorize work beyond the dollar limit of the contract,
4. Authorize the expenditure of funds by the Contractor;
5. Change the period of performance; or
6. Authorize the use of District property, except as specified under the contract.

G.3.3 The Contractor will be fully responsible for any changes not authorized in advance, in writing, by the CO; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

G.3.4 The District will provide prompt written notice to the Contractor in connection with a change of the COTR.

#### **G.4 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT**

- G.4.1 For contracts subject to the 51% District Residents New Hires Requirements and First Source Employment Agreement requirements, final request for payment must be accompanied by the report or a waiver of compliance discussed in section H.4.5.
- G.4.2 No final payment shall be made to the Contractor until the agency CFO has received the Contracting Officer's final determination or approval of waiver of the Contractor's compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement requirements.

#### **G.5 INVOICE PAYMENT**

- G.5.1 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.5.2 The District will pay the Contractor on or before the 30<sup>th</sup> day after receiving a proper invoice from the Contractor. The District reserves the right to conduct post payment reviews or audits.

#### **G.6 INVOICE SUBMITTAL**

- G.6.1 The Contractor may submit proper invoices on a weekly basis. Invoices shall be prepared and submitted to the Office of Financial Administration at the address below with concurrent copies to the COTR.

DC Lottery and Charitable Games Control Board  
Attn: Office of Financial Administration  
2235 Shannon Place SE, 5<sup>th</sup> Floor  
Washington, DC 20020-5739

- G.6.1.1 Invoices shall not contain charges for items not listed in the Section B, Price Schedule. 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.6.2 INVOICES**

- G.6.2.1 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 (*such as evidence of shipment*).

## **G.7 THE QUICK PAYMENT PROVISIONS**

### **G.7.1 INTEREST AND PENALTIES TO CONTRACTORS**

G.7.1.1 The District will pay interest penalties on amounts due to the Contractor under the Quick Payment Act, D.C. Official Code §2-221.01 *et seq.*, for the period beginning on the day after the required payment date and ending on the date on which payment of the amount is made. Interest shall be calculated at the rate of 1% per month. No interest penalty shall be paid if payment for the completed delivery of the item of property or service is made on or before the 15th day after the required payment date for any other item.

G.7.1.2 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.7.2 PAYMENTS TO SUBCONTRACTORS**

G.7.2.1 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 this contract:

- (1) Pay the subcontractor for the proportionate share of the total payment received from the District that is attributable to the subcontractor for work performed under the contract; or
- (2) 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.7.2.2 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% 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.7.2.3 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.7.2.4 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.7.3 Subcontract Requirements

G.7.3.1 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 required under paragraphs (1) and (2) of D.C. Official Code §2-221.02(d).

## **G.8 ASSIGNMENT OF CONTRACT PAYMENTS**

G. 8.1 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.8.2 Any assignment shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party.

G.8.3 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.9 COST REIMBURSEMENT CEILING (RESERVED)**

## **G.10 ORDERING CLAUSE**

**G.10.1** 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.10.2** 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.10.3** 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 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES**

H.1.1 For all new employment resulting from this contract or subcontracts hereto, as defined in Mayor's Order 83-265 and implementing instructions, the Contractor shall use its best efforts to comply with the following basic goal and objectives for utilization of bona fide residents of the District of Columbia in each project's labor force:

H.1.1.1 At least fifty-one percent (51%) of apprentices and trainees employed shall be residents of the District of Columbia registered in programs approved by the District of Columbia Apprenticeship Council.

H.1.2 The Contractor shall negotiate an Employment Agreement with the Department of Employment Services ("DOES") for jobs created as a result of this contract. The DOES shall be the Contractor's first source of referral for qualified apprentices and trainees in the implementation of employment goals contained in this clause.

**H.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS**

H.2.1 The Contractor shall be bound by the Wage Determination No. 2005-2103, Revision 12, dated June 13, 2012, issued by the U.S. Department of Labor in accordance with the Service Contract Act, 41 U.S.C. §351 *et seq.*, and incorporated herein as Section J.1. The Contractor shall be bound by the wage rates for the term of the contract subject to revision as stated herein and in accordance with Section 24 of the SCP. If an option is exercised, the Contractor shall be bound by the applicable wage rates at the time of the option. If the option is exercised and the CO obtains a revised wage determination, the revised wage determination is applicable for the option periods and the Contractor may be entitled to an equitable adjustment.

**H.3 FREEDOM OF INFORMATION ACT**

H.3.1 The District of Columbia Freedom of Information Act, at D.C. Official Code §2-532 (a-3), requires the District to make available for inspection and copying any record produced or collected pursuant to a District contract with a private contractor to perform a public function, to the same extent as if the record were maintained by the agency on whose behalf the contract is made. If the Contractor receives a request for such information, the Contractor shall immediately send the request to the Contacting Officer Technical Representative 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 Contacting Officer Technical Representative will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records to the Contacting Officer Technical Representative within the timeframe designated by the Contacting Officer Technical Representative. The FOIA Officer for the agency with programmatic

responsibility will determine the releasability of the records. The District will reimburse the Contractor for the costs of searching and copying the records in accordance with D.C. Official Code §2-532 and Chapter 4 of Title 1 of the *D.C. Municipal Regulations*.

#### **H.4 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT**

H.4.1 The Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code §2-219.01 *et seq.* (“First Source Act”).

H.4.2 The Contractor shall enter into and maintain, during the term of the contract, a First Source Employment Agreement, (Attachment J.3) in which the Contractor shall agree that:

(1) The first source for finding employees to fill all jobs created in order to perform this contract shall be the DOES; and

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

H.4.3 The Contractor shall submit to DOES, no later than the 10<sup>th</sup> of each month following execution of the contract, a First Source Agreement Contract Compliance Report (“contract compliance report”) to verify its compliance with the First Source Agreement for the preceding month. The contract compliance report for the contract shall include the:

(1) Number of employees needed;

(2) Number of current employees transferred;

(3) Number of new job openings created;

(4) Number of job openings listed with DOES;

(5) Total number of all District residents hired for the reporting period and the cumulative total number of District residents hired; and

(6) Total number of all employees hired for the reporting period and the cumulative total number of employees hired, including:

(a) Name;

(b) Social security number;

(c) Job title;

(d) Hire date;

- (e) Residence; and
- (f) Referral source for all new hires.

H.4.4 If the contract amount is equal to or greater than \$300,000, the Contractor agrees that 51% of the new employees hired for the contract shall be District residents.

H.4.5 With the submission of the Contractor's final request for payment from the District, the Contractor shall:

- (1) Document in a report to the Contracting Officer its compliance with section H.4.4 of this clause; or
- (2) Submit a request to the Contracting Officer for a waiver of compliance with section H.4.4 and include the following documentation:
  - (a) Material supporting a good faith effort to comply;
  - (b) Referrals provided by DOES and other referral sources;
  - (c) Advertisement of job openings listed with DOES and other referral sources; and
  - (d) Any documentation supporting the waiver request pursuant to section H.4.6.

H.4.6 The Contracting Officer may waive the provisions of section H.4.4 if the Contracting Officer finds that:

- (1) A good faith effort to comply is demonstrated by the Contractor;
- (2) The Contractor is located outside the Washington Standard Metropolitan Statistical Area and none of the contract work is performed inside the Washington Standard Metropolitan Statistical Area which includes the District of Columbia; the Virginia Cities of Alexandria, Falls Church, Manassas, Manassas Park, Fairfax, and Fredericksburg, the Virginia Counties of Fairfax, Arlington, Prince William, Loudoun, Stafford, Clarke, Warren, Fauquier, Culpeper, Spotsylvania, and King George; the Maryland Counties of Montgomery, Prince Georges, Charles, Frederick, and Calvert; and the West Virginia Counties of Berkeley and Jefferson.
- (3) The Contractor enters into a special workforce development training or placement arrangement with DOES; or
- (4) DOES certifies that there are insufficient numbers of District residents in the labor market possessing the skills required by the positions created as a result of the contract.

H.4.7 Upon receipt of the contractor's final payment request and related documentation pursuant to sections H.4.5 and H.4.6, the Contracting Officer shall determine whether the Contractor is in compliance with section H.5.4 or whether a waiver of compliance pursuant to section H.4.6 is justified. If the Contracting Officer determines that the Contractor is in compliance, or that a waiver of compliance is justified, the Contracting

Officer shall, within two business days of making the determination forward a copy of the determination to the agency Chief Financial Officer and the Contacting Officer Technical Representative.

H.4.8 Willful breach of the First Source Employment Agreement, or failure to submit the report pursuant to section H.4.5, or deliberate submission of falsified data, may be enforced by the Contracting Officer through imposition of penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract. The Contractor shall make payment to DOES. The Contractor may appeal to the D.C. Contract Appeals Board as provided in this contract any decision of the Contracting Officer pursuant to this section H.4.8.

H.4.9 The provisions of sections H.4.4 through H.4.8 do not apply to nonprofit organizations.

**H.5 SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended.**

H.5.1 During the performance of the contract, the Contractor and any of its subcontractors shall comply with Section 504 of the Rehabilitation Act of 1973, as amended. This Act prohibits discrimination against disabled people in federally funded programs and activities. See 29 U.S.C. § 794 *et seq.*

**H.6 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)**

H.6.1 During the performance of this contract, the Contractor and any of its subcontractors shall comply with the ADA. The ADA makes it unlawful to discriminate in employment against a qualified individual with a disability. See 42 U.S.C. §12101 *et seq.*

**H.7 WAY TO WORK AMENDMENT ACT OF 2006**

H.7.1 Except as described in H.7.8 below, the Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, effective June 8, 2006 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“Living Wage Act of 2006”), for contracts for services in the amount of \$100,000 or more in a 12-month period.

H.7.2 The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the current living wage published on the Department of Employment Services (DOES) website at [www.does.dc.gov](http://www.does.dc.gov).

H.7.3 The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to pay its employees who perform services under the contract no less than the current living wage rate.

H.7.4 The DOES may adjust the living wage annually and will publish the current living wage rate on its website.

- H.7.5 The Contractor shall provide a copy of the Living Wage Fact Sheet published on the DOES website to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Living Wage Poster published on the DOES website in a conspicuous place in its place of business. The Contractor shall include in any subcontract for \$15,000 or more a provision requiring the subcontractor to post the Living Wage Post in a conspicuous place in its place of business.
- H.7.6 The Contractor shall maintain its payroll records under the contract in the regular course of business for a period of at least three (3) years from the payroll date, and shall include this requirement in its subcontracts for \$15,000 or more under the contract.
- H.7.7 The payment of wages required under the Living Wage Act of 2006 shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*
- H.7.8 The requirements of the Living Wage Act of 2006 do not apply to:
- (1) Contracts or other agreements that are subject to higher wage level determinations required by federal law;
  - (2) Existing and future collective bargaining agreements, provided, that the future collective bargaining agreement results in the employee being paid no less than the established living wage;
  - (3) Contracts for electricity, telephone, water, sewer or other services provided by a regulated utility;
  - (4) Contracts for services needed immediately to prevent or respond to a disaster or eminent threat to public health or safety declared by the Mayor;
  - (5) Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
  - (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;
  - (7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;
  - (8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));

- (9) Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and
- (10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

H.7.9 The Mayor may exempt a contractor from the requirements of the Living Wage Act of 2006, subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006.

## **H.8 SUBCONTRACTING REQUIREMENTS (RESERVED)**

### **H.9 CONTRACTOR SITE VISITS/INSPECTION**

The District, specifically the staff of the DCLB, shall have the free and unrestricted right, acting by itself or through its authorized representatives and subject to the Contractor's safety and security procedures, to enter the premises of the Contractor or any subcontractor, and to enter any other sites involved in operation or support of the DCLB, at all times to examine the system and to inspect and copy the records of the Contractor pertaining to the operation thereof. The Contractor agrees that it and its subcontractors shall implement all reasonable quality control and security procedures requested by the District or representatives as designated by the DCLB.

### **H.10 INTELLECTUAL PROPERTY RIGHTS: TITLE TO, USE OF, AND INDEMNIFICATION**

H.10.1 The Contractor shall defend, indemnify and hold harmless the DCLB, its directors, officers, officials, agents, employees, sales agents, and the District of Columbia, including any of the foregoing sued as individuals (collectively, the "Indemnified Parties"), from and against all proceedings, suits, actions, claims, damages, injuries, awards, judgments, losses or expenses, including attorneys' fees, arising out of or relating, directly or indirectly, to any claims that any or all of the products or services the Contractor provides under the Contract violate or infringe, in whole or in part, the Intellectual Property Rights of a third party. The Contractor's obligations under this section shall not be limited in any way by any limitation on the amount, type or availability of its insurance. The Contractor shall pay any and all attorneys' fees and costs incurred by the Indemnified Parties in enforcing any of the Contractor's obligations under this section, all of which obligations shall survive the termination or expiration of the Contract. The Contractor's obligation to indemnify and hold the Indemnified Parties harmless, as set forth above, shall not apply to the extent any such claims are caused by Contractor's compliance with the DCLB's designs or specifications. Further, the foregoing obligations of indemnification shall not apply to the extent any claim of

infringement is caused by or due to any unauthorized use of such third party Intellectual Property Rights by or on behalf of the DCLB, use of such third party Intellectual Property Rights by or on behalf of the DCLB in combination with any intellectual property not provided by the Contractor or any of its Subcontractors, or modification of any such third party Intellectual Property Rights by or on behalf of DCLB by any person other than the Contractor or any of its Subcontractors.

#### **H.11 INTELLECTUAL PROPERTY SEARCH**

H.11.1 All Intellectual Property Rights associated with any product or service provided or developed by the Contractor under the Contract are and will remain the property of the Contractor. Nonetheless, the Contractor agrees to grant the DCLB a non-exclusive, non-transferable license to use any such intellectual Property Rights, through the life of the Contract and thereafter for as long as any tickets produced under the Contract remain in commerce, with respect to the DCLB's business activity.

#### **H.12 NO PURCHASE OF DC LOTTERY TICKETS**

H.12.1 Contractor's personnel (including, but not limited to, partners, temporary employees, subcontractors and consultants) who are performing services directly under or related to the awarded 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 I**

### **CONTRACT CLAUSES**

#### **I.1 LAWS AND REGULATIONS INCORPORATED BY REFERENCE**

I.1.1 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.

#### **I.2 WAIVER**

I.2.1 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) to the extent resulting from, arising out of the 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, specifically excluding loss profits or revenue to the District. 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**

- I.4.1 No contract or any interest therein shall be transferred by the parties to whom the award is made unless approved in writing by the Contracting Officer. Any transfer made without the Contracting Officer's written approval will be null and void and will be cause to annul the contract.

#### **I.5 TAXES**

- I.5.1 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.

- I.5.2 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:

I.5.2.1 "The District of Columbia Government is Exempt from Federal Excise Tax – Registration No. 52-73-0206-K, Internal Revenue Service, Baltimore, Maryland."

I.5.2.2 "The District of Columbia Government is Exempt from Maryland Sales Tax, Registered With The Comptroller Of The Treasury as Follows:

- a) Deliveries to Glenn Dale Hospital – Exemption No. 4647
- b) Deliveries to Children's Center – Exemption No. 4648
- c) Deliveries to other District Departments or Agencies – Exemption No. 09339"

I.5.2.3 "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 DISTRICT EMPLOYEES 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**

- I.7.1 All disputes arising under or relating to this contract shall be resolved as provided herein.
- I.7.2 Claims by a Contractor against the District
- Claim, as used in paragraph I.7.2 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.
- I.7.2.1 All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the Contracting Officer for a decision. The Contractor's claim shall contain at least the following:
- I.7.2.1.1 A description of the claim and the amount in dispute;
- I.7.2.1.2 Data or other information in support of the claim;
- I.7.2.1.3 A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and
- I.7.2.1.4 The Contractor's request for relief or other action by the Contracting Officer.

- I.7.2.2 The Contracting Officer may meet with the Contractor in a further attempt to resolve the claim by agreement.
- I.7.2.3 The Contracting Officer shall issue a decision on any claim within 120 calendar days after receipt of the claim. Whenever possible, the CO shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.
- I.7.2.4 The Contracting Officer's written decision shall do the following:
  - I.7.2.4.1 Provide a description of the claim or dispute;
  - I.7.2.4.2 Refer to the pertinent contract terms;
  - I.7.2.4.3 State the factual areas of agreement and disagreement.
  - I.7.2.4.4 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;
  - I.7.2.4.5 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;
  - I.7.2.4.6 Indicate that the written document is the Contracting Officer's final decision; and
  - I.7.2.4.7 Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
- I.7.2.5 Failure by the Contracting Officer to issue a decision on a contract claim within 120 days of receipt of the claim will be deemed to be a denial of the claim, and will authorize the commencement of an appeal to the Contract Appeals Board as provided by D.C. Official Code § 2-360.04.
  - I.7.2.5.1 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.
  - I.7.2.5.2 Liability under Paragraph I.7.2.5.1 shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.
- I.7.2.6 Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

- I.7.3 Claims by the District against a Contractor
  - I.7.3.1 Claim as used in paragraph I.7.3 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.
  - I.7.3.2 The Contracting Officer shall decide all claims by the District against a contractor arising under or relating to a contract.
    - I.7.3.2.1 The Contracting Officer shall send written notice of the claim to the Contractor. The Contracting Officer's written decision shall do the following:
      - I.7.3.2.1.1 Provide a description of the claim or dispute;
      - I.7.3.2.1.2 Refer to the pertinent contract terms;
      - I.7.3.2.1.3 State the factual areas of agreement and disagreement;
      - I.7.3.2.1.4 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;
      - I.7.3.2.1.5 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;
      - I.7.3.2.1.6 Indicate that the written document is the Contracting Officer's final decision; and
      - I.7.3.2.1.7 Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
  - I.7.3.3 The Contracting Officer shall support the decision by reasons and shall inform the Contractor of its rights as provided herein.
  - I.7.3.4 Before or after issuing the decision, the Contracting Officer may meet with the Contractor to attempt to resolve the claim by agreement
  - I.7.3.5 The authority contained in this clause I.7.3 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.
  - I.7.3.6 This clause shall not authorize the Contracting Officer to settle, compromise, pay, or otherwise adjust any claim involving fraud.

I.7.4 Decisions of the Contracting Officer shall be final and not subject to review unless the Contractor timely commences an administrative appeal for review of the decision, by filing a complaint with the Contract Appeals Board, as authorized by D.C. Official Code § 2-360.04.

I.7.5 Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the Contracting Officer.

## **I.8 CHANGES**

I.8.1 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 dispute shall be determined as provided in clause **I.7 'Disputes'**. Nothing in this clause I.8 shall excuse the Contractor from proceeding with the contract as changed. Any changes to the Contract that materially and adversely affect the liabilities, rights or obligations of the Contractor shall require the Contractor's written consent.

## **I.9 DEFAULT**

I.9.1. The District may, subject to the provisions of paragraph I.9.3 of this clause, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:

- (1) 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
- (2) 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.

I.9.2 In the event the District terminates this contract in whole or part as provided in I.9.1 of this clause, 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.

- I.9.3 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.
- I.9.4 If this contract is terminated as provided in paragraph I.9.1 of this clause, 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 completed supplies as the Contractor has specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Contractor, shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the District has an interest. Payment for completed supplies delivered to and accepted by the District shall be at the contract price. The District may withhold form amounts otherwise due the Contractor for such completed supplies such sums as the Contracting Officer determines to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders.
- I.9.5 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. See clause **I.10 “Termination for Convenience of the District.”**
- I.9.6 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.
- I.9.7 As used in paragraph I.9.3 of this clause, the terms “subcontractor” and “subcontractors” means subcontractor(s) at any tier.

## **I.10 TERMINATION FOR CONVENIENCE OF THE DISTRICT**

I.10.1 The District may, at any time, with at least thirty (30) days prior notice 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.

I.10.2 After receipt of a "Notice of Termination", and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

- (1) Stop work as specified in the notice;
- (2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract;
- (3) Terminate all contracts to the extent they relate to the work terminated;
- (4) Assign to the District, as directed by the Contracting Officer, all rights, title and interest of the Contractor under the subcontracts terminated, in which case the District shall have the right to settle or pay any termination settlement proposal arising out of those terminations;
- (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause;
- (6) As directed by the Contracting Officer, transfer title and deliver to the District: (i) the fabricated and unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated; and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the District;
- (7) Complete performance of the work not terminated; and
- (8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the District has or may have acquired an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in the subparagraph (6) 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.

I.10.3 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.

I.10.4 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. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the biases of termination and shall pay the amount determined.

I.10.5 Subject to paragraph I.10.4 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 I.10.5, or paragraph I.10.6 below, exclusive of costs shown in subparagraph I.10.6.3 below, may not exceed the total contract price as reduced by: (1) the amount of payments previously made, and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph I.10.6 below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph I.10.5.

I.10.6 If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination work, the Contracting Officer shall pay the Contractor the amount determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph I.10.5 above:

I.10.6.1 The contract price for completed supplies or services accepted by the District (or sold or acquired under paragraph I.10.2 (9) above) not previously paid for, adjusted for any saving of freight and other charges.

I.10.6.2 The total of:

- (i) The costs incurred in the performance of the work terminated, including initial costs an preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under paragraph I.10.6.1 above;
- (ii) The cost of settling an paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in paragraph I.10.6.1 above;
- (iii) A sum, as profit on paragraph I.10.6.1 above, determined by the Contracting Officer to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subparagraph (3) and shall reduce the settlement to reflect the indicated rate of loss.

I.10.6.3 The reasonable cost of settlement of the work terminated, including:

- (1) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
- (2) The termination and settlement of subcontractors (excluding the amounts of such settlements); and
- (3) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection or disposition of the termination inventory.

I.10.7 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 I.10.6 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.

I.10.8 The Contractor shall have the right of appeal, under the clause I.7 Disputes, from any determination made by the Contracting Officer under paragraph I.10.4, I.10.6 above, or I.10.10, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph I.10.4 or I.10.10, 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 I.10.4, I. 10.6) above, or I.10.10 below, the District will pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.

I.10.9 In arriving at the amount due the Contractor under this clause, there shall be deducted:

- (1) All unliquidated advances or other payments to the Contractor under the termination portion of the contract;
- (2) Any claim which the District has against the Contractor under this contract; and
- (3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provision of this clause and not recovered by or credited to the District.

I.10.10 If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within ninety (90) days from the effective date of termination unless extended in writing by the Contracting Officer.

I.10.11 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.

I.10.12 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**

I.11.1 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:

I.11.1.1 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; or

- I.11.1.2 There has been any breach or violation of:
- (1) Any provision of the Procurement Practices Act of 1985, as amended, or
  - (2) The contract provision against contingent fees.
- I.11.2 If a contract is terminated pursuant to this section, the Contractor:
- (1) May be paid only the actual costs of the work performed to the date of termination, plus termination costs, if any; and
  - (2) Shall refund all profits or fixed fees realized under the contract.
- I.11.3 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 RETENSION AND EXAMINATION OF RECORDS**

- 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.
- I.12.2 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.
- I.12.3 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, subject to Contractor's standard security procedures and protocols.
- I.12.4 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**

- I.13.1 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.

I.13.2 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:

I.13.2.1 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.

I.13.2.2 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:

1. employment, upgrading or transfer;
2. recruitment or recruitment advertising;
3. demotion, layoff, or termination;
4. rates of pay, or other forms of compensation; and
5. selection for training and apprenticeship.

I.13.2.3 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 I.13.2.1 and I.13.2.2 concerning non-discrimination and affirmative action.

I.13.2.4 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 I.13.2.2.

- I.13.2.5 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.
- I.13.2.6 Subject to Contractor's standard security procedures and protocols, 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.
- I.13.2.7 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.
- I.13.2.8 The Contractor shall include in every subcontract the equal opportunity clauses, subsections I.13.2.1 through I.13.2.9 of this section, so that such provisions shall be binding upon each subcontractor or vendor.
- I.13.2.9 The Contractor shall take such action with respect to any subcontract as the Contracting Officer may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or Contractor as a result of such direction by the Contracting Officer, the Contractor may request the District to enter into such litigation to protect the interest of the District.

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

- I.14.1 Definitions: "Act", as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. 351- 358).
- 1) "Contractor" as used in this clause, means the prime Contractor or any subcontractor at any tier.
  - 2) "Service employee" as used in this clause, means any person (other than a person employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR 541) engaged in performing a Government contract nor exempted under 41 U.S.C. 356, the principal purpose of which is to furnish services in the United States as defined in section 22.1001 of the Federal Acquisition Regulation. It includes all such persons regardless of the actual or alleged contractual relationship between them and a contractor.

I.14.2      Applicability

I.14.2.1    To the extent that the Act applies, this contract is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor (29CFR 4). All interpretations of the Act in Subpart C of 29 CFR 4 are incorporated in this contract by reference. This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by 41 U.S.C. 356, as interpreted in Subpart C, 29 CFR 4.

I.14.3      Compensation

I.14.3.1    Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or the Secretary authorized representative, as specified in any wage determination attached to this contract.

I.14.3.2    If a wage determination is attached to this contract, the Contractor shall classify any class of service employees not listed in it, but to be employed under this contract (i.e., the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classification and the classification listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph. This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee.

I.14.4      Minimum Wage

I.14.4.1    In the absence of a minimum wage attachment for this contract, the Contractor shall not pay any service or other employees performing this contract less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206). Nothing in this clause shall relieve the Contractor of any other legal or contractual obligations to pay a higher wage to any employee.

I.14.5.      Successor Contracts

I.14.5.1    If this contract succeeds a contract subject to the Act under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then, in the absence of a minimum wage attachment to this contract, the Contractor may not pay any service employee performing this contract less than the wages and benefits, including those accrued and any prospective increases, provided for under that agreement. No Contractor may be relieved of this obligation unless the limitations

of 29 CFR 4.1c(b) apply or unless the Secretary of Labor or the Secretary's authorized representative:

- (1) Determines that the agreement under the predecessor was not the result of arms-length negotiations; or
- (2) Finds, after a hearing under 29 CFR 4.10, that the wages and benefits provided for by that agreement vary substantially from those prevailing for similar services in the locality or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and 4.11 and parts 6 and 8 that some or all of the wages and fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

#### I.14.6 Notification to Employees

- I.14.6.1 The Contractor shall notify each service employee commencing work on this contract of the minimum wage and any fringe benefits required to be paid, or shall post a notice of these wages and benefits in a prominent and accessible place at the work site, using such poster as may be provided by the Department of Labor.

#### I.14.7 Safe and sanitary working condition

- I.14.7.1 The Contractor shall not permit services called for by this contract to be performed in building or surroundings or under working conditions provided by or under the control or supervision of the Contractor that are unsanitary, hazardous, or dangerous to the health or safety of service employees. The Contractor shall comply with the health standards applied under 29 CFR Part 1925.

#### I.14.8 Records

- I.14.8.1 The Contractor, subject to Contractor's standard security procedures and protocols, shall maintain for three (3) years from the completion of the work, and make available for inspection and transcription by authorized ESA representatives, a record of the following:

- (1) For each employee subject to the Act –
  - (a) Name and address;
  - (b) Work classification or classifications, rate or rates of wages and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;
  - (c) Daily and weekly hours worked; and
  - (d) Any deductions, rebates, or refunds from total daily and weekly compensation.
- (2) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by ESA under the terms of paragraph this clause. A copy of the report required by paragraph I.14.11 of this clause will fulfill this requirement.

#### I.14.9 Withholding of Payments and Termination of **Contract**

I.14.9.1 The Contracting Officer shall withhold from the prime Contractor under this or any other District contract with the prime contractor any sums the Contracting Officer, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination for default. In such event, the District may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

#### I.14.10 Subcontracts

I.14.10.1 The contractor agrees to insert this clause in all subcontracts.

#### I.14.11 Contractor's Report

I.14.11.1 If there is a wage determination attachment to this contract and any classes of service employees not listed on it are to be employed under the contract, the Contractor shall report promptly to the Contracting Officer the wages to be paid and the fringe benefits to be provided each of these classes, when determined under paragraph I.14.3 of this clause.

I.14.11.2 If wages to be paid or fringe benefits to be furnished any service employee(s) under the contract are covered in collective bargaining agreement effective at any time when the contract is being performed, the prime Contractor shall provide to the Contracting Officer a copy of the agreement and full information on the application and accrual of wages and benefits (including any prospective increases) to service

employees working on the contract. The prime Contractor shall report when contract performance begins, in the case of agreements then in effect, and shall report subsequently effective agreements, provisions, or amendments promptly after they are negotiated.

I.14.12 Contractor's Certification

By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded District contracts by virtue of the sanctions imposed under section 5 of the Act. No part of this contract shall be subcontracted to any person or firm ineligible for award of a District contract under section 5 of the Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. §1001.

I.14.13 Variations, tolerances, and exemptions involving employment

I.14.13.1 Notwithstanding any of the provisions in I.14.3 through I.14.11 of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions authorized by the Secretary of Labor:

I.14.13.1.1 In accordance with regulations issued under Section 14, of the Fair Labor Standards Act of 1938 by the Administrator of the Wage and Hour Division, ESA(29 CFR 520, 521, 524 and 525), apprentices, student learners, and workers whose earning capacity is impaired by age or by physical or mental deficiency or injury, may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act, without diminishing any fringe benefits or payments in lieu of these benefits required under section 2(a)(2) of the Act.

I.14.13.1.2 The Administrator will issue certificates under the Act for employing apprentices, and student learners, disabled persons, or disabled clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of minimum wages, but without changing requirements concerning fringe benefits for supplementary cash payments in lieu of these benefits.

I.14.13.1.3 The Administrator may also withdraw, annul, or cancel such certificates under 29 CFR 525 and 528.

I.14.13.1.4 An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips credited by the employer against the minimum wage required by section 2(a)(1) of the Act or section 2(b)(1) of the Act, in accordance with regulations in 29 CFR 531. However, the amount of credit shall not exceed 40 percent of the minimum rate specified in section 6(a) (1) of the Fair Labor Standards Act of 1938, as amended.

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

I.15.1 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**

I.16.1 The Contractor shall maintain as confidential, and shall not disclose to third parties without the District's prior written consent, any confidential 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.

I.16.2 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.

I.16.3 No non-public 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.

I.16.4 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 RESPONSIBILITY FOR SUPPLIES TENDERED**

I.18.1 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.19 APPROPRIATION OF FUNDS**

I.19.1 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.20 MULTIYEAR CONTRACT**

I.20.1 A multiyear contract shall not be binding or give rise to any claim or demand against the District until approved by the Council of the District of Columbia and signed by the Contracting Officer.

I.20.2 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.21 EXPIRATION OR CANCELLATION**

I.21.1 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.22 RESERVED**

## **I.23 BONDS AND INSURANCE**

All required bonds and insurance shall be issued by companies or financial institutions which are financially rated A or better as rated by A.M. Best Company and duly licensed, admitted, and authorized to do business in the District of Columbia. The District shall be named as the Obligee in each required bond and as an Additional Insured in each required insurance contract. Except as otherwise expressly provided herein, required coverage shall remain in effect throughout the term of the Contract and provide adequate coverage for incidents discovered after termination of the contract. The Contractor shall submit certificates of insurance to the District specifically the DCLB no later than January 1 of each year, except for the first year of the Contract in which the copies of the

required certificates of insurance shall be submitted within fifteen (15) days after contract execution, or as otherwise provided herein. Contractor shall submit required bonds when and as provided in herein.

## **I.24 PERFORMANCE BOND**

- I.24.1 The Contractor shall, provide a performance bond in the amount of one million dollars (\$1,000,000). The bond shall be maintained in full force and effect for the initial term and any and all renewal terms of the Contract. The bond may be renewable on an annual basis provided that the Contractor provides the District with a renewed bond that is immediately effective upon expiration of the prior bond. Such renewed bond shall be provided to the District prior to the expiration of the previous bond. The bond shall be forfeited to the District if the Contractor fails to perform as required by the Contract. Neither non-renewal by the surety, nor failure or inability of the Principal to file a replacement bond in the event the surety exercises its right to not renew this Bond, shall itself constitute a loss to the Obligee recoverable under this bond or any extension. If the Contractor defaults in the performance of its contractual obligations or if the DCLB incurs damages due to the Contractor's breach of its duties, the surety shall have the option to cure the default or tender funds sufficient to pay the cost of completion, up to an amount not to exceed the penal sum of the bond. With the concurrence of the District, the surety may assume the remainder of the contract to perform or sublet.
- I.24.2 The Contractor shall provide evidence of all required coverage under the performance bond within fourteen (14) days of contract award to the Contracting Officer.
- I.24.3 The District will accept a Letter of Credit as an alternative form of security for the performance bond.

## **I.25 PROPRIETARY REQUIREMENTS**

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

## **I.26 INSURANCE**

- I.26.1 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.
- I.26.1.1 Bodily Injury: The Contractor shall carry bodily injury insurance coverage written in the comprehensive form of policy of at least five hundred thousand dollars (\$500,000) per occurrence.
- I.26.1.2 Property Damage: The Contractor shall carry property damage insurance of at least one hundred thousand dollars (\$100,000) per occurrence.

- I.26.1.3 Workers' Compensation: The Contractor shall carry workers' compensation insurance covering all of its employees employed upon the premises and in connection with its other operations pertaining to the contract, and the Contractor agrees to comply at all times with the provisions of the workers' compensation laws of the District.
- I.26.1.4 Employer's Liability: The Contractor shall carry employer's liability coverage of at least one hundred thousand dollars (\$100,000).
- I.26.1.5 Automobile Liability: The contractor shall maintain automobile liability insurance written on the comprehensive form of policy. The policy shall provide for bodily injury and property damage liability covering the operation of all automobiles used in connection with performing the contract. Policies shall provide coverage of at least two hundred thousand dollars (\$200,000) per person and five hundred thousand dollars (\$500,000) per occurrence for bodily injury and twenty thousand dollars (\$20,000) per occurrence for property damage.
- I.26.1.6 The Contractor shall maintain in full force and effect during the term of the contract professional liability insurance in an aggregate amount not less than five million dollars (\$5,000,000).
- I.26.1.7 If the professional liability insurance policy that the Contractor has is a "Claims Made" policy, the Contractor must also obtain a tail coverage policy for a seven (7) year period. The Contractor shall obtain tail coverage to a Claims Made policy if the policy is cancelled or non-renewed.
- I.26.1.8 The Contractor shall maintain professional liability errors and omissions insurance of not less than one million dollars (\$1,000,000), to be in force and effect during the term of the Contract including any extension thereof and one year thereafter. Coverage shall indemnify the District for direct loss due to computer error, machine error, system down time, hardware or software problems or errors, and any error or omission caused by the Contractor, its officers, employees, Sales Agents, or subcontractors of the Contractor regardless of whether negligence is determined to exist. The Contractor shall provide the District with proof of such coverage no later than October 1st of each year the Contract is in effect.
- I.26.1.9 The Contractor shall maintain crime insurance with a limit of not less than five hundred thousand dollars (\$500,000) protecting the District against losses, including lost income, lost profits, extra expenses and other consequential losses suffered by the DCLB, resulting from loss of property (including money, securities and District tickets) by robbery, burglary, or theft, or the loss of money, securities or District tickets because of destruction or disappearance. The Contractor shall provide the District with proof of such coverage no later than October 1st of each year the Contract is in effect.

- I.26.1.10 All insurance provided by the Contractor as required by this provision, except comprehensive automobile liability insurance, shall set forth the District as an additional insured. All insurance shall be written with responsible companies licensed by the District of Columbia's Department of Insurance and Securities Regulation with a certificate of insurance to be delivered to the CO with a copy to the COTR within fourteen (14) days of contract award. The Contractor shall provide at least thirty (30) days written notice to the District prior to the termination or material alteration of any required insurance policy.

## **I.27 COVENANT AGAINST CONTINGENT FEES**

- I.27.1 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.28 HEALTH AND SAFETY STANDARDS**

- I.28.1 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 proposal submission.

## **I.29 PUBLICITY**

- I.29.1 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

## **I.30 CONTRACTS THAT CROSS FISCAL YEARS**

- I.30.1 Continuation of this contract beyond the current fiscal year is contingent upon future fiscal appropriations.

## **I.31 CONFIDENTIALITY OF INFORMATION**

- I.31.1 The Contractor shall keep all information relating to any employee or customer of the District in absolute confidence and shall not use the information in connection with any other matters; nor shall it disclose any such information to any other person, firm or

corporation, in accordance with the District and federal laws governing the confidentiality of records.

**I.32 TIME**

I.32.1 Time, if stated in a number of days, will include Saturdays, Sundays, and holidays, unless otherwise stated herein.

**I.33 QUALITY**

I.33.1 Contractor's workmanship shall be of the highest grade, and all materials provided under this contract shall be new, of the best quality and grade, and suitable in every respect for the purpose intended.

**I.34 OTHER CONTRACTORS**

I.34.1 The Contractor shall not commit or permit any act that will interfere with the performance of work by another District contractor or by any District employee.

**I.35 SUBCONTRACTS**

I.35.1 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. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District will have the right to review and approve prior to its execution by the Contractor. Any subcontract shall specify that the subcontractor shall be subject to each applicable provision of this contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder.

**I.36 RESERVED**

**I.37 AUDITS AND RECORDS**

I.37.1 Office of the Inspector General

I.37.1.1 The Office of the Inspector General, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract there under.

I.37.1.2 This paragraph may not be construed to require the Contractor or any subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

I.37.2 Reports

I.37.2.1 If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer and the Contracting Officer Technical Representative shall have the right, , subject to Contractor's standard security procedures and protocols, to examine and audit the supporting records and materials, for the purpose of evaluating:

(1) The effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports; and

(2) The data reported.

I.37.3 Availability

I.37.3.1 The Contractor shall make available at its office at all reasonable times, subject to Contractor's standard security procedures and protocols, the records, materials, and other evidence described in clauses I.40.1 through I.40.5, for examination, audit, or reproduction, until three (3) years after final payment under the contract or for any shorter period specified in this Solicitation, or for any longer period required by statute or by other clauses of the contract. In addition:

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until three (3) years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

**I.38 FORCE MAJEURE**

I.38.1 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.39 CONTINUITY OF SERVICES**

I.39.1 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 commercially reasonable efforts and cooperation to effect and orderly and efficient transition to a successor.

#### **I.40 DISCLOSURE OF LITIGATION**

I.40.1 Within fifteen (15) days of its occurrence, 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. 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.

#### **I.41 GOVERNING LAW**

I.41.1 This contract, and any disputes arising out of or related to this contract, shall be governed by, and construed in accordance with, the laws of the District of Columbia.

#### **I.42 RESERVED**

#### **I.43 CONTRACTS IN EXCESS OF ONE MILLION DOLLARS**

I.43.1 Any contract in excess of \$1,000,000.00 shall not be binding or give rise to any claim or demand against the District until approved by the Council of the District of Columbia and signed by the Contracting Officer.

#### **I.44 PRE-AWARD APPROVAL**

I.44.1 In accordance with D.C. Official Code §2-352.02 and §1-204.51(c), the Council of the District of Columbia must approve an award of any contract that has term extending beyond twelve (12) months.

#### **I.45 STAFFING**

I.45.1 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.

#### **I.46 WARRANTIES**

- I.46.1 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.
- I.46.2 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.
- I.46.3 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.
- I.46.4 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.
- I.46.5 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.
- I.46.6 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.
- I.46.7 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.
- I.46.8 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.

I.46.9 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.

I.46.10 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.

#### **I.47 ORDER OF PRECEDENCE**

I.47.1 A conflict in language shall be resolved by giving precedence to the document in the highest order of priority that contains language addressing the issue in question. The following documents are incorporated into the contract by reference and made a part of the contract in the following order of precedence:

- (1) An applicable Court Order, if any
- (2) Contract document
- (3) Contract attachments

**SECTION J  
ATTACHMENTS**

<b>Attachment Number</b>	<b>Document</b>
<b>J.1</b>	U.S. Department of Labor Wage Determination No. 2005-2103, Revision 14, Dated July 25, 2014
<b>J.2</b>	Doing Business with Integrity
<b>J.3</b>	Bidder/Offeror Certifications