

**ISSUED BY:** Office of Chief Resource Strategy, Contracts and Acquisitions (C&A) Division  
**ADDRESS:** 1200 First Street, N.E. 9<sup>th</sup> Floor, Washington, DC 20002



**CONTRACT NO:** GAGA-2023-C-0079                                  **SOLICITATION NO:** N/A  
**PROGRAM OFFICE:** District of Columbia Public Schools (DCPS), Office of Teaching and Learning (OTL), Language Acquisition Division  
**CAPTION:** Data Management Software for English Language Learners

**TABLE OF CONTENTS**

(v)	SEC.	DESCRIPTION	PAGE(S)	(v)	SEC.	DESCRIPTION	PAGE(S)
<b>PART 1 – The Schedule</b>				<b>PART II – Contract Clauses</b>			
✓	A	Solicitation/Contract Form	1	✓	I	Contract Clauses	20 – 28
✓	B	Supplies/Services and Price/Costs	2 – 3	<b>PART III – List of Documents, Exhibits and Other Attach</b>			
✓	C	Description/Specs/Work Statement	3-6	✓	J	List of Attachments	28
✓	D	Packaging and Marking	6	<b>PART IV – Representations and Instructions</b>			
✓	E	Inspection and Acceptance	6		K	Representations, Certifications and other Statements of Offerors	N/A
✓	F	Deliveries or Performance	6-7		L	Instrs. Conds., & Notices to Offerors	N/A
✓	G	Contract Administration	7-12		M	Evaluation Factors for Award	N/A
✓	H	Special Contract Requirements	12-20				

The undersigned offers and agrees that, with respect to all terms and conditions, as negotiated between the offeror and DCPS, and contained herein, and the provisions of the solicitation, constitutes the Formal Contract.

**ACCOUNTING AND APPROPRIATION DATA:**

<p><b>CONTRACTOR:</b> (Contractor shall not commence performance until the District of Columbia Public Schools has signed this document)</p> <p><u>Curriculum Associates, LLC.</u> Contractor's Name</p> <p>BY: <u></u> Signature of Authorized Representative</p> <p><u>Jordan Meranus CEO of Ellevation Business Unit</u> Title</p> <p><u>December 22, 2022</u> Date</p> <p><u>153 Rangeway Road</u> <u>North Billerica, MA 01862</u> Mailing Address of Contractor</p> <p><u>671-307-5755</u> Telephone No.                                  Facsimile No.</p>	<p><b>ACCEPTANCE BY THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS:</b></p> <p><u></u> Contracting Officer</p> <p><u>LaVeta Hilton</u>                                  <u>1/05/2023</u> Type or Print Name                                  Date</p> <hr/> <p>The information contained in the box below is for District of Columbia Public School use only and, in the event of a discrepancy between this information and the terms of the contract, the contract terms shall take precedence.</p> <hr/> <p><b>PERIOD OF CONTRACT:</b></p> <p><b>October 1, 2022 thru September 30, 2023</b></p> <p><b>Notice to Proceed Letter issued 10/1/22 will merge with this contract.</b></p> <p><b>CONTRACT AMOUNT: \$106,000.00</b></p>
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## SECTION B: CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE/COSTS

### B.1. INTRODUCTION

The District of Columbia Public Schools, Office of Teaching and Learning, Language Acquisition Division has a need for a “Contractor” (Curriculum Associates LLC) to provide a comprehensive software solution specifically designed for ELL educators and classroom teachers. Together, the components of the total Ellevation Solution provide educators within District of Columbia Public Schools the ability to provide supplemental personalized instruction enabling collaborative and targeted support to ELLs.

The Contractor’s proposed software (Ellevation All Access Platform} aggregates all information and data about ELLs in one place and offers a set of critical tools to help DCPS educators analyze data, support targeted EL groups, and improve collaboration internally and with key District stakeholders.

#### B.1.1 The District contemplates an award of a Firm Fixed Price Contract, in accordance with 27 DCMR Chapter 27

### B.2 PRICE/COSTS

B.2.1 The Contractor shall provide the required goods and or services at the price set forth in the Contractor’s proposal submitted 10/01/22 incorporated as attachment J.5.

### B.3 PRICE SCHEDULE – FIRM FIXED PRICE

#### B.3.1 BASE YEAR: (10/1/2022 thru September 30, 2023)

Contract Line Item No. (CLIN)	Item Description	Unit (estimated number)	Unit Cost	Total Price
CLIN #001	Ellevation Platform	8000	\$13.25	\$ 106,000.00
<b>Grand Total for B.3.1</b>				\$106,000.00

B.4 For contracts in excess of \$250,000, at least 35% of the dollar volume of the contract shall be subcontracted in accordance with section H.9.1.

**B.5 REQUIREMENTS CONTRACT**

The District will purchase its requirements of the articles or services included herein from the Contractor. The estimated quantities stated herein reflect the best estimates available. The estimate shall not be construed as a representation that the estimated quantity will be required or ordered, or that conditions affecting requirements will be stable. The estimated quantities shall not be construed to limit the quantities which may be ordered from the Contractor by the District or to relieve the Contractor of its obligation to fill all such orders. Any additional orders will be purchased at Contractor's then-current prices on subsequent Purchase Orders.

- a) Delivery shall be made only as authorized in accordance with the Purchase Order. The District may issue orders requiring delivery to multiple destinations or performance at multiple locations.
- b) There is no limit on the number of orders on subsequent Purchase Orders at Contractor's then-current prices that may be issued. The District may issue orders requiring delivery to multiple destinations or performance at multiple locations. Destinations will be mutually agreed upon by both parties.
- c) Any order issued during the Base Year of this contract and not completed within that Base Year shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and District's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's Base Year; provided that the Contractor shall not be required to make any deliveries under this contract after the expiration date.

**B.9 SPECIAL PROVISIONS RELATED TO THE COVID-19 EMERGENCY**

**Intentionally omitted**

## **SECTION C: DESCRIPTION/SPECIFICATIONS/WORK STATEMENT**

### **C.1 BACKGROUND/HISTORY**

**C.1.1** During SY 2013-2014, the DCPS Office of Teaching and Learning (OTL) conducted a review of the data of student enrollment and determined that there was an increased number of English Language Learners that were new to the country and arrived in the US to be enrolled in High School. These students were at a high-risk of not completing graduation requirements with 4-5 years of attending HS as their proficiency level in English was limited, impeding their ability to access the core content immediately. Thus, OTL/LAD researched software that would assist DCPS in setting up a specialized program for this population of students.

### **C.2 REQUIREMENTS/SCOPE OF SERVICES**

**C.2.1** The Contractor shall provide the District of Columbia Public Schools, Office of Teaching and Learning, Language Acquisition Division use of the proprietary, Internet-delivered SaaS platform of servers, software and related technology that is hosted and served by the Contractor.

**C.2.2** The Contractor shall provide DCPS with access and usage of the "Ellevation Platform" proprietary data management system for English Language Learners or "ELLs"; and provide access reporting tools related to the productivity and performance of the identified DCPS ELLs.

**C.2.3** The Contractor shall provide DCPS with access and usage of the instructional content related to the productivity and performance of the "Ellevation Platform".

**C.2.3.1** The Contractor shall provide access and usage of the software and perform the services described during the Base Year of this contract, and any subsequent option years listed in the contract. Any modifications to the requested services and/or goods listed in this contract will require a contract modification executed by both the Contractor and the DCPS Contracting Officer.

### **C.3. Roles and Responsibilities**

#### **C.3.1 Contractor Responsibilities:**

**C.3.1.1** The Contractor shall provide Implementation/deployment and consulting in accordance with Attachment J.9 Contractor's proposal.

**C.3.1.2** The Contractor shall provide a project manager or direct point of contact to coordinate the contract requirements.

**C.3.1.3** The Contractor shall provide all end-user training materials, preferably in electronic format.

- C.3.1.4 The Contractor shall provide explicit escalation pathway to Contractor upper management to address any issues not resolved to DCPS' satisfaction by immediate project team.
- C.3.1.5 The Contractor shall track and regularly report on status of all aspects of project (milestones, deliverables, issues, etc.) using format and with frequency agreed upon at project initiation.
- C.3.1.6 The Contractor shall provide applicable software updates, patches, and system notifications. The Contractor shall notify the DCPS Contract Administrator and POC within 3-calendar days of any such occurrences that would significantly impact user experience during the school day.

**C.3.2 DCPS Responsibilities:**

- C.3.2.1 Contract Administrator (CA) will monitor and coordinate the project to ensure DCPS maintains the agreed upon timeline and target dates. DCPS acknowledges that the project may be put on hold and will be rescheduled when resources of both Contractor and DCPS are available, if DCPS does not maintain the agreed upon timeline and target dates.
- C.3.2.2 In addition to the Contract Administrator specified in Section G.9 of this contract, DCPS will provide a project manager to coordinate the contract requirements on behalf of OTL and LAD. This project manager will be responsible for identifying and scheduling all DCPS resources and materials required by the Contractor's implementation team and will be dedicated to the project.
- C.3.2.3 The project manager will also act as a co-lead for the project along with the Contractor's designated project manager/point of contact and will help ensure all deliverables are met.
- C.3.2.4 The DCPS project manager will not report to nor be supervised by any Contractor personnel.
- C.3.2.5 DCPS will provide a Contract Administrator (CA), and a designated DCPS Project Manager (DCPS/OTL Language Acquisition Division representative) to:
  - C.3.2.5.1 Communicate formally and informally within the DCPS and conduct DCPS-wide presentations and internal updates to key stakeholders for the project;
  - C.3.2.5.2 CA and PM will coordinate participation of all DCPS stakeholders during the DCPS's agreed upon period of service, understanding that additional changes may impact the project timeline, and may require the project to be rescheduled. If additional changes require a cost increase, DCPS will not begin services or incur costs until a contract modification is executed and a funding is provided to cover the services/goods; and
  - C.3.2.5.3 The CA and PA will coordinate project phases and tasks to ensure that DCPS project team members have sufficient time in their schedule(s) to execute project duties, and reassign other conflicting projects as needed. The CA and PM will also coordinate efforts with key stakeholders to ensure engagement & timely involvement of functional groups impacted by this project.
- C.3.2.6 DCPS will provide a Project Manager to function as the single point of contact for the implementation of the project. The Project Manager will be fully engaged in the project phases, and will contribute to the programmatic decisions related to this project. The Contract Administrator will function as the point of contact for all customizations, and in conjunction with the Project Manager, finalize decisions for the project phases.
- C.3.2.7 DCPS will provide a Project Manager, who will be responsible for coordinating and scheduling other DCPS key stakeholders participation in relation to the phases of this requirement. DCPS must coordinate in a timely

manner, in order to maintain the developed schedule phases.

- C.3.2.8 DCPS will provide the most accurate, current and complete information/data to create and maintain the associated software account.
  - C.3.2.8.1 DCPS will not circumvent or otherwise interfere with any user authentication or security used by the Contractor for the “Ellevation Platform” as well as comply with Ellevation’s Terms of Use found at <https://ellevationeducation.com/platform-legal-notice>, the terms of which are incorporated into this contract: and
  - C.3.2.8.2 DCPS will maintain the confidentiality of the assigned usernames and passwords; and will not allow staff to share usernames and passwords to gain access to or use the Platform on another person’s behalf.
- C.3.2.9 DCPS may, at its sole discretion, replace any DCPS resources assisting this project with other resources (including project manager) and/or designate third party advisors (i.e. OSSE, etc.) to support this project at any stage.
- C.3.2.10 All project plan milestones and requirements documentation will be signed off by Contract Administrator. Any deviations from agreed upon scope and timeline shall also require explicit signoff by the same designee or a specified replacement. If a replacement is required, DCPS will provide the Contractor with the replacement information in writing.
- C.3.2.11 All payments shall be contingent on project execution milestones agreed upon and signed by DCPS. DCPS COS shall review and certify invoices upon receipt.
- C.3.2.12 DCPS/OTL will coordinate implementation and administration of services with participating DCPS staff.
- C.3.2.13 DCPS will provide the Contractor with any required data requested and necessary for the success of the product, subject to the conditions and requirements of Section I.3 of this Contract.
- C.3.2.14 DCPS will provide accessibility to the Contract Administrator via person, email and/or telephone during regular business hours to answer any questions the Contractor has regarding the administration and implementation of the services.
- C.3.2.15 DCPS will monitor monthly performance of Contractor and provide performance evaluations as applicable.

**C.4 APPLICABLE DOCUMENTS**

The following documents are applicable to this procurement and are hereby incorporated by this reference:

Item No.	Title	Date	Location
1.	DCPS Process and Requirements to Conduct Research or Obtain Confidential Data	2013	<a href="https://dcps.dc.gov/page/conduct-research-or-obtain-confidential-data">https://dcps.dc.gov/page/conduct-research-or-obtain-confidential-data</a>
2.	Federal regulations 34, CFR Part 99 Family Educational Rights and Privacy Act (FERPA)	-----	<a href="https://docs.google.com/document/d/1G1hDnpMGq-qRvT82BXG9H6Q6LFFyDAclDvzmEaQzbSY/edit?usp=sharing">https://docs.google.com/document/d/1G1hDnpMGq-qRvT82BXG9H6Q6LFFyDAclDvzmEaQzbSY/edit?usp=sharing</a>

**C.5 DEFINITIONS**

These terms when used in this contract have the following meanings:

Term	Definition
English Learners	Students who come from linguistically and culturally diverse background and that have English language proficiency level of 1-4.9 as determined by the Access for ELLs Assessment or any of the WIDA screener assessments.
Parent	A biological parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been duly appointed by a public agency.
Office of the State Superintendent of Education(OSSE)	The Office of the State Superintendent of Education (OSSE) is the state education agency for the District of Columbia. OSSE serves as the District’s liaison to the U.S. Department of Education and works closely with the District’s traditional and public charter schools to achieve its key functions

**SECTION D: PACKAGING AND MARKING**

**D.1** The packaging and marking requirements for this Contract shall be governed by clause number (2), Shipping Instructions-Consignment, of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated July 2010. (Attachment J.1)

**SECTION E: INSPECTION AND ACCEPTANCE**

**E.1** The inspection and acceptance requirements for this contract shall be governed by clause number **six (6), *Inspection of Services*** of the Government of the District of Columbia's Standard Contract Provisions for use with Supplies and Services Contracts, dated July 2010. (Attachment J.1) , except that, in the event of a termination of this contract or the Agreement, notwithstanding Clause number 6, sub-clauses e-f or clause number 7(b), District of Columbia will be entitled to a pro-rata refund for the services not provided, as their exclusive remedy for rejection of services or termination.

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

**F.1 TERM OF CONTRACT**

The term of the contract shall be for a period of one year, from October 1, 2022 through September 30, 2023.

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

**F.2.1** The District may extend the term of this contract for a period of two (2) 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 thirty (30) days before the contract expires. The preliminary notice does not commit the District to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the contract.

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

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

**F.2.4** The total duration of this contract, including the exercise of any options under this clause, shall not exceed three (3) years.

**F.3 DELIVERABLES**

The Contractor shall perform the activities required to successfully complete the District’s requirements and provide a report to the Contract Administrator identified in section G.9 in accordance with the following:

CLIN	Deliverable	Quantity	Format/Method of Delivery	Due Date
C.2.2	Access and usage of the “Ellevation Platform”	8,000	Electronic	Daily

F.3.1 The Contractor shall submit to the District, as a deliverable, the report described in section H.9 which 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, the District shall not make final payment to the Contractor pursuant to section G.3.2.

**SECTION G: CONTRACT ADMINISTRATION**

**G.1 INVOICE PAYMENT:**

G.1.1 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. Contractor's digital products are subscription-based, billed annually in advance. In the event of Termination, any unused portion of the Contract shall be refunded on a pro-rata basis to District.

G.1.2 The District will pay the Contractor on or before the 30<sup>th</sup> day after receiving a proper invoice from the Contractor.

**G.2 INVOICE SUBMITTAL:**

G.2.1 The Contractor shall create and submit payment requests in an electronic format through the DC Vendor Portal, <https://vendorportal.dc.gov>.

G.2.2 The Contractor shall submit proper invoices at beginning of the Base Term or as otherwise specified in Section G.4.

G.2.3 To constitute a proper invoice, the Contractor shall enter all required information into the Portal after selecting the applicable purchase order number which is listed on the Contractor’s profile.

**G.3 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT:**

G.3.1 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.9.

G.3.2 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.4 PAYMENT:**

**G.4.1 PAYMENTS ON PARTIAL DELIVERIES OF GOODS**

Unless otherwise specified in this contract, payment will be made on partial deliveries of goods accepted by the District if:

- a) The amount due on the deliveries warrants it; or
- b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

**G.4.2 PAYMENTS ON PARTIAL DELIVERIES OF SERVICES**

Unless otherwise specified in this contract, payment will be made on partial deliveries of services accepted by the District if:

- a) The amount due on the deliveries warrants it; or
- b) The Contractor requests it and the amount due on the deliveries is at least \$1,000 or 50 percent of the total contract price.

**G.4.3 PARTIAL PAYMENTS**

Unless otherwise specified in this contract, payment will be made on partial deliveries of goods and services accepted by the District if:

- a) The amount due on the deliveries warrants it; or
- b) The Contractor requests it and the amount due on the deliveries is in accordance with the following:
  - "Payment will be made on completion and acceptance of each percentage or stage of work in accordance with the prices stated in the Schedule in Section B"; and
- c) Presentation of a properly executed invoice.

**G.4.4 LUMP SUM PAYMENT**

The District will pay the full amount for all digital subscription based services due the Contractor at the beginning of the Base Year and upon presentation of a properly executed invoice.

**G.4.5 PAYMENT FOR REIMBURSABLE ITEMS AND SERVICES**

Payment for approved reimbursable items and services provided on an hourly labor rate basis will be made based on submitted, approved documentation, including verified timesheets and receipts. Hourly rates shall be computed by multiplying the appropriate hourly rates in Section B by the number of direct labor hours performed. Fractional parts of an hour shall be payable on a prorated basis. Fixed hourly rates shall be fully loaded and include wages, overhead, general and administrative expenses and profit.

**G.5 ASSIGNMENT OF CONTRACT PAYMENTS:**

**G.5.1** In accordance with 27 DCMR 3250, the Contractor may assign to a bank, trust company, or other financing institution funds due or to become due as a result of the performance of this contract.

**G.5.2** Any assignment shall cover all unpaid amounts payable under this contract and shall not be made to more than one party.

**G.5.3** Notwithstanding an assignment of contract payments, the Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

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

**G.6 THE QUICK PAYMENT CLAUSE:**

**G.6.1 Interest Penalties to Contractors**

**G.6.1.1** 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:

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

**G.6.1.2** 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.6.2 Payments to Subcontractors**

**G.6.2.1** The Contractor must 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:

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

**G.6.2.2** The Contractor must pay any 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 on the following if payment for the completed delivery of the item of property or service is made on or before:

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

**G.6.2.3** 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

**G.6.2.4** 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.6.3**      **Subcontract Requirements**

**G.6.3.1**      The Contractor shall include in each subcontract under this contract a provision requiring the subcontractor to include in its contract with any lower-tier subcontractor or supplier the payment and interest clauses required under paragraphs (1) and (2) of D.C. Official Code §2-221.02(d). For the purposes of this contract, the Agreement and the Standard Contractual Provisions, “subcontractor(s)” shall not include Contractor’s cloud hosting provider, and vendors used in the ordinary course of business who perform technology and software development and maintenance services under Contractor’s supervision on Contractor’s internal systems.

**G.7**            **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:

LaVeta Hilton  
Contracting Officer  
District of Columbia Public Schools  
Office of Resource Strategy  
Contracts and Acquisitions Division  
1200 1st Street, NE - 9th Floor  
Washington, DC 20002  
O: 202-442-5136  
E-Mail: [laveta.hilton@k12.dc.gov](mailto:laveta.hilton@k12.dc.gov)

**G.8**            **AUTHORIZED CHANGES BY THE CONTRACTING OFFICER:**

**G.8.1**            The CO is the only person authorized to approve changes in any of the requirements of this contract.

**G.8.2**            The Contractor shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the CO.

**G.8.3**            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.9**            **CONTRACT ADMINISTRATOR (CA):**

**G.9.1**            The CA is responsible for general administration of the contract and advising the CO as to the Contractor’s compliance or noncompliance with the contract. The CA 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.9.1.1**        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.9.1.2** Coordinating site entry for Contractor personnel, if applicable;
- G.9.1.3** 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.9.1.4** 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.9.1.5** Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, equipment) and invoice or vouchers.

**G.9.2** The address and telephone number of the CA is:

Dr. Maria Austria  
Director of Curriculum, Strategy and School  
Supports LAD  
District of Columbia Public Schools  
Office of Innovation and Systems Improvement  
1200 First Street, NE, 9th floor  
Washington, DC 20002  
Maria.Austria@K12.dc.gov

**G.9.3** The CA 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.9.4** 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.10 CONTRACTOR PERSONNEL**

G.10.1 The Contractor has designated the following as "key" personnel in the execution of this contract:

Autumn Lengle  
Account Manager  
Curriculum Associates LLC  
153 Rangeway Road  
North Billerica, MA 01862  
(781)375-1406  
autumn.lengle@ellevationeducation.com

G.10.2 **The Contractor shall reference Contract Number GAGA-2023-C-0079 and Purchase Order Number PO TBD when submitting invoices for payment.**

## **SECTION H: SPECIAL CONTRACT REQUIREMENTS**

### **H.1 UNUSUAL INCIDENTS**

- H.1.1 The Contractor shall report unusual incidents by facsimile or telephone to the Contract Administrator (CA) within 24 hours, and in writing within five (5) days. An unusual incident is an event that directly affects DCPS staff, students or Contractor's DC regional personnel providing services pursuant to this contract, which is significantly different from the regular routine or established procedures. Examples include but are not limited to death, injury, unexplained absence of Key Personnel, DCPS staff, or DCPS students; Contractor's DC regional staff negligence or willful misconduct in the performance of duties under this Contract; physical, sexual or verbal abuse of any individual by DCPS or Contractor's DC regional staff; fire; complaints directly related to Contractor's performance under this Contract; requests for information from the press, attorneys, or Government officials outside of DCPS related to, or requiring information about, DCPS; and behavior requiring attention of DCPS staff not usually involved in such a situation.
- H.1.2 The initial report shall include the date, time, place, person(s) involved, and a brief description of the incident. A full written report of the unusual incident addressing steps taken to resolve the problem shall be forwarded to the CA within the five (5) day period.

### **H.2 AUDITS, RECORDS, AND RECORD RETENTION**

- H.2.1 At any time or times before final payment and three (3) years thereafter, after receipt of written request and reasonable notice by the District, the CO shall have the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions related to the contract in accordance with the Standard Contract Provisions, Attachment J.1.1. All audits, the scope of which shall be mutually agreed upon by the parties should be conducted no more than once a year, during normal business hours and in a manner which limits disruption to Contractor's business operations and subject to Contractor's confidentiality obligations to its other customers.

Any payment may be reduced by amounts found by the CO not to constitute allowable costs as adjusted for prior overpayment or underpayment. In the event that all payments have been made to the Contractor by the District Government and an overpayment is found, the Contractor shall reimburse the District for said overpayment within thirty (30) days after written notification.

- H.2.2 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 or funds, provided by the District under the contract.
- H.2.3 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.
- H.2.4 The Contractor shall assure that these records shall be subject upon receipt of written request and reasonable notice, times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the CO and subject to the provisions in H.2.1.
- H.2.5 The Contractor shall include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.

**H.3 PUBLICITY**

Contractor shall not use the logo of DCPS, the District government or any District agency in any way including, but not limited to, in any statement, promotional materials (including on Contractor's website) or other published materials. In addition, Contractor shall not use the name of DCPS, the District government or any District agency in any statement, promotional materials (including on Contractor's website) or in any published materials in a manner which states or implies support for or an endorsement of Contractor by DCPS. Further, Contractor shall at all times obtain prior written approval from the CA before it makes any public statement, disseminates any promotional materials or issues any published materials bearing on the services it provides under this contract.

**H.4 CONFLICT OF INTEREST**

H.4.1 No official or employee of the District of Columbia or the Federal Government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this contract shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the contract or proposed contract. (DC Procurement Practices Act of 1985, D.C. Law 6-85 and Chapter 18 of the DC Personnel Regulations).

H.4.2 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.

**H.5 REPRESENTATIONS AND WARRANTIES**

Contractor represents, warrants, and agrees that it:

- (a) has the full right, power, legal capacity and authority to enter into this Contract and to carry out its obligations hereunder;
- (b) will perform its services in a workmanlike manner;
- (c) will comply in all material respects with all applicable federal, state, and local laws, ordinances, codes, and regulations in performing its services hereunder; and
- (d) is not subject to and will not enter into any contract or arrangements which preclude compliance with the provisions of this contract.

Representations and Warranties of DCPS. DCPS represents, warrants and agrees that it has the full right, power, legal capacity and authority to enter into this Contract and to carry out its obligations hereunder.

**H.6 WAGE RATES**

The Contractor is bound by Wage Determination No. 2015-4281, Revision No.: 24, Date of Revision: 06/27/2022 (Attachment J.1.2), issued by the U.S. Department of Labor in accordance with the Service Contract Act of 1965, as amended (41 U.S.C. 351). The Contractor shall be bound by the wage rates for the term of the base period of the contract. If an option period is exercised, the Contractor shall be bound by the wage rate at the time. If an option is exercised and a revised wage rate determination obtained by the CO for the option period is applicable, the Contractor may be entitled to an equitable adjustment.

**H.7 CRIMINAL BACKGROUND AND TRAFFIC RECORDS CHECKS FOR CONTRACTORS' APPLICANTS THAT PROVIDE DIRECT SERVICES TO DCPS CHILDREN OR YOUTH**

H.7.1 A Contractor that provides services as a covered child or youth services provider, as defined in section 202(3) of the Child and Youth, Safety and Health Omnibus Amendment Act of 2004, effective April 13, 2005 (D.C. Law 15-353; D.C. Official Code § 4-1501.01 *et seq.*), as amended (in this section, the "Act"), shall obtain criminal history records to investigate persons applying for employment, in either a compensated or an unsupervised volunteer

position, as well as its current employees and unsupervised volunteers, in positions whose work requires unsupervised, direct contact with students (such as Managers of Teacher Leadership Development, or MTLDs). The Contractor shall request criminal background checks for the positions requiring criminal background checks determined by the program office.

H.7.2 The Contractor shall also obtain traffic records to investigate persons applying for employment, as well as current employees and volunteers, when that person will be required to drive a motor vehicle to transport children in the course of performing his or her duties. The Contractor shall request traffic records for the positions requiring criminal background checks determined by the program office.

H.7.3 The Contractor shall inform all applicants requiring a criminal background check that a criminal background check must be conducted on the applicant before the applicant may be offered a compensated position or an unsupervised volunteer position.

H.7.4 The Contractor shall inform all applicants requiring a traffic records check that a traffic records check must be conducted on the applicant before the applicant may be offered a compensated position or a volunteer position.

H.7.5 The Contractor shall obtain from each applicant, employee and unsupervised volunteer:

- (A) a written authorization which authorizes the District to conduct a criminal background check;
- (B) a written confirmation stating that the Contractor has informed him or her that the District is authorized to conduct a criminal background check;
- (C) a signed affirmation stating whether or not they have been convicted of a crime, pleaded nolo contendere, are on probation before judgment or placement of a case upon a stet docket, or have been found not guilty by reason of insanity, for any sexual offenses or intra-family offenses in the District or their equivalent in any other state or territory, or for any of the following felony offenses or their equivalent in any other state or territory:
  - (i) Murder, attempted murder, manslaughter, or arson;
  - (ii) Assault, assault with a dangerous weapon, mayhem, malicious disfigurement, or threats to do bodily harm;
  - (iii) Burglary;
  - (iv) Robbery;
  - (v) Kidnapping;
  - (vi) Illegal use or possession of a firearm;
  - (vii) Sexual offenses, including indecent exposure; promoting, procuring, compelling, soliciting, or engaging in prostitution; corrupting minors (sexual relations with children); molesting; voyeurism; committing sex acts in public; incest; rape; sexual assault; sexual battery; or sexual abuse; but excluding sodomy between consenting adults;
  - (viii) Child abuse or cruelty to children; or
  - (ix) Unlawful distribution of or possession with intent to distribute a controlled substance;
- (D) a written acknowledgement stating that the Contractor has notified them that they are entitled to receive a copy of the criminal background check and to challenge the accuracy and completeness of the report; and
- (E) a written acknowledgement stating that the Contractor has notified them that they may be denied employment or a volunteer position, or may be terminated as an employee or volunteer based on the results of the criminal background check.

- H.7.6 The Contractor shall inform each applicant, employee and unsupervised volunteer that a false statement may subject them to criminal penalties.
- H.7.7 Prior to requesting a criminal background check, the Contractor shall provide each applicant, employee, or unsupervised volunteer with a form or forms to be utilized for the following purposes:
- (A) To authorize the Metropolitan Police Department (MPD), or designee, to conduct the criminal background check and confirm that the applicant, employee, or unsupervised volunteer has been informed that the Contractor is authorized and required to conduct a criminal background check;
  - (B) To affirm whether or not the applicant, employee, or unsupervised volunteer has been convicted of a crime, has pleaded nolo contendere, is on probation before judgment or placement of a case upon a stet docket, or has been found not guilty by reason of insanity for any sexual offenses or intra-family offenses in the District or their equivalent in any other state or territory of the United States, or for any of the felony offenses described in paragraph H.7.5(C);
  - (C) To acknowledge that the applicant, employee, or unsupervised volunteer has been notified of his or her right to obtain a copy of the criminal background check report and to challenge the accuracy and completeness of the report;
  - (D) To acknowledge that the applicant may be denied employment, assignment to, or an unsupervised volunteer position for which a criminal background check is required based on the outcome of the criminal background check; and
  - (E) To inform the applicant or employee that a false statement on the form or forms may subject them to criminal penalties pursuant to D.C. Official Code §22-2405.
- H.7.8 The Contractor shall direct the applicant or employee to complete the form or forms and notify the applicant or employee when and where to report to be fingerprinted.
- H.7.9 Unless otherwise provided herein, the Contractor shall request criminal background checks from the Chief, MPD (or designee), who shall be responsible for conducting criminal background checks, including fingerprinting.
- H.7.10 The Contractor shall request traffic record checks from the Director, Department of Motor Vehicles (DMV) (or designee), who shall be responsible for conducting traffic record checks.
- H.7.11 The Contractor shall provide copies of all criminal background and traffic check reports to the COTR within one business day of receipt.
- H.7.12 The Contractor shall pay for the costs for the criminal background and traffic record checks, pursuant to the requirements set forth by the MPD and DMV. The District shall not make any separate payment for the cost of criminal background and traffic record checks.
- H.7.13 The Contractor may make an offer of appointment to, or assign a current employee or applicant to, a compensated position which brings him/her into direct contact with students contingent upon receipt from the CO of the CA's decision after his or her assessment of the criminal background or traffic record check.



- H.7.14 The Contractor may not make an offer of appointment to an unsupervised volunteer whose position brings him or her into direct contact with children until it receives from the contracting officer the CA's decision after his or her assessment of the criminal background or traffic record check.
- H.7.15 The Contractor shall not employ or permit to serve as an unsupervised volunteer, an applicant or employee, whose position brings him/her into direct contact with students, who has been convicted of, has pleaded nolo contendere to, is on probation before judgment or placement of a case on the stet docket because of, or has been found not guilty by reason of insanity for any sexual offenses involving a minor.
- H.7.16 Unless otherwise specified herein, the Contractor shall conduct periodic criminal background checks upon the exercise of each option year of this contract for current employees and unsupervised volunteer in the positions listed in sections H.7.1 and H.7.2.
- H.7.17 An employee or unsupervised volunteer, whose position brings them into direct contact with students, may be subject to administrative action including, but not limited to, reassignment or termination at the discretion of the CA after his or her assessment of a criminal background or traffic record check.
- H.7.18 The CA shall be solely responsible for assessing the information obtained from each criminal background and traffic records check report to determine whether a final offer may be made to each applicant or employee. The CA shall inform the CO of its decision, and the CO shall inform the Contractor whether an offer may be made to each applicant.
- H.7.19 If any application is denied because the CA determines that the applicant presents a present danger to children or youth, the Contractor shall notify the applicant of such determination and inform the applicant in writing that she or he may appeal the denial to the Commission on Human Rights within thirty (30) days of the determination.
- H.7.20 Criminal background and traffic record check reports obtained under this section shall be confidential and are for the exclusive use of making employment-related determinations. The Contractor shall not release or otherwise disclose the reports to any person, except as directed by the CO.
- H.7.21 The Contractor shall ensure that any Contractor Personnel having direct, unsupervised contact with students while providing service under this contract annually take the mandated reporter training offered by the DC Child and Family Services Agency (Mandated Reporter Training), which is provided for ANY person or employee (private or public) at no cost. This training can be found using the following website: <https://dc.mandatedreporter.org/Registration/Registration.action>. Additional information regarding the Mandated Reporter Training can be found by calling (202) 442-6000 or by visiting <http://cfsa.dc.gov/>. The Contractor shall ensure that Contractor Personnel report suspected instances of child abuse and neglect according to the requirements of District law and the means prescribed in the Mandated Reporter Training. The Contractor must also ensure that its representative responsible for managing this contract takes the Mandated Reporter Training annually. Copies of all Mandated Reporter Training Certificates verifying Contractor Personnel have completed training must be provided to DCPS for record keeping. The Contractor must also maintain copies of such certificates for its internal records. At any time, DCPS reserves the right to request a copy of a Mandated Reporter Training completion certificate for ANY Contractor Personnel working in direct contact with DCPS students.

## **H.8 FREEDOM OF INFORMATION ACT**

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 CA 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 CA will forward a copy to the Contractor. In either event, the Contractor is required by law to provide all responsive records.

## **H.9 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT – NOT APPLICABLE**

- H.9.1 The Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code, sec. 2-219.01 et seq. (“First Source Act”).
- H.9.2 The Contractor shall enter into and maintain, during the term of the contract, a First Source Employment Agreement, (Section J.2.4) 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 Department of Employment Services (“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.9.3 The Contractor shall submit to DOES, no later than the 10<sup>th</sup> each month following execution of the contract, a First Source Agreement Contract Compliance Report (“contract compliance report”) verifying its compliance with the First Source Agreement for the preceding month. The contract compliance report for the contract shall include the:
- (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.9.4 If the contract amount is equal to or greater than \$100,000, the Contractor agrees that 51% of the new employees hired for the contract shall be District residents.
- H.9.5 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 the section H.9.4 of this clause; or
- (2) Submit a request to the Contracting Officer for a waiver of compliance with section H.9.4 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.9.6.

H.9.6 The Contracting Officer may waive the provisions of section H.9.4 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.9.7 Upon receipt of the contractor’s final payment request and related documentation pursuant to sections H.9.5 and H.9.6, the Contracting Officer shall determine whether the Contractor is in compliance with section H.9.4 or whether a waiver of compliance pursuant to section H.9.6 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 COTR.

H.9.8 Willful breach of the First Source Employment Agreement, or failure to submit the report pursuant to section H.9.5, 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 the contract any decision of the Contracting Officer pursuant to this section H.9.8.

H.9.9 The provisions of sections H.9.4 through H.9.8 do not apply to nonprofit organizations.

**H.10 DIVERSION, REASSIGNMENT AND REPLACEMENT OF KEY PERSONNEL**

The Key Personnel specified in the contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified Key personnel for any reason, the Contractor shall notify the Contracting Officer at least thirty calendar days in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact upon the contract. The Contractor shall notify DCPS within one week of any substitution of Contractor’s Executive Director.

**H.11 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)**

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

**H.12 SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended.**

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 program and activities. See 29 U.S.C. 794 *et seq.*

**H.13 WAY TO WORK AMENDMENT ACT OF 2006**

H.13.1 Except as described in H.13.8 below, the Contractor shall comply with Title I of the Way to Work Amendment Act of 2006, updated January 1, 2021 (D.C. Law 16-118, D.C. Official Code §2-220.01 *et seq.*) (“Living Wage Act of 2006”, January 1, 2021 update), for contracts for services in the amount of \$100,000 or more in a 12-month period.

H.13.2 The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the current living wage rate.

H.13.3 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.13.4 The Department of Employment Services may adjust the living wage annually and the OCP will publish the current living wage rate on its website at [www.ocp.dc.gov](http://www.ocp.dc.gov). If the living wage is adjusted during the term of the contract, the Contractor shall be bound by the applicable wage rate as of the effective date of the adjustment, and the Contractor may be entitled to an equitable adjustment.

H.13.5 The Contractor shall provide a copy of the Fact Sheet attached as J.1.4 to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice attached as J.1.4 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 Notice in a conspicuous place in its place of business.

H.13.6 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.13.7 The payment of wages required under the Living Wage Act of 2006 (January 1, 2021 update) shall be consistent with and subject to the provisions of D.C. Official Code §32-1301 *et seq.*

H.13.8 The requirements of the Living Wage Act of 2006 (January 1, 2021 update) 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 (January 1, 2021 update);
- (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 (January 1, 2021 update);

- (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.13.9 The Mayor may exempt a contractor from the requirements of the Living Wage Act of 2006 (January 1, 2021 update), subject to the approval of Council, in accordance with the provisions of Section 109 of the Living Wage Act of 2006 (January 1, 2021 update).

**SECTION I: CONTRACT CLAUSES**

**I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS**

Except for those clauses identified herein as “Not Applicable,” or otherwise modified herein, the Standard Contract Provisions for use with District of Columbia Government Supplies and Services Contracts dated July 2010 (SCP) are incorporated as part of the contract. To obtain a copy of the SCP go to <http://ocp.dc.gov>, under Quick Links click on “Required Solicitation Documents”. In the event of a conflict between The Standard Contract Provisions and this contract, this contract shall govern.

Notwithstanding Section I.1 above, Contractor incorporates the following modifications to The Standard Contract Provisions:

- a) Sections 5, 14, and 25 are struck in their entirety as not applicable to this contract;
- b) Section 6 (e) and (f) be modified to the following:
  - 6(e) If any of the services do not conform to the contract requirements, the District may require the Contractor to perform these services again in conformity with contract requirements, at no increase in contract amount. If the defects in services cannot be corrected by performance, the District can exercise its termination rights as outlined herein and receive a pro rata refund up until the date of termination.
  - 6(f) If the Contractor fails to promptly perform the services again or take the necessary action to ensure future performance in conformity to contract requirements, the District may terminate the contract for default.
- c) Section 8(b) be modified to the following:
  - 8(b) If any of the services do not conform to the contract requirements, the District may require the Contractor to perform these services again in conformity with contract requirements, at no increase in contract amount. If the defects in services cannot be corrected by performance, the District can exercise its termination rights as outlined herein and receive a pro rata refund up until the date of termination.
- d) Section 10 be modified to the following:

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, unless such transfer occurs in connection with the sale of all or substantially all of the outstanding assets or equity of Contractor. Any transfer made without the contracting officer's written approval will be null and void and will be cause to annul the contract.

- e) Section 12 be modified to delete in its entirety and replace with the following:  
All Legal Notices will be sent to: Curriculum Associates, LLC, Attn: Legal Department at [153 Rangeway Road, North Billerica, MA 01862-2013](#).
- f) Section 15 be modified to delete in its entirety and replace with the following:  
All changes to the contract will be mutually agreed upon by the parties.
- g) Section 45 (b) be struck in its entirety as not applicable to this contract.

**I.2 CONTRACTS THAT CROSS FISCAL YEARS**

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

**I.3 CONFIDENTIALITY OF INFORMATION**

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.3.1** All information obtained by the Contractor relating to any employee, students or customers of the District of Columbia Public Schools shall be kept in absolute confidence and shall not be used by the Contractor in connection with any other matters except to provide the services and as expressly stated in this contract, nor shall any such information be disclosed to any other person, firm or corporation, in accordance with the District and Federal laws governing the confidentiality of records.

**I.3.2** Contractor is required to provide an institutional service or function on behalf of DCPS under this contract. Contractor's ability to provide such institutional service or function requires DCPS to disclose personally identifiable information ("**PII**") from education records to Contractor and DCPS has determined Contractor has legitimate educational interests in such disclosure. All PII must be shared and safeguarded in accordance with the Family Educational Rights and Privacy Act ("**FERPA**") (20 U.S.C. § 1232g and 34 CFR Part 99). Accordingly, pursuant to 34 CFR § 99.31(a)(1)(i)(B), Contractor acknowledges that (i) it has been outsourced an institutional service or function of DCPS under this contract; (ii) it is considered a "school official" for purposes of providing such institutional service or function of DCPS under this contract; (iii) it is under the direct control of DCPS with respect to the use and maintenance of all PII it will have access to under this contract; and (iv) it is subject to the requirements of 34 CFR § 99.33(a) with respect to the use and disclosure of all PII under this contract. According to 34 CFR § 99.33(a), Contractor must (1) not disclose any PII it may have access to under this contract without first obtaining prior written consent from the affected parent (or student if the student has reached the age of 18); and (2) ensure that all Contractor personnel receiving PII under this contract only use such information for purpose of providing an institutional service or function on behalf of DCPS.

**I.4 TIME**

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

**I.5 RIGHTS IN DATA**

Delete Article 42, Rights in Data, of the Standard Contract Provisions dated July 2010 for use with District of Columbia Government Supplies and Services Contracts and substitute the following Article 42, Rights in Data) in its place:

A. **Definitions**

1. **“Products”** - A deliverable under any contract that may include commodities, services and/or technology furnished by or through Contractor, including existing and custom Products, such as, but not limited to: a) recorded information, regardless of form or the media on which it may be recorded; b) document research; c) experimental, developmental, or engineering work; d) licensed software; e) components of the hardware environment; f) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings); g) third party software; h) modifications, customizations, custom programs, program listings, programming tools, data, modules, components; and i) any intellectual property embodied therein, whether in tangible or intangible form, including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, and object code.
2. **“Existing Products”** - Tangible Products and intangible licensed Products that exist prior to the commencement of work under the contract. Existing Products must be identified on the Product prior to commencement of work or else will be presumed to be Custom Products.
3. **“Custom Products”** - Products, preliminary, final or otherwise, which are created or developed by Contractor, its subcontractors, partners, employees, resellers or agents for the District under the contract.
4. **“District”** – The District of Columbia and its agencies.

B. **Title to Project Deliverables**

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

1. **Existing Products**: Title to all Existing Licensed Product(s), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall: (1) remain with Contractor or third party proprietary owner, who retains all rights, title and interest (including patent, trademark or copyrights). Effective upon payment, the District is granted an irrevocable, non-exclusive, limited license to use solely as described in the Agreement, Existing Product to District users up to the license capacity stated in the Agreement with all license rights necessary to fully effect the general business purpose(s) of the project or work plan or contract; and (2) be licensed in the name of the District. The District agrees to reproduce the copyright notice and any other legend of ownership on any copies authorized under this paragraph.

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

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

D. **Subcontractor Rights**

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

**E. Source Code Escrow [Not Applicable]**

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

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

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

**F. Indemnification and Limitation of Liability**

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

**I.6 OTHER CONTRACTORS**

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.7 SUBCONTRACTS**

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior written consent of the CO. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which the District will have the right to review and approve prior to its execution by the Contractor. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by the District, the Contractor shall remain liable to the District for all Contractor's work and services required hereunder. For purposes of this contract, the Agreement, and the Standard Contractual Provisions, "subcontractors" shall not include Contractor's cloud hosting provider, and vendors used in the ordinary course of business who perform technology and software development and maintenance services under Contractor's supervision on Contractor's internal systems.

**I.8 INSURANCE**



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

Worker's Compensation and General Liability shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia.

The Government of the District of Columbia shall be included in all policies required hereunder to be maintained by the Contractor and its subcontractors (except for workers' compensation and professional liability insurance) as an additional insureds for claims against The Government of the District of Columbia relating to this contract, with the understanding that any affirmative obligation imposed upon the insured Contractor or its subcontractors (including without limitation the liability to pay premiums) shall be the sole obligation of the Contractor or its subcontractors, and not the additional insured.

The additional insured status under the Contractor's and its subcontractors' Commercial General Liability insurance policies shall be effected using the ISO Additional Insured Endorsement form CG 20 10 11 85 (or CG 20 10 07 04 **and** CG 20 37 07 04) or such other endorsement or combination of endorsements providing coverage at least as broad and approved by the CO in writing.

All of the Contractor's and its subcontractors' liability policies (except for workers' compensation and professional liability insurance) shall be endorsed using ISO form CG 20 01 04 13 or its equivalent so as to indicate that such policies provide primary coverage (without any right of contribution by any other insurance, reinsurance or self-insurance, including any deductible or retention, maintained by an Additional Insured) for all claims against the additional insured arising out of the performance of this Statement of Work by the Contractor or its subcontractors, or anyone for whom the Contractor or its subcontractors may be liable. These policies shall include a separation of insureds clause applicable to the additional insured.

If the Contractor and/or its subcontractors maintain broader coverage and/or higher limits than the minimums shown below, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Grantee and subcontractors.

1. Commercial General Liability Insurance ("CGL"). The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services Office, Inc. ("ISO") form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by the CO in writing), covering liability for all ongoing and completed operations of the Contractor, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including without limitation sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source).

Such coverage shall have limits of liability of not less than \$1,000,000 each occurrence, a \$2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a \$1,000,000 personal and advertising injury limit, and a \$2,000,000 products-completed operations aggregate limit.

2. Automobile Liability Insurance. The Contractor shall provide evidence satisfactory to the CO of commercial

(business) automobile liability insurance written on ISO form CA 00 01 10 13 (or another form with coverage at least as broad and approved by the CO in writing) including coverage for all owned, hired, borrowed and non-owned vehicles and equipment used by the Contractor, with minimum per accident limits equal to the greater of (i) the limits set forth in the Contractor's commercial automobile liability policy or (ii) \$1,000,000 per occurrence combined single limit for bodily injury and property damage. **[PLEASE NOTE: The Contractor is NOT AUTHORIZED to transport any DCPS students or staff in their company or personal vehicles.]**

3. Workers' Compensation Insurance. The Contractor shall provide evidence satisfactory to the CO of Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.

Employer's Liability Insurance. The Contractor shall provide evidence satisfactory to the CO of employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.

All insurance required by this paragraph 3 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.

4. Excess Liability Insurance. The Contractor shall provide umbrella or excess liability (which is excess over employer's liability, general liability, and automobile liability) insurance as follows: \$500,000 per occurrence, including the District of Columbia as additional insured.
5. Professional Liability Insurance (Errors & Omissions) - The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The policy shall provide limits of \$500,000 per claim or per occurrence for each wrongful act and \$1,000,000 annual aggregate. The Contractor warrants that any applicable retroactive date precedes the date the Contractor first performed any professional services for the Government of the District of Columbia and that continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least ten years after the completion of the professional services.

The Contractor shall maintain this insurance for five (5) years following the District's final acceptance of the work performed under this contract.

6. Crime Insurance (3<sup>rd</sup> Party Indemnity). The Contractor shall provide a 3<sup>rd</sup> Party Crime policy to cover the dishonest acts of Contractor's employees which result in a loss to the District. The policy shall provide a limit of \$500,000 per occurrence. This coverage shall be endorsed to name the District of Columbia as joint-loss payee, as their interests may appear.
7. Sexual/Physical Abuse & Molestation - The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to the services performed that it carries \$2,000,000 per occurrence limits; \$5,000,000 aggregate of affirmative abuse and molestation liability coverage. This insurance requirement will be considered met if the general liability insurance includes an affirmative sexual abuse and molestation endorsement for the required amounts. So called "silent" coverage under a commercial general liability or professional liability policy will not be acceptable. **[PLEASE NOTE: The Contractor is NOT AUTHORIZED to transport any DCPS students or staff in their company or personal vehicles.]**
8. Cyber Liability Insurance - The Contractor shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than \$3,000,000 per occurrence or claim, \$3,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information,

alteration of electronic information, extortion and network security as it relates to loss of use of Technology Services or Technology Products. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties with limits sufficient to respond to these obligations. This insurance requirement will be considered met if the general liability insurance includes an affirmative cyber endorsement for the required amounts and coverage.

- B. DURATION. The Contractor shall carry all required insurance until all contract work is accepted by the District, and shall carry the required General Liability; any required Professional Liability; and any required Employment Practices Liability insurance for five (5) years following final acceptance of the work performed under this contract.
- C. LIABILITY. These are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE CONTRACTOR'S LIABILITY UNDER THIS CONTRACT.**
- D. CONTRACTOR'S PROPERTY. Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.
- E. MEASURE OF PAYMENT. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.
- F. NOTIFICATION. The Contractor shall immediately provide the CO with written notice in the event that its insurance coverage has or will be substantially changed, canceled or not renewed, and provide an updated certificate of insurance to the CO.
- G. CERTIFICATES OF INSURANCE. The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Evidence of insurance shall be submitted to:

LaVeta Hilton  
Contracting Officer  
District of Columbia Public Schools  
Office of Chief Resource Strategy  
Contracts and Acquisitions Division  
1200 1st Street, NE - 9th Floor  
Washington, DC 20002  
O: 202-442-5136 and E-Mail: [laveta.hilton@k12.dc.gov](mailto:laveta.hilton@k12.dc.gov)

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

**I.9 EQUAL EMPLOYMENT OPPORTUNITY**

In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as Section J.3. An award cannot be made to any offeror who has not satisfied the equal employment requirements.

**I.10 ORDER OF PRECEDENCE**

The contract awarded will contain the following clause:

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) Standard Contract Provisions, (with applicable edits)
- (4) Contract attachments other than the Standard Contract Provisions
- (5) Contractor’s Quote/Proposal dated December 6, 2022

**SECTION J: ATTACHMENTS**

The following list of attachments is incorporated into the solicitation by reference.

<b>Attachment Number</b>	<b>Document</b>
<b>J.1</b>	Government of the District of Columbia Standard Contract Provisions for Use with the Supplies and Services Contracts (July 2010) available at <a href="http://www.ocp.dc.gov">www.ocp.dc.gov</a> click on “Solicitation Attachments”
<b>J.2</b>	U.S. Department of Labor Wage Determination [Wage Determination No. 2015-4281, Revision 24, dated 06/27/2022]
<b>J.3</b>	Omitted
<b>J.4</b>	Omitted
<b>J.5</b>	Way to Work Amendment Act of 2006 - Living Wage Notice [January 1, 2022 Update]
<b>J.6</b>	Way to Work Amendment Act of 2006 - Living Wage Fact Sheet [January 1, 2022 Update]
<b>J.7</b>	Omitted
<b>J.8</b>	Omitted
<b>J.9</b>	Contractor’s Subscription Agreement dated October 1, 2021 and Order Form dated 10/1/22
<b>J.10</b>	Omitted
<b>J.11</b>	Omitted

**END OF DOCUMENT**