SOLICITATION, OFFER, AND AWARD

Government of the District of Columbia

1. Caption	Page 1 of 65 Pages	
Mandatory Drug and Alcohol Testing	1	65

2. Contract Number	3. Solicitation Number	4. Type of Solicitation		5. Date Issued	6. Type of Market	
	GAGA-2021-I-0060	X	Sealed Bid (IFB)	September 14, 2021	X	Open
			Sealed Proposals (RFP)			Set Aside
			Other			Open with Sub-Contracting Set Aside

7. Issued By:	8. Address Offer to:
District of Columbia Public Schools (DCPS) Office of Contracts and Acquisitions 1200 First Street N.E., 9th floor Washington, D.C. 20002	Dcpsoca.inquiries@k12.dc.gov

NOTE: In sealed bid solicitations "offer" and offeror" means "bid" and "bidder"

SOLICITATION

9. Sealed offers in three (3) hardcopy and one flash drive for furnishing the supplies or services in the Schedule shall be received at the place specified in Item 8, or if hand carried to the bid counter located at 1200 First Street, N.E., 9th Floor **No later than 2:00pm EST Monday September 27, 2021**.

CAUTION: Late Submissions, Modifications and Withdrawals: See 27 DCMR chapters 15 & 16 as applicable. All offers are subject to all terms & conditions contained in this solicitation.

10. For Information Contact	A. Name	B. Telephone Number			C. E-mail Address
	Joan Aird	Phone	202.535.1324		Joan.Aird@k12.dc.gov

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OFFER

12. The undersigned agrees, if this offer is accepted within 30 calendar days from the date for receipt of offers specified above to furnish any and all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified herein.

13. Discount for Prompt Payment	10 Calendar days %	20 Calendar days %	30 Calendar days %	____ Calendar days %
☞				

14. Acknowledgement of Amendments (The offeror acknowledges receipt of amendments to the SOLICITATION):	Amendment Number(s)	Date	Amendment Number	Date

15A. Name and Address of Offeror		16. Name and Title of Person Authorized to Sign Offer/Contract

15B. Telephone			15 C. Check if remittance address is different from above - Refer to Section G	17. Signature	18. Offer Date
(Area Code)	(Number)	(Ext)	☐		

AWARD (TO BE COMPLETED BY GOVERNMENT)

19. Accepted as to Items numbered	20. Amount	21 Accounting and Appropriation Data

22. Name of Contracting Officer (Type or Print)	23. Signature of Contracting Officer (District of Columbia)	24. Award Date

SECTION B: CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE/COST

B.1 The District of Columbia Public Schools ("District" or "DCPS"), Contracts and Acquisitions, on behalf of the Office of General Council ("OGC"), Labor Management and Employee Relations is seeking a contractor to work with DCPS in the implementation of DCPS' mandatory drug and alcohol testing program.

B.1.1 The contractor shall be responsible for administering Certified Breath Alcohol Tests (BAT), collecting urine specimens and testing them for the presence of drugs using the Enzyme-Multiplied-Immunoassay Test (EMIT) and Gas Chromatography/Mass Spectrometry (GC/MS) testing methods. The following drug substances shall be tested:

- Marijuana (THC);
- Cocaine;
- Opiates;
- Amphetamines;
- Phencyclidine (PCP)

B.1.2 The Contractor shall have a minimum of three (3) years in the provision of Drug and Alcohol Testing services in an urban school setting. The contractor shall hold a certification from the Department of Health and Human Services as a specimen collector. The contractor **must** be a certified Medical Review Officer from any nationally recognized Medical Review Officer Certification board.

B.1.3 SPECIAL PROVISIONS RELATED TO THE COVID-19 EMERGENCY

a. The Contractor is required to comply with Mayor's Order 2021-099, COVID-19 Vaccination Certification Requirement for District Government Employees, Contractors, Interns, and Grantees, dated August 10, 2021, and all substantially similar vaccine requirements including any modifications to this Order, unless and until they are rescinded or superseded. At the request of the District government, Contractors may be asked to provide certification of compliance with this requirement and/or documents and records in support of this certification.

b. The Contractor is required to comply with City Administrator's Order 2021-4, Resumption of Requirement for All Persons to Wear a Mask Inside District Government Buildings and While on Duty as a District Government Employee or Contractor, dated July 30, 2021, and all substantially similar mask requirements including any modifications to this Order, unless and until they are rescinded or superseded.

B.2 The District contemplates a single award of a Requirements contract in accordance with 27 DCMR Chapter 24.

B.3 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.

a) Delivery or performance shall be made only as authorized in accordance with the Ordering Clause, G.10. The District may issue orders requiring delivery to multiple destinations or performance at multiple locations. If the District urgently requires delivery before the earliest date that delivery may be specified under this contract, and if the Contractor shall not accept an order providing for the accelerated delivery, the District may acquire the urgently required goods or services from another source.

b) There is no limit on the number of orders that may be issued. The District may issue orders requiring delivery to multiple destinations or performance at multiple locations.

c) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and District's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided that the Contractor shall not be required to make any deliveries under this contract after the end date of the contract.

B.4 PRICE SCHEDULE – FIXED PRICE REQUIREMENTS

B.4.1 BASE YEAR (Date of Award through September 30, 2022)

Contract Line Item No. (CLIN)	Item Description	Price Per Unit	Estimated Quantity	Total Estimated Price
0001	Collecting urine specimens of employees, applicants, contractors and volunteers.	**$_____ each**	**5,000**	**$**
0002	Testing urine specimens at a laboratory certified by the Department of Health and Human Services (HHS), using the EMIT and GC/MS testing methods	**$_____ each**	**5,000**	**$**
0003	Verifying drug test results	**$_____ each**	**5,000**	**$**
0004	Administering certified BATs for employees, applicants, contractors and volunteers.	**$_____ each**	**5,000**	**$**
0005	Multiple training sessions for approximately 300 supervisors on drug and alcohol abuse and the detection of drug and alcohol abuse (i.e., training on reasonable suspicion of use). Each session should last approximately two (2) hours.	**$_____ per session**	**7**	**$**
0006	Litigation Package	**$_____ per pkg**	**7**	**$**
0007	Expert Testimony	**$_____ per hour**	**5**	**$**
B.4.1 Base Year Total				**$**

B.4.2 OPTION YEAR ONE (October 1, 2022 through September 30, 2023)

Contract Line Item No. (CLIN)	Item Description	Price Per Unit	Estimated Quantity	Total Estimated Price
1001	Collecting urine specimens of employees and applicants	**$_____ each**	**5,000**	**$**
1002	Testing urine specimens at a laboratory certified by the Department of Health and Human Services (HHS), using the EMIT and GC/MS testing methods	**$_____ each**	**5,000**	**$**
1003	Verifying drug test results;	**$_____ each**	**5,000**	**$**
1004	Administering certified BATs for employees and applicants	**$_____ each**	**5,000**	**$**
1005	Multiple training sessions for approximately 300 supervisors on drug and alcohol abuse and the detection of drug and alcohol abuse (i.e., training on reasonable suspicion of use). Each session should last approximately two (2) hours.	**$_____ per session**	**7**	**$**
1006	Litigation Package	**$_____ per pkg**	**7**	**$**
1007	Expert Testimony	**$_____ per hour**	**5**	**$**
B.4.2 Option Year One Total				**$**

B.4.3 OPTION YEAR TWO (October 1, 2023 through September 30, 2024)

Contract Line Item No. (CLIN)	Item Description	Price Per Unit	Estimated Quantity	Total Estimated Price
2001	Collecting urine specimens of employees and applicants	**$_____ each**	**5,000**	**$**
2002	Testing urine specimens at a laboratory certified by the Department of Health and Human Services (HHS), using the EMIT and GC/MS testing methods	**$_____ each**	**5,000**	**$**
2003	Verifying drug test results;	**$_____ each**	**5,000**	**$**
2004	Administering certified BATs for employees and applicants	**$_____ each**	**5,000**	**$**
2005	Multiple training sessions for approximately 300 supervisors on drug and alcohol abuse and the detection of drug and alcohol abuse (i.e., training on reasonable suspicion of use). Each session should last approximately two (2) hours.	**$_____ per session**	**7**	**$**
2006	Litigation Package	**$_____ per pkg**	**7**	**$**
2007	Expert Testimony	**$_____ per hour**	**5**	**$**
B.4.3 Option Year Two Total				**$**

B.4.4 OPTION YEAR THREE (October 1, 2024 through September 30, 2025)

Contract Line Item No. (CLIN)	Item Description	Price Per Unit	Estimated Quantity	Total Estimated Price
3001	Collecting urine specimens of employees and applicants	**$_____ each**	**5,000**	**$**
3002	Testing urine specimens at a laboratory certified by the Department of Health and Human Services (HHS), using the EMIT and GC/MS testing methods	**$_____ each**	**5,000**	**$**
3003	Verifying drug test results;	**$_____ each**	**5,000**	**$**
3004	Administering certified BATs for employees and applicants	**$_____ each**	**5,000**	**$**
3005	Multiple training sessions for approximately 300 supervisors on drug and alcohol abuse and the detection of drug and alcohol abuse (i.e., training on reasonable suspicion of use). Each session should last approximately two (2) hours.	**$_____ per session**	**7**	**$**
3006	Litigation Package	**$_____ per pkg**	**7**	**$**
3007	Expert Testimony	**$_____ per hour**	**5**	**$**
B.4.4 Option Year Three Total				**$**

B.4.5 OPTION YEAR FOUR (October 1, 2025 through September 30, 2026)

Contract Line Item No. (CLIN)	Item Description	Price Per Unit	Estimated Quantity	Total Estimated Price
4001	Collecting urine specimens of employees and applicants	**$_____ each**	**5,000**	**$**
4002	Testing urine specimens at a laboratory certified by the Department of Health and Human Services (HHS), using the EMIT and GC/MS testing methods	**$_____ each**	**5,000**	**$**
4003	Verifying drug test results;	**$_____ each**	**5,000**	**$**
4004	Administering certified BATs for employees and applicants	**$_____ each**	**5,000**	**$**
4005	Multiple training sessions for approximately 300 supervisors on drug and alcohol abuse and the detection of drug and alcohol abuse (i.e., training on reasonable suspicion of use). Each session should last approximately two (2) hours.	**$_____ per session**	**7**	**$**
4006	Litigation Package	**$_____ per pkg**	**7**	**$**
4007	Expert Testimony	**$_____ per hour**	**5**	**$**
B.4.5 Option Year Four Total				**$**

B.4.6 PRICE SCHEDULE SUMMARY

PERIOD OF PERFORMANCE	TOTAL ESTIMATED PRICE
BASE YEAR	$
OPTION YEAR ONE	$
OPTION YEAR TWO	$
OPTION YEAR THREE	$
OPTION YEAR FOUR	$
GRAND TOTAL	**$**

B.5 A bidder responding to this solicitation that is required to subcontract shall be required to submit with its bid, any subcontracting plan required by law. Bids responding to this IFB shall be deemed nonresponsive and shall be rejected if the bidder fails to submit a subcontracting plan that is required by law.

SECTION C: SPECIFICATIONS/WORK STATEMENT

C.1 SCOPE:

C.1.1 The District of Columbia Public Schools must implement a drug and alcohol testing program in compliance with the Child and Youth, Safety and Health Omnibus Amendment Act of 2004 (CYSHA) D.C. Law 15-353, D.C. Official Code § 1-620.31 et seq.) and 6-B DCMR § 425 et seq. Pursuant to CYSHA, applicants and employees in "safety-sensitive" positions are subject to testing for the presence of alcohol and drugs as a condition of employment.

C.1.2 DCPS' Mandatory Drug & Alcohol testing policy for employees dictates that employees, contractors and volunteers are subject to testing for the presence of drugs and alcohol related to reasonable suspicion, post-accident, return-to-duty, follow-up, and post-accident drug testing. All employees and contractors must be tested prior to starting with DCPS and all current employees, contractors and volunteers are subject to testing under reasonable suspicion of being under the influence during their tour of duty.

C.1.3 DCPS is seeking a drug testing vendor to facilitate its pre-employment, reasonable suspicion, post-accident, return-to-duty, follow-up, and post-accident drug testing process. CYSHA requires that the laboratory used to perform drug testing hold a certification from the Department of Health and Human Services (HHS). Laboratories holding HHS certification cannot perform drug tests and verify the results therefore contractor must also provide the services of a Medical Review Officer to verify the drug testing results. The MRO must review all presumptively positive results and split sample results and confirm they are positive, after speaking with the donor.

C.1.4 The contractor shall be responsible for administering Certified Breath Alcohol Tests (BAT). In addition, the contract will be responsible for collecting urine specimens and testing them for the presence of drugs using the Enzyme-Multiplied-Immunoassay Test (EMIT) and Gas Chromatography/Mass Spectrometry (GC/MS) testing methods. The following drug substances shall be tested;

- Marijuana (THC);
- Cocaine;
- Opiates;
- Amphetamines;
- Phencyclidine (PCP)

C.1.5 The contractor must provide the following services either directly or through subcontractors:

- Urine collection, specimen delivery to an HHS-certified lab, receipt of all lab test results, notification of drug test results to DCPS
- MRO verifications
- Breathalyzer testing
- Maintenance of database of drug and alcohol test results
- The database used by the MRO should be configured to communicate with DCPS' database to enable candidates to enter their own information and request a drug test.
- Creation of weekly reports regarding drug and alcohol testing results
- Randomization of employee roster to determine which employees are due for testing. Employee list updated monthly.
- Training supervisors on reasonable suspicion of drug and alcohol use
- Allow DCPS to act as a Designated Employer Representative (DER) to contact the labs and MRO directly to obtain information on drug testing results.
- No fees will be assessed to DCPS for candidates that are "No Shows" or "Duplicate" requests.

C.2 APPLICABLE DOCUMENTS

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

Item No.	Title	Date
1	DCPS Pre-employment Mandatory Drug Testing Policy	Current
2	DCPS Mandatory Drug and Alcohol Testing Policy	Current
3	Child and Youth, Safety and Health Omnibus Amendment Act of 2004 (CYSHA) (D.C. Law 15-353, D.C. Official Code § 1-620.31 et seq.)	2004
4	Regulations for Implementing CYSHA 6-B DCMR § 425 et seq.	Current
5	Department of Transportation Rules and Regulations (49 C.F.R. Part 40)	2010
6	HHS Certification Regulations	2008

C.3 DEFINITIONS

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

- **A Medical Review Officer (MRO) –** A licensed physician responsible for receiving laboratory results generated by an agency's drug testing program that has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's test result together with his or her medical history and any other relevant biomedical information. *See* 49 C.F.R. § 40.121 *et seq*. An MRO receives the drug test results from the laboratory and verifies the result. Before verifying a result as positive, the MRO will engage the employee to determine whether there is a legitimate reason for an employee to test positive for prohibited substances.

- **Safety-Sensitive Position** – Employees in "safety-sensitive" positions: (A) have direct contact with children or youth; (B) are entrusted with the direct care and custody of children or youth; and (C) have duties that in the normal course of employment may affect the health, welfare, or safety of children or youth. This means that all school-based employees and school support personnel who spend substantial time in schools are "safety-sensitive."

- **Gas chromatography Mass Spectrometry (GCMS) methodology**: the only authorized confirmation testing method for cocaine, marijuana, opiates, amphetamines, methamphetamines, benzodiazepines, methadone, Propoxyphene, barbiturates and phencyclidine.

- **Enzyme-Multiplied-Immunoassay Technique (EMIT)**: initial method that is used to test for controlled substances in urine samples

- **DCPS**--District of Columbia Public Schools: the public school system of the District of Columbia consisting of 117 elementary, middle, and high schools, as well as a central administrative office. DCPS is a school system with over 120 locations throughout the District of Columbia. DCPS has approximately 5000 employees.

- **Positive Drug Test**: A urine test is considered "positive" for the following drugs at the following thresholds:

Drug Group	**GC/MS confirmation cutoff level**
Marijuana Metabolites	50/15
Cocaine Metabolites	300/150
Opiates	2000/2000
Amphetamines	1000/500
Phencyclidine (PCP	25/25

- **Positive Alcohol Test** – A Blood Alcohol Test is considered "positive" when the breathalyzer detects a minimum of 0.38 micrograms of alcohol per milliliter of breath.

- **Safety Sensitive Function**: Employment in which the District employee has direct contact with children or youth; is entrusted with the direct care and custody of children or youth; and whose performance of his or her duties in the normal course of employment may affect the health, welfare, or safety of children or youth.

- **Pre-employment Testing**: Testing prior to being employed by or providing services to DCPS.

- **Reasonable Suspicion**: Testing when the Supervisor has a reasonable belief that an employee is under the influence of illegal drugs or alcohol during their tour of duty or on DCPS property.

- **Follow-up/Return to Duty Testing**: Required testing after an employee has completed a drug or alcohol counseling and rehabilitation program before the employee can return to a safety-sensitive position.

- **Post-accident/incident testing**: Testing following an accident that resulted in personal injury or property damage, and that could reasonably be believed to have been caused, in whole or in part, by the employee's use of drugs or alcohol.

- **Facility:** Any DCPS work site where there are employees.

- **Litigation Package:** All documents, lab test results and communications created and maintained during the course of performing tests and collecting specimens from employees.

C.4 BACKGROUND

C.4.1 The District of Columbia Public Schools (DCPS) must implement a drug and alcohol testing program in compliance with the Child and Youth, Safety and Health Omnibus Amendment Act of 2004 (CYSHA). Pursuant to CYSHA, applicants and employees in "safety-sensitive" positions are subject to testing for the presence of alcohol and drugs as a condition of employment.

C.4.2 The DCPS is committed to providing a safe and healthy workplace for all DCPS employees and is responsible for selecting and retaining the most qualified candidates to join the DCPS' workforce. In accordance with District laws and policies, it is required that all applicants for employment in a safety-sensitive position within DCPS be tested for alcohol and drug use. In addition, all incumbent employees who work directly with children and youth are also required to undergo reasonable suspicion, post-accident, return-to-duty and follow-up drug and alcohol testing.

C.4.3 DCPS will engage a drug testing laboratory to procure all services necessary to conduct urine collection for drug testing and breath-alcohol testing program for employees, applicants, volunteers and contractors. DCPS is a school system with over 120 locations throughout the District of Columbia and the actual number of tests to be performed each year is approximately 5,000. CYSHA requires that the laboratory used to perform drug testing hold a certification from the Department of Health and Human Services (HHS). Laboratories holding HHS certification cannot perform drug tests and verify the results. Thus, DCPS must engage the services of a Medical Review Officer to verify the drug testing results.

C.4.4 Contract service shall include any work related to substance abuse testing; expert witness testimony; alcohol testing and medical review officer functions.

C.5 REQUIREMENTS

C.5.1 The Contractor shall not charge DCPS for any employees that schedule a test but do not show up.

C.5.2 DCPS estimates testing approximately 5,000 individuals per year as follows:

Type of Test	**Alcohol**	**Drug**	**Anticipated Number of Tests Per Year**
Pre-Employment, Safety Sensitive	Yes	Yes	5000
Reasonable Suspicion, Post-Accident, Return-to-Duty, or following Treatment	Yes	Yes	100

C.5.3 <u>Testing and Collection Locations</u>

- **Pre-Employment Collections and Testing for Employee Applicants and Contractors:** All pre-employment testing for employee applicants and contractors should be conducted at any certified laboratory in the United States.
- **Reasonable Suspicion and blood alcohol Testing**: Reasonable Suspicion specimen collection and Blood Alcohol Testing should be conducted at any school site or facility where the employee, contractor or volunteer is assigned. Accordingly, DCPS requires a contractor capable of dispatching multiple collectors to various locations across Washington, D.C. within two hours of the request being made, during a given workday to administer urine collection and Blood Alcohol Test (BATs).
- **Specimen Testing**: At a certified laboratory in the United States.
- **Post-accident specimen collection:** At the site of the accident, the school or facility where the employee is assigned or a certified laboratory within Washington, D.C.
- **Reasonable Suspicion Training**: At any DCPS school site or facility.

C.5.4 Urine Sample Collection

C.5.4.1 The contractor shall collect approximately 5000 urine specimens of employees, applicants, contractors, and volunteers per year; sending specimens to labs for testing and receiving results.

C.5.4.2 The contractor shall test urine specimens at a laboratory certified by the Department of Health and Human Services, using the EMIT and GC/MS testing methods.

C.5.4.3 The contractor shall verify approximately 5000 drug test results per year.

C.5.4.4 DCPS will require both facility and on-site collection services. DCPS is a school system with over 120 locations throughout the District of Columbia.

1. Facility Collection Needs (Applicants, Contractors, and Volunteers):

a. Timeline: DCPS will be performing pre-employment drug tests on applicants and employees, contractors and volunteers in safety-sensitive position beginning in October 2021, and according to the criteria set forth in Section C.4 of the solicitation.
DCPS began performing pre-employment drug tests on applicants in safety-sensitive position beginning in February 2013 and will continue to do so indefinitely.

b. Number of applicant collections: DCPS anticipates drug testing approximately 5,000 applicants for safety-sensitive positions for the 2021-22 school year.

c. Service: DCPS will need collector(s) capable of, and licensed/certified to, collect urine samples according to HHS guidelines for approximately 5,000 applicants between October 2021 and September 2022.

d. Substances tested:
   I. Marijuana (THC)
   II. Cocaine
   III. Opiates
   IV. Amphetamines

e. Initial Test: Each urine specimen will be subject to an initial Enzyme-Multiplied-Immunoassay Test (EMIT)

f. Confirmation Test: If a specimen tests positive for any of the aforementioned substances, the positive result must be confirmed using the Gas Chromatography/Mass Spectrometry (GC/MS) testing method.

2. On-site Collection Needs (Employees, Contractors and Volunteers):

a. Timeline: DCPS will be conducting reasonable suspicion and post-accident testing in October 2021 and continue through September 2022. DCPS started conducting reasonable suspicion and post-accident testing in October 2013 and will continue indefinitely.

b. Number of employees, contractor and volunteer tests:
   I. DCPS anticipates performing an estimated 20 reasonable suspicion tests during the 2021-22 school year.
   II. DCPS anticipates performing an estimated 5 post-accident tests during the 2021-22 school year.
   III. DCPS anticipates performing an estimated 10 follow-up and return-to-duty tests during the 2021-22 school year.

3. Logistics/Location of collection:
   a. DCPS will require the certified collectors to travel to various school locations, within two hours of the request being made, and collect specimens per HHS guidelines, maintain chain of custody, and deliver the samples to a certified laboratory with which it is affiliated.

   b. DCPS will notify the MRO/Collectors in advance of the individuals to be tested, and the locations where testing is to occur.

C.5.5 Breath Alcohol Testing (BAT)

C.5.5.1 The contractor shall administer and certified approximately 20 BATs per year for employees, contractors, and volunteers

C.5.5.2 DCPS will require both facility and on-site collection services. DCPS is a school system with over 120 locations throughout the District of Columbia.

1. Employee BAT:
   a. Timeline: DCPS will be performing reasonable suspicion and post-accident, follow-up and return-to-duty testing on employees, according to the criteria set forth in Section C.5 of this solicitation, beginning in October 2021
   b. Number of employee tests:
      I. DCPS anticipates performing an estimated 20 reasonable suspicion tests during the 2021-22 school year.
      II. DCPS anticipates performing an estimated 5 post-accident tests during the 2021-22 school year.
      III. DCPS anticipates performing an estimated 10 follow-up and return-to-duty tests during the 2021-22 school year.

c. Service: DCPS will need collector(s) certified/licensed to administer BATs and review the results for the above-referenced volume of employee tests.

d. BAT location: BAT for DCPS employees will have to occur at the employees' worksites in D.C., to minimize disruption of work. DCPS will need collector(s) capable of, and certified/licensed to, perform BAT for approximately 20 employees, contractors and volunteers per year.

C.5.6 MRO Drug Review Needs

MRO Service: DCPS will need an MRO capable of reviewing the drug test results from the following list of employee tests. The MRO must review all presumptively positive results and split sample results and confirm they are positive, after speaking with the donor. An MRO assistant may review negative results.

1. Review of applicant tests:
   a. Timeline: DCPS will be performing pre-employment drug tests on applicants in safety-sensitive position beginning in October 2021, and according to the criteria set forth in Section C.4. DCPS began performing pre-employment drug tests on applicants in safety-sensitive position in July 2012 and will continue to do so indefinitely.
   b. Number of applicant tests: DCPS anticipates drug testing approximately 5,000 applicants for safety-sensitive positions in FY22.

   c. MRO Service: DCPS will need an MRO capable of reviewing test results for approximately 5,000 applicants. The MRO must review all presumptively positive results and split sample results and confirm they are positive, after speaking with the donor. An MRO assistant may review negative results.

2. Review of employee tests:
   a. Timeline: DCPS will begin reasonable suspicion and post-accident testing in October 2021 and according to the criteria set forth in section C.4. DCPS began performing reasonable suspicion and post-accident testing in October 2013 and will continue to do so indefinitely.

   b. Number of employee tests:
      I. DCPS anticipates performing an estimated 20 reasonable suspicion tests during the 2021-22 school year.
      II. DCPS anticipates performing an estimated 5 post-accident tests during the 2021-22 school year.
      III. DCPS anticipates performing an estimated 10 follow-up and return-to-duty tests during the 2021-22 school year.

C.5.7 MRO Responsibilities:

The certified MRO has three main post-collection functions:

1. Employer Notification
   a. The MRO is responsible for reporting controlled substance test results to the DCPS designee, within three (3) workdays of the completion of the MRO's review and decision.

   b. The MRO shall provide the following information to the DCPS designee:
      I. The name of the individual for whom the rest results are being reported;
      II. The type of test indicated on the custody form (e.g., random);
      III. The date and location of the test collection;
      IV. The identity of the persons or entities performing the collection, the analysis of the specimen(s), and the identity of the person serving as the MRO for the specific test; and
      V. The verified results of the controlled substances test (position or negative) and, if positive, the identity of the controlled substance(s) for which the test was verified positive.

2. Employees, Contractors, Applicants and Volunteers Notification
   a. Prior to verifying a positive result, the MRO shall make every effort, to contact the covered employee confidentially by telephone to give the employee the opportunity to discuss the test result.

   b. If after making all reasonable effort and documenting such effort the MRO is unable to reach the covered employee directly, the MRO shall contact the DCPS designee, who shall direct the employee to contact the MRO within 24 hours.

3. Records Retention
   a. The MRO shall maintain dated records and notifications for positive controlled substances and alcohol test results, identified by individual, for a period of five (5) years

   b. The MRO shall maintain dated records and notifications for negative and canceled controlled substances and alcohol test results, identified by individual, for a period of one (1) year

   c. The MRO shall not release individual controlled substances and alcohol test results of any covered employee without specific, written authorization, except to the DCPS designee(s), or other identified officials with official authority over the DCPS Mandatory Drug and Alcohol Testing Program. DCPS will provide a list of DCPS MDAT designee(s).

C.5.8 Training

The contractor shall train approximately 300 supervisors on the detection of drug and alcohol abuse (reasonable suspicion) per session each year.

Training is given to supervisors in need of the bi-annual refresher training. DCPS typically hold 7-8 two-hour trainings per year. Given the large number of Supervisors in DCPS the contractor should be able to offer trainings to 30 or more Supervisors at a time. DCPS will determine if Training will be conducted virtual or onsite.

C.5.9 Reports

The contractor shall provide a variety of statistical reports for both alcohol testing and urine collection daily. These reports shall include but are not limited to the following:

a) Combined Urine Collection and Alcohol Testing results, both positive and negative.
b) Indications of a Shy Bladder result, attempts to make follow up contact with employees, post-accident results, reasonable suspicion results, cancelled tests and employee refusal to test.
c) The contractor shall provide DCPS the ability to run daily reports from its database to view the status of tests and results.
d) Summary Report of all Drug/Alcohol Test Conducted as needed.
e) Randomized list of employees for testing

C.5.10 Expert Witness Testimony

A. Upon request by the DCPS, the contractor shall present and secure the testimony of any individual who performed or performs work related to the contract. This includes making such individuals available to DCPS officials for pre-hearing preparation and service of any required subpoenas or similar summonses. The contractor shall not be responsible for presenting or securing any individual who, at the time their presence or testimony is requested, is an employee of the District of Columbia Public Schools.

B. The contractor shall make available (within three (3) business days of receipt of written notification from the Program Coordinator), any individual performing work hereunder who is requested by the DCPS to provide testimony or other services related thereto and/or licensed clinical director or their comparably qualified individual to testify on behalf of the DCPS in any judicial and or administrative hearings, or (b) other services, including but not limited to litigation packages, related to support of litigation or administrative hearings.

C. The contractor shall maintain accurate residency and contact information for all persons who, on behalf of the contractor, perform any of the responsibilities contained in this solicitation.

C.5.11 Litigation Package

The contractor shall compile and maintain a litigation package that includes, all documents, lab test results and communications created and maintained during the course of performing tests and collecting specimens from employees, contractors and volunteers.

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 five (5), Inspection of Supplies and 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)

SECTION F: PERIOD OF PERFORMANCE AND DELIVERABLES

F.1 TERM OF CONTRACT

The term of the base year contract shall be for a period of one year from date of award through September 30, 2022.

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.2.1 The District may extend the term of this contract for a period of **four (4) one-year** option periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that the District will give the Contractor preliminary written notice of its intent to extend 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(s) 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 *five (5) years*.

F.3 DELIVERABLES

The Contractor shall perform the activities required to successfully complete the District's requirements and submit each deliverable to the Contract Administrator identified in section G.9 in accordance with the following:

No.	Deliverable	Quantity	Format/Method of Delivery	Due Date
1	Individual Drug Test and BAT Results	1/drug test 1/BAT	Excel	As needed Oct 2021-Sept 2022
2	Summary Report of all Drug/Alcohol Test Conducted	1	Excel	As needed Oct 2021-Sept 2022
3	Randomized list of employees for testing	1	Excel	As needed Oct 2021-Sept 2022
4	Combine Alcohol & Urine Test Collection Daily Report	1	Excel	As needed Oct 2021-Sept 2022
5	Training 300 supervisors on drug and alcohol abuse and the detection of drug and alcohol abuse (i.e., training on reasonable suspicion of use). Each session should last approximately two (2) hours.	7	Virtual /Onsite	Dates TBD, Oct 2021-Sept 2022
6	Litigation Package	7 litigation packages	TBD	As needed Oct 2021-Sept 2022

7	Expert Testimony	5	TBD	As needed Oct 2021-Sept 2022

F.3.1 The Contractor shall submit to the District, as a deliverable, the report described in section H.5.5 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.

G.1.2 The District will pay the Contractor on or before the 30th 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 on a monthly basis 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.5.5.

G.3.2 The District shall not make final payment to the Contractor until the agency CFO has received the CO'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 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.4.2 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 item for which the price is 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 due the Contractor after:

a) Completion and acceptance of all work; and

b) Presentation of a properly executed invoice

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 3rd day after the required payment date for meat or a meat product;
b) the 5th day after the required payment date for an agricultural commodity; or
c) the 15th 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 3rd day after the required payment date for meat or a meat product;
b) the 5th day after the required payment date for an agricultural commodity; or
c) the 15th 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 on the added amount.

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).

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
Interim Deputy Chief Procurement Officer
Contracts and Acquisitions
Office of the Chief Resource Strategy Officer
District of Columbia Public Schools
1200 First Street, NE, 9th Floor
Washington, D.C. 20002
T: 202-442-5112
E: 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 ADMINSTRATOR (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:

Jade L. Fuller
Director, Labor Management & Employee Relations
Office of the General Counsel
District of Columbia Public Schools
1200 First Street, N.E, 10th Floor
Washington, DC 20002
T: 202-442-5373
E: jade.fuller@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 ORDERING CLAUSE

G.10.1 Any supplies and services to be furnished under this contract must be ordered by issuance of delivery orders or task orders by the CO. Such orders may be issued during the term of this contract.

G.10.2 All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of a conflict between a delivery order or task order and this contract, the contract shall control.

G.10.3 If mailed, a delivery order or task order is considered "issued" when the District deposits the order in the mail. Orders may be issued by facsimile or by electronic commerce methods.

G.11 HOURLY RATE CEILING

G.11.1 The ceilings for specified hourly rate items are set forth in Section B.

G.11.2 The hourly rates in this contract shall be fully loaded and include wages, overhead, general and administrative expenses, and profit and the total cost to the District shall not exceed the ceilings specified in Sections B.

G.11.3 The Contractor agrees to use its best efforts to perform the work specified in this contract and to meet all obligations under this contract within the hourly rate ceilings.

G.11.4 The Contractor must notify the CO, in writing, whenever it has reason to believe that the total cost for the hourly rate items of this contract will be either greater or substantially less than the hourly rate ceilings.

G.11.5 As part of the notification, the Contractor must provide the CO a revised estimate of the total cost of the hourly rate items of this contract.

G.11.6 The District is not obligated to reimburse the Contractor for hourly rates incurred in excess of the hourly rate ceilings specified in Section B, and the Contractor is not obligated to continue providing hourly rate items under this contract (including actions under the Termination clauses of this contract), or otherwise incur costs in excess of the hourly rate ceilings specified in Section B, until the CO notifies the Contractor, in writing, that the estimated cost has been increased and provides revised hourly rate ceilings for the hourly rate items in this contract.

G.11.7 No notice, communication, or representation in any form from any person other than the CO shall change the hourly rate ceilings. In the absence of the specified notice, the District is not obligated to reimburse the Contractor for any costs in excess of the hourly rate ceilings, whether such costs were incurred during the course of contract performance or as a result of termination.

G.11.8 If any hourly rate ceiling specified in Sections B is increased, any costs the Contractor incurs before the increase that are in excess of the previous hourly rate ceilings shall be allowable to the same extent as if incurred afterward, unless the CO issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.

G.11.9 A change order shall not be considered an authorization to exceed the applicable hourly rate ceilings specified in Section B, unless the change order specifically increases the hourly rate ceilings.

G.12 ESTIMATED QUANTITIES

It is the intent of the District to secure a contract for all of the needs of the designated agencies for items specified herein which may occur during the contract term. The District agrees that it will purchase its requirements of the articles or services included herein from the Contractor. Articles or services specified herein have a history of repetitive use in the District agencies. The estimated quantities stated in the IFB reflect the best estimates available. They shall not be construed to limit the quantities which may be ordered from the Contractor by the District or to relieve the Contractor of his obligation to fill all such orders. Orders will be placed from time to time if and when needs arise for delivery, all charges prepaid, to the ordering agency. The District does not guarantee to order any specific quantities of any item(s) or work hours of service.

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 (51) percent 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

The Contractor shall be bound by the Wage Determination No. 2015-4281 Revision 18**,** dated April 27, 2021, 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.2. 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 clause 24 of the SCP. If an option is exercised, the Contractor shall be bound by the applicable wage rates at the time of the exercise 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 PREGNANT WORKERS FAIRNESS

H.3.1 The Contractor shall comply with the Protecting Pregnant Workers Fairness Act of 2016, D.C. Official Code § 32-1231.01 *et seq*. (PPWF Act).

H.3.2 The Contractor shall not:

(a) Refuse to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding for an employee, unless the Contractor can demonstrate that the accommodation would impose an undue hardship;

(b) Take an adverse action against an employee who requests or uses a reasonable accommodation in regard to the employee's conditions or privileges of employment, including failing to reinstate the employee when the need for reasonable accommodations ceases to the employee's original job or to an equivalent position with equivalent:

(1) Pay;

(2) Accumulated seniority and retirement;

(3) Benefits; and

(4) Other applicable service credits;

(c) Deny employment opportunities to an employee, or a job applicant, if the denial is based on the need of the employer to make reasonable accommodations to the known limitations related to pregnancy, childbirth, related medical conditions, or breastfeeding;

(d) Require an employee affected by pregnancy, childbirth, related medical conditions, or breastfeeding to accept an accommodation that the employee chooses not to accept if the employee does not have a known limitation related to pregnancy, childbirth, related medical conditions, or breastfeeding or the accommodation is not necessary for the employee to perform her duties;

(e) Require an employee to take leave if a reasonable accommodation can be provided; or

(f) Take adverse action against an employee who has been absent from work as a result of a pregnancy-related condition, including a pre-birth complication.

H.3.3 The Contractor shall post and maintain in a conspicuous place a notice of rights in both English and Spanish and provide written notice of an employee's right to a needed reasonable accommodation related to pregnancy, childbirth, related medical conditions, or breastfeeding pursuant to the PPWF Act to:

(a) New employees at the commencement of employment;

(b) Existing employees; and

(c) An employee who notifies the employer of her pregnancy, or other condition covered by the PPWF Act, within 10 days of the notification.

H.3.4 The Contractor shall provide an accurate written translation of the notice of rights to any non-English or non-Spanish speaking employee.

H.3.5 Violations of the PPWF Act shall be subject to civil penalties as described in the Act.

H.4 UNEMPLOYED ANTI-DISCRIMINATION

H.4.1 The Contractor shall comply with the Unemployed Anti-Discrimination Act of 2012, D.C. Official Code § 32-1361 *et seq*.

H.4.2 The Contractor shall not:

(a) Fail or refuse to consider for employment, or fail or refuse to hire, an individual as an employee because of the individual's status as unemployed; or

(b) Publish, in print, on the Internet, or in any other medium, an advertisement or announcement for any vacancy in a job for employment that includes:

(1) Any provision stating or indicating that an individual's status as unemployed disqualifies the individual for the job; or

(2) Any provision stating or indicating that an employment agency will not consider or hire an individual for employment based on that individual's status as unemployed.

H.4.3 Violations of the Unemployed Anti-Discrimination Act shall be subject to civil penalties as described in the Act.

H.5 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT

Delete Article 35, 51% District Residents New Hires Requirements and First Source Employment Agreement, of the Standard Contract Provisions dated July 2010 for use with District of Columbia Government Supplies and Services Contracts and substitute the following Section **H.5 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT** in its place:

H.5 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT

H.5.1 For contracts for services in the amount of $300,000 or more, the Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code § 2-219.01 et seq. (First Source Act).

H.5.2 The Contractor shall enter into and maintain during the term of the contract, a First Source Employment Agreement (Employment Agreement) with the District of Columbia Department of Employment Service's (DOES), in which the Contractor shall agree that:

(a) The first source for finding employees to fill all jobs created in order to perform the contract shall be the First Source Register; and
(b) The first source for finding employees to fill any vacancy occurring in all jobs covered by the Employment Agreement shall be the First Source Register.

H.5.3 The Contractor shall not begin performance of the contract until its Employment Agreement has been accepted by DOES. Once approved, the Employment Agreement shall not be amended except with the approval of DOES.

H.5.4 The Contractor agrees that at least 51% of the new employees hired to perform the contract shall be District residents.

H.5.5 The Contractor's hiring and reporting requirements under the First Source Act and any rules promulgated thereunder shall continue for the term of the contract.

H.5.6 The CO may impose penalties, including monetary fines of 5% of the total amount of the direct and indirect labor costs of the contract, for a willful breach of the Employment Agreement, failure to submit the required hiring compliance reports, or deliberate submission of falsified data.

H.5.7 If the Contractor does not receive a good faith waiver, the CO may also impose an additional penalty equal to 1/8 of 1% of the total amount of the direct and indirect labor costs of the contract for each percentage by which the Contractor fails to meet its hiring requirements.

H.5.8 Any contractor which violates, more than once within a 10-year timeframe, the hiring or reporting requirements of the First Source Act shall be referred for debarment for not more than five (5) years.

H.5.9 The contractor may appeal any decision of the CO pursuant to this clause to the D.C. Contract Appeals Board as provided in **clause 14 of the SCP, Disputes**.

H.5.10 The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.

H.6 RESERVED

H.7 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA):

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.8 WAY TO WORK AMENDMENT ACT OF 2006: H.8.1 Except as described in H.8.8 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.8.2 The Contractor shall pay its employees and subcontractors who perform services under the contract no less than the

current living wage published on the OCP website at www.ocp.dc.gov. H.8.3 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.8.4 The DOES may adjust the living wage annually and the OCP will publish the current living wage rate on its website at www.ocp.dc.gov. H.8.5 The Contractor shall provide a copy of the Fact Sheet attached as J.6 to each employee and subcontractor who performs services under the contract. The Contractor shall also post the Notice attached as J.5 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.8.6 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.8.7 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.8.8 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; Page 38 of 65 GAGA-2021-R-0156 Speech Language Pathology Services (RELATED) (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 fulltime 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.8.9 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.9 SUBCONTRACTING REQUIREMENTS

H.9.1 Mandatory Subcontracting Requirements

H.9.1.1 Unless the Director of the Department of Small and Local Business Development (DSLBD) has approved a waiver in writing, for all contracts in excess of $250,000, at least 50% of the dollar volume of the contract shall be subcontracted to qualified small business enterprises (SBEs).

H.9.1.2 If there are insufficient SBEs to completely fulfill the requirement of paragraph H.9.1.1, then the subcontracting may be satisfied by subcontracting 50% of the dollar volume to any qualified certified business enterprises (CBEs); provided, however, that all reasonable efforts shall be made to ensure that SBEs are significant participants in the overall subcontracting work.

H.9.1.3 A prime contractor that is certified by DSLBD as a small, local, or disadvantaged business enterprise shall not be required to comply with the provisions of sections H.9.1.1 and H.9.1.2.

H.9.1.4 Except as provided in H.9.1.5 and H.9.1.7, a prime contractor that is a CBE and has been granted a bid preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 50% of the subcontracting effort shall be with CBEs. A CBE prime contractor that performs less than 50% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.

H.9.1.5 A prime contractor that is a certified joint venture and has been granted a bid preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the contracting effort with its own organization and resources and, if it subcontracts, 50% of the subcontracting effort shall be with CBEs. A certified joint venture prime contractor that performs less than 50% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.

H.9.1.6 Each CBE utilized to meet these subcontracting requirements shall perform at least 50% of its contracting effort with its own organization and resources.

H.9.1.7 A prime contractor that is a CBE and has been granted a bid preference pursuant to D.C. Official Code § 2-218.43, or is selected through a set-aside program, shall perform at least 50% of the on-site work with its own organization and resources if the contract is $1 million or less.

H.9.2 Subcontracting Plan

If the prime contractor is required to subcontract under this contract, it shall submit a subcontracting plan as part of the bid and it may only be amended after award with the prior written approval of the CO and Director of DSLBD. Any reduction in the dollar volume of the subcontracted portion resulting from an amendment of the plan after award shall inure to the benefit of the District.

Each subcontracting plan shall include the following:

(1) The name and address of each subcontractor;
(2) A current certification number of the small or certified business enterprise;
(3) The scope of work to be performed by each subcontractor; and
(4) The price that the prime contractor will pay each subcontractor.

H.9.3 Copies of Subcontracts

Within twenty-one (21) days of the date of award, the Contractor shall provide fully executed copies of all subcontracts identified in the subcontracting plan to the CO, CA, District of Columbia Auditor and the Director of DSLBD.

H.9.4 Subcontracting Plan Compliance Reporting

H.9.4.1 The Contractor shall submit a quarterly report to the CO, CA, District of Columbia Auditor and the Director of DSLBD. The quarterly report shall include the following information for each subcontract identified in the subcontracting plan:

(A) The price that the prime contractor will pay each subcontractor under the subcontract;
(B) A description of the goods procured or the services subcontracted for;
(C) The amount paid by the prime contractor under the subcontract; and
(D) A copy of the fully executed subcontract, if it was not provided with an earlier quarterly report.

H.9.4.2 If the fully executed subcontract is not provided with the quarterly report, the prime contractor will not receive credit toward its subcontracting requirements for that subcontract.

H.9.5 Annual Meetings

Upon at least 30-days written notice provided by DSLBD, the Contractor shall meet annually with the CO, CA, District of Columbia Auditor and the Director of DSLBD to provide an update on its subcontracting plan.

H.9.6 Notices

The Contractor shall provide written notice to the DSLBD and the District of Columbia Auditor upon commencement of the contract and when the contract is completed.

H.9.7 Enforcement and Penalties for Breach of Subcontracting Plan

H.9.7.1 A contractor shall be deemed to have breached a subcontracting plan required by law, if the contractor (i) fails to submit subcontracting plan monitoring or compliance reports or other required subcontracting information in a reasonably timely manner; (ii) submits a monitoring or compliance report or other required subcontracting information containing a materially false statement; or (iii) fails to meet its subcontracting requirements.

H.9.7.2 A contractor that is found to have breached its subcontracting plan for utilization of CBEs in the performance of a contract shall be subject to the imposition of penalties, including monetary fines in accordance with D.C. Official Code § 2-218.63.

H.9.7.3 If the CO determines the Contractor's failure to be a material breach of the contract, the CO shall have cause to terminate the contract under the default provisions in **clause 8** of the SCP**, Default.**

H.10 FAIR CRIMINAL RECORD SCREENING

H.10.1 The Contractor shall comply with the provisions of the Fair Criminal Record Screening Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-152) ("Act" as used in this section). This section applies to any employment, including employment on a temporary or contractual basis, where the physical location of the employment is in whole or substantial part within the District of Columbia.

H.10.2 Prior to making a conditional offer of employment, the Contractor shall not require an applicant for employment, or a person who has requested consideration for employment by the Contractor, to reveal or disclose an arrest or criminal accusation that is not then pending or did not result in a criminal conviction.

H.10.3 After making a conditional offer of employment, the Contractor may require an applicant to disclose or reveal a criminal conviction.

H.10.4 The Contractor may only withdraw a conditional offer of employment, or take adverse action against an applicant, for a legitimate business reason as described in the Act.

H.10.5 This section and the provisions of the Act shall not apply:

(a) Where a federal or District law or regulation requires the consideration of an applicant's criminal history for the purposes of employment;

(b) To a position designated by the employer as part of a federal or District government program or obligation that is designed to encourage the employment of those with criminal histories;

(c) To any facility or employer that provides programs, services, or direct care to, children, youth, or vulnerable adults; or

(d) To employers that employ less than 11 employees.

H.10.6 A person claiming to be aggrieved by a violation of the Act may file an administrative complaint with the District of Columbia Office of Human Rights, and the Commission on Human Rights may impose monetary penalties against the Contractor.

H.11 DISTRICT RESPONSIBILITIES

H.11.1 DCPS will provide a point of contact to liaise between DCPS applicants and employees, the drug testing laboratory, and the MRO.

H.11.2 Every three months (quarterly), DCPS will evaluate the contractor's performance and compliance with the contract in accordance with the established performance evaluation form (Attachment J.11).

H.11.3 DCPS will notify applicants of a need to undergo pre-employment testing.

H.11.4 DCPS will coordinate hearings and other administrative proceedings.

H.12 CONTRACTOR RESPONSIBILITIES

H.12.1 Contractor **must** provide the following as part of the bid:

H.12.1.1 Verification that testing lab is certified by the Department of Health and Human Services

H.12.1.2 Medical Licenses of Medical Review Officer

H.12.1.3 Certification for Regulated Urine Specimen Collections for each collector

H.12.1.4 Certification as a Breath Alcohol Technician for each individual administering BAT

H.12.2 To protect students and personnel from exposure to coronavirus (COVID-19), contractor and contractors' employees shall follow health guidelines from the DC Department of Health and comply with all DCPS visitor and other policies regarding building entry, health screenings, face coverings, social distancing, and any other health and safety measures outlined in DCPS policies.

H.12.3 The Contractor shall ensure that their staff adhere to the District's mask and health mandates. At the time of this solicitation issuance, the District government requires the wearing of masks inside schools and education facilities and while on duty, this includes all DCPS locations. All contractors and employees must wear a mask regardless of whether they are fully vaccinated.

H.13 CRIMINAL BACKGROUND AND TRAFFIC RECORDS CHECKS FOR CONTRACTORS THAT PROVIDE DIRECT SERVICES TO CHILDREN OR YOUTH

H.13.1 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. The Contractor shall request criminal background checks for any personnel with access to students and/or student records.

H.13.2 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.

H.13.3 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.13.4 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.13.5 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.13.6 The Contractor shall inform each applicant, employee and unsupervised volunteer that a false statement may subject them to criminal penalties.

H.13.7 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.13.5(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.13.8 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.13.9 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.13.10 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.13.11 The Contractor shall provide copies of all criminal background and traffic check reports to the CA within one business day of receipt.

H.13.12 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.13.13 The Contractor may make an offer of appointment to, or assign a current employee or applicant to, a compensated position 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.13.14 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.13.15 The Contractor shall not employ or permit to serve as an unsupervised volunteer an applicant or employee 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.13.16 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.13.1 and H.13.2.

H.13.17 An employee or unsupervised volunteer may be subject to administrative action including, but not limited to, reassignment or termination at the discretion of the COTR after his or her assessment of a criminal background or traffic record check.

H.13.18 The COTR 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.13.19 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.13.20 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.14 HIPAA PRIVACY COMPLIANCE POLICY

The HIPAA Privacy Compliance shall be incorporated into the contract. The Contractor shall download a copy of the HIPAA Privacy Compliance clause from www.ocp.in.dc.gov. The clause can be found under the heading of "Policies/Forms".

SECTION I: CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

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".

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.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 clause 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 clause 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, copy, modify, distribute, or adapt Products as follows:

1. Existing Products: Title to all Existing Licensed Product(s), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall 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 shall be granted an irrevocable, non-exclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, adapt (unless Contractor advises the District as part of Contractor's bid that

adaptation will violate existing agreements or statutes and Contractor demonstrates such to the District's satisfaction), and distribute Existing Product to District users up to the license capacity stated in the contract with all license rights necessary to fully effect the general business purpose of the project or work plan or contract. Licenses shall be granted in the name of the District. The District agrees to reproduce the copyright notice and any other legend of ownership on any copies authorized under this paragraph.

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

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

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

D. Subcontractor Rights

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

E. Source Code Escrow

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

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

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

F. Indemnification and Limitation of Liability

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

I.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.

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. Should the Contractor decide to engage a subcontractor for segments of the work under this contract and wish to propose different insurance requirements than outlined below, then, prior to commencement of work by the subcontractor, the Contractor shall submit in writing the name and brief description of work to be performed by the subcontractor on the Subcontractors Insurance Requirement Template provided by the CA, to the Office of Risk Management (ORM). ORM will determine the insurance requirements applicable to the subcontractor and promptly deliver such requirements in writing to the Contractor and the CA. The Contractor must provide proof of the subcontractor's required insurance prior to commencement of work by the subcontractor. If the Contractor decides to engage a subcontractor without requesting from ORM specific insurance requirements for the subcontractor, such subcontractor shall have the same insurance requirements as the Contractor.

All required policies 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 Contractor and subcontractors.

B. INSURANCE REQUIREMENTS

1. Commercial General Liability Insurance ("CGL") - The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services Office, Inc. ("ISO") form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by the CO in writing), covering liability for all ongoing and completed operations of the Contractor, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including without limitation sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than $1,000,000 each occurrence, a $2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a $1,000,000 personal and advertising injury limit, and a $2,000,000 products-completed operations aggregate limit.

2. Automobile Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of commercial (business) automobile liability insurance written on ISO form CA 00 01 10 13 (or another form with coverage at least as broad and approved by the CO in writing) including coverage for all owned, hired, borrowed and non-owned vehicles and equipment used by the Contractor, with minimum per accident limits equal to the greater of (i) the limits set forth in the Contractor's commercial automobile liability policy or (ii) $1,000,000 per occurrence combined single limit for bodily injury and property damage.

3. 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. Cyber Liability Insurance - The Contractor shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than $2,000,000 per occurrence or claim, $2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. Limits may not be shared with other lines of coverage. A copy of the cyber liability policy must be submitted to the Office of Risk Management (ORM) for compliance review.

5. Environmental Liability/Contractors Pollution Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of environmental liability insurance covering losses caused by pollution or other hazardous conditions arising from ongoing or completed operations of the Contractor. Such insurance shall apply to bodily injury, property damage (including loss of use of damaged property or of property that has been physically injured), clean-up costs, transit and non-owned disposal sites. Coverage shall extend to defense costs and expenses incurred in the investigation, civil fines, penalties and damages or settlements. There shall be neither an exclusion nor a sublimit for mold or fungus-related claims. The minimum limits required under this paragraph shall be equal to the greater of (i) the limits set forth in the Contractor's pollution liability policy or (ii) $2,000,000 per occurrence and $2,000,000 in the annual aggregate. If such coverage is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverages under the policy precedes the Contractor's performance of any work under the Contract and that continuous completed operations coverage will be maintained for at least ten (10) years or an extended reporting period shall be purchased for no less than ten (10) years after completion.

   The Contractor also must furnish to CO Owner certificates of insurance evidencing environmental liability insurance maintained by third party transportation and disposal site operators(s) used by the Contractor for losses arising from facility(ies) accepting, storing or disposing hazardous materials or other waste as a result of the Contractor's operations. Such coverages must be maintained with limits of at least the amounts set forth above.

6. Medical Professional Liability - The Contractor shall provide evidence satisfactory to the Contracting Officer of a Medical Professional Liability policy with limits of not less than $1,000,000 each incident and $3,000,000 in the annual aggregate. The definition of insured shall include the Contractor and all Contractor's employees and agents. The policy shall be either (1) written on an occurrence basis or (2) written on a claims-made basis. If the

coverage is on a claims-made basis, Contractor hereby agrees that prior to the expiration date of Contractor's current insurance coverage, Contractor shall purchase, at Contractors sole expense, either a replacement policy
annually thereafter having a retroactive date no later than the effective date of this Contract or unlimited tail coverage in the above stated amounts for all claims arising out of this Contract.

7. 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 $1,000,000 per claim or per occurrence for each wrongful act and $2,000,000 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. Limits may not be shared with other lines of coverage.

8. Sexual/Physical Abuse & Molestation - The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to the services performed that it carries $1,000,000 per occurrence limits; $2,000,000 aggregate of affirmative abuse and molestation liability coverage. Coverage should include physical abuse, such as sexual or other bodily harm and non-physical abuse, such as verbal, emotional or mental abuse; any actual, threatened or alleged act; errors, omission or misconduct. 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 or "shared" limits under a commercial general liability or professional liability policy will not be acceptable. Limits may not be shared with other lines of coverage. The applicable policy may need to be submitted to the Office of Risk Management (ORM) for compliance review.

9. Commercial Umbrella or Excess Liability - The Contractor shall provide evidence satisfactory to the CO of commercial umbrella or excess liability insurance with minimum limits equal to the greater of (i) the limits set forth in the Contractor's umbrella or excess liability policy or (ii) $5,000,000 per occurrence and $5,000,000 in the annual aggregate, following the form and in excess of all liability policies. **All** liability coverages must be scheduled under the umbrella and/or excess policy. The insurance required under this paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance or reinsurance maintained by the District and the "other insurance" provision must be amended in accordance with this requirement and principles of vertical exhaustion.

C. PRIMARY AND NONCONTRIBUTORY INSURANCE

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

D. DURATION. The Contractor shall carry all required insurance until all contract work is accepted by the District of Columbia and shall carry listed coverages for ten years for construction projects following final acceptance of the work performed under this contract and two years for non-construction related contracts.

E. 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.

F. 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.

G. 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.

H. NOTIFICATION. The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event of coverage and / or limit changes or if the policy is canceled prior to the expiration date shown on the certificate. The Contractor shall provide the CO with ten (10) days prior written notice in the event of non-payment of premium. The Contractor will also provide the CO with an updated Certificate of Insurance should its insurance coverages renew during the contract.

I. CERTIFICATES OF INSURANCE. The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted to:

The Government of the District of Columbia

And mailed to the attention of:
LaVeta Hilton
Interim Deputy Chief Procurement Officer
District of Columbia Public Schools
1200 First Street, NE, 9th Floor
Washington, DC 20002

E: LaVeta.Hilton@k12.dc.gov

The CO may request and the Contractor shall promptly deliver updated certificates of insurance, endorsements indicating the required coverages, and/or certified copies of the insurance policies. If the insurance initially obtained by the Contractor expires prior to completion of the contract, renewal certificates of insurance and additional insured and other endorsements shall be furnished to the CO prior to the date of expiration of all such initial insurance. For all coverage required to be maintained after completion, an additional certificate of insurance evidencing such coverage shall be submitted to the CO on an annual basis as the coverage is renewed (or replaced).

J. 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.

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

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 bidder who has not satisfied the equal employment requirements.

I.10 ORDER OF PRECEDENCE

The contract awarded as a result of this IFB will contain the following clause:

ORDER OF PRECEDENCE

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

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

(3) Standard Contract Provisions
(4) Contract attachments other than the Standard Contract Provisions
(5) IFB, as amended
(6) Bid

I.11 DISPUTES

Delete clause 14, Disputes, of the Standard Contract Provisions dated July 2010 for use with District of Columbia Government Supplies and Services Contracts and substitute the following clause 14, Disputes) in its place:

14. Disputes

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

(a) **Claims by the Contractor against the District**: Claim, as used in paragraph (a) of this clause, means a written assertion by the Contractor seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant

(1) All claims by a Contractor against the District arising under or relating to a contract shall be in writing and shall be submitted to the CO for a decision. The Contractor's claim shall contain at least the following:

(i) A description of the claim and the amount in dispute;
(ii) Data or other information in support of the claim;
(iii) A brief description of the Contractor's efforts to resolve the dispute prior to filing the claim; and
(iii) The Contractor's request for relief or other action by the CO.

(2) The CO may meet with the Contractor in a further attempt to resolve the claim by agreement.

(3) The CO shall issue a decision on any claim within 120 calendar days after receipt of the claim. Whenever possible, the CO shall take into account factors such as the size and complexity of the claim and the adequacy of the information in support of the claim provided by the Contractor.

(4) The CO's written decision shall do the following:

(i) Provide a description of the claim or dispute;
(ii) Refer to the pertinent contract terms;

(iii) State the factual areas of agreement and disagreement;
(iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
(v) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
(vi) Indicate that the written document is the CO's final decision; and
(vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

(5) Failure by the CO 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.

(6) If a contractor is unable to support any part of its claim and it is determined that the inability is attributable to a material misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the District for an amount equal to the unsupported part of the claim in addition to all costs to the District attributable to the cost of reviewing that part of the Contractor's claim. Liability under this paragraph (a)(6) shall be determined within six (6) years of the commission of the misrepresentation of fact or fraud.

(7) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the CO.

(b) **Claims by the District against the Contractor:** Claim as used in paragraph (b) of this clause, means a written demand or written assertion by the District seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to the contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.

(1) The CO shall decide all claims by the District against a contractor arising under or relating to a contract.

(2) The CO shall send written notice of the claim to the contractor. The CO's written decision shall do the following:

(i) Provide a description of the claim or dispute;
(ii) Refer to the pertinent contract terms;
(iii) State the factual areas of agreement and disagreement;

(iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;

(v) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;

(vi) Indicate that the written document is the CO's final decision; and

(vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.

(3) The CO shall support the decision by reasons and shall inform the Contractor of its rights as provided herein.

(4) Before or after issuing the decision, the CO may meet with the Contractor to attempt to resolve the claim by agreement.

(5) The authority contained in this paragraph (b) shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle or determine.

(6) This paragraph shall not authorize the CO to settle, compromise, pay, or otherwise adjust any claim involving fraud.

(c) Decisions of the CO 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.

(d) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the CO.

I.12 COST AND PRICING DATA

Delete clause 25, Cost and Pricing Data, of the Standard Contract Provisions dated July 2010 for use with District of Columbia Government Supplies and Services Contracts.

SECTION J: ATTACHMENTS

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

Attachment Number	Document
J.1	Government of the District of Columbia Standard Contract Provisions for Use with the Supplies and Services Contracts (July 2010) available at www.ocp.dc.gov click on "opportunities, and select Required Solicitation Attachments"
J.2	U.S. Department of Labor Wage Determination No. 2015-4281 Revision 18, dated April 27, 2021
J.3	Way to Work Amendment Act of 2006 - Living Wage Notice available at http://ocp.dc.gov, under Quick Links click on "Required Solicitation Documents"
J.4	Way to Work Amendment Act of 2006 - Living Wage Fact Sheet available at http://ocp.dc.gov, under Quick Links click on "Required Solicitation Documents"
J.5	Child and Youth, Safety and Health Omnibus Amendment Act of 2004 (CYSHA)
J.6	Regulations for Implementing CYSHA
J.7	Department of Transportation Rules and Regulation [49 C.F.R. Part 40] (2010)
J.8	HHS Certification Regulations (2008)
J.9	DCPS Employee Mandatory Drug and Alcohol Testing Policy (May 2019)
J.10	DCPS Pre-employment Mandatory Drug Testing Policy (May 2019)
J.11	Performance Evaluation Form 4001
REQUIRE COMPLETION AND SUBMISSION WITH BID/OFFER	
J.12	Tax Certification Affidavit available at available at www.ocp.dc.gov click on Solicitation Attachments"
J.13	Certificate of Clean Hands available at Mytax.dc.gov

Attachment Number	Document
J.14	Office of Local Business Development Equal Employment Opportunity Information Report and Mayor's Order 85-85 available at www.ocp.dc.gov click on Solicitation Attachments"
J.15	Bidder/Offeror Certifications available at www.ocp.dc.gov click on Solicitation Attachments"
J.16	All Licenses as required in this Solicitation

SECTION K: REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF BIDDERS

Bidder/Offeror Certification Form

available at http://ocp.dc.gov,
under Quick Links click on "Required Solicitation Documents"

SECTION L: INSTRUCTIONS, CONDITIONS AND NOTICES TO BIDDERS

L.1 METHOD OF AWARD

L.1.1 The District reserves the right to accept/reject any/all bids resulting from this solicitation. The CO may reject all bids or waive any minor informality or irregularity in bids received whenever it is determined that such action is in the best interest of the District.

L.1.2 The District intends to award a single contract resulting from this solicitation to the responsive and responsible bidder who has the lowest bid.

L.2 BID SUBMISSION DATE AND TIME

L.2.1 Bids must be submitted **electronically** ***no later than 2:00 PM local time on September 27, 2021*** **via dcpsoca.inquiries@k12.dc.gov.** Bidder must include the solicitation number and title in the subject line of the email submissions **GAGA-2021-I-0060 Mandatory Drug and Alcohol Testing**.

L.2.2 All attachments shall be submitted as a pdf file. The District will not be responsible for corruption of any file submitted. If the submitted file cannot be viewed and printed as submitted, it will not be considered.

L.3 FAMILIARIZATION WITH CONDITIONS:

Bidders shall thoroughly familiarize themselves with the terms and conditions of this solicitation, acquainting themselves with all available information regarding difficulties which may be encountered and the conditions under which the work is to be accomplished. Bidders will not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required herein due to their failure to investigate the conditions or to become acquainted with all information, schedules and liability concerning the services to be performed.

L.4 WITHDRAWAL OR MODIFICATION OF BIDS

A bidder may modify or withdraw its bid upon written or facsimile transmission if received at the location designated in the solicitation for submission of bids, but not later than the exact time set for opening of bids.

L.5 LATE SUBMISSIONS, LATE MODIFICATIONS, AND LATE WITHDRAWALS

L.5.1 Bids, modifications to bids, or requests for withdrawals that are received at the location designated in the solicitation after the time and date specified above, are "late" and shall be considered only if they are received before the award is made and any of the following circumstances apply:

a. The bid or modification was sent by registered or certified mail no later than five (5) calendar days before the date specified for receipt of bids;

b. It was sent by mail and the contracting officer determines that the late receipt was due solely to mishandling by the District after receipt at the location specified in the IFB; or

c. It was sent electronically by the bidder prior to the time and date specified and there is objective evidence in electronic form confirming that the bid was received prior to the bid receipt time and date specified.

L.5.2 <u>Postmarks</u>

The only acceptable evidence to establish the date of a late bid, late modification or late withdrawal sent either by registered or certified mail shall be a U.S. or Canadian Postal Service postmark on the wrapper or on the original receipt form the U.S. or Canadian Postal Service. If neither postmark shows a legible date, the bid, modification or withdrawal shall be deemed to have been mailed late. When the postmark shows the date but not the hour, the time is presumed to be the last minute of the date shown. If no date is shown on the postmark, the bid shall be considered late unless the bidder can furnish evidence from the postal authorities

of timely mailing. of a successful bid which makes its terms more favorable to the District will be considered at any time it is received and may be accepted.

L.5.3 Late Submissions

A late bid, late request for modification or late request for withdrawal shall not be considered, except as provided in this section.

L.5.4 Late Modifications

A late modification of a successful bid which makes its terms more favorable to the District will be considered at any time it is received and may be accepted.

L.5.5 Late Bids

A late bid, late modification or late withdrawal of a bid that is not considered shall be held unopened, unless opened for identification, until after award and then retained with unsuccessful bids resulting from this solicitation.

L.6 RESERVED

L.7 ERRORS IN BIDS

Bidders are expected to read and understand fully all information and requirements contained in the solicitation; failure to do so will be at the bidder's risk. In event of a discrepancy between the unit price and the total price, the unit price shall govern.

L.8 QUESTIONS ABOUT THE SOLICITATION

If a prospective bidder has any questions relative to this solicitation, the prospective bidder shall submit the questions electronically via email to **dcpsoca.inquiries@k12.dc.gov**, and **joan.aird@k12.dc.gov**. ***The prospective bidder should submit questions no later than 1:00 PM EST, Thursday, September 16, 2021. The District will not consider any questions received after the specified date of Thursday, September 16, 2021 by 1:00 PM EST.*** The District will furnish responses via an amendment published on the DCPS website, https://dcps.dc.gov. An amendment to the solicitation will be issued if the CO decides that information is necessary in submitting bids, or if the lack of it would be prejudicial to any other prospective bidders. Oral explanations or instructions given before the award of the contract will not be binding.

L.9 BID PROTESTS

Any actual or prospective bidder or contractor, who is aggrieved in connection with the solicitation or award of a contract, must file with the D.C. Contract Appeals Board (Board) a protest no later than ten (10) business days after the basis of protest is known or should have

been known, whichever is earlier. A protest based on alleged improprieties in a solicitation which are apparent prior to bid opening or the time set for receipt of initial bids shall be filed with the Board prior to bid opening or the time set for receipt of initial bids. In procurements in which bids are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into this solicitation, must be protested no later than the next closing time for receipt of bids following the incorporation. The protest shall be filed in writing, with the Contract Appeals Board, 441 4th Street, N.W., Suite 350N, Washington, D.C. 20001. The aggrieved person shall also mail a copy of the protest to the CO for the solicitation.

L.10 ACKNOWLEDGMENT OF AMENDMENTS

The bidder shall acknowledge receipt of any amendment to this solicitation (a) by signing and returning the amendment: (b) by identifying the amendment number and date in the space provided for this purpose in Section A.14 of the solicitation; or (c) by letter or telegram, including mailgrams. The District must receive the acknowledgment by the date and time specified for receipt of bids. A bidder's failure to acknowledge an amendment may result in rejection of its bid.

L.11 SIGNING OF BIDS

L.11.1 The Contractor shall sign the bid and print or type its name on the Solicitation, Offer and Award form of this solicitation. Each bid must show a full business address and telephone number of the bidder and be signed by the person or persons legally authorized to sign contracts. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the CO.

L.11.2 All correspondence concerning the bid or resulting contract will be mailed to the address shown on the bid in the absence of written instructions from the bidder or contractor to the contrary. Any bid submitted by a partnership must be signed with the partnership name by a general partner with authority to bind the partnership. Any bid submitted by a corporation must be signed with the name of the corporation followed by the signature and title of the person having authority to sign for the corporation.

L.12 BIDS WITH OPTION YEARS

The bidder **shall include option year prices** in its bid. A bid may be determined to be nonresponsive if it does not include option year pricing.

L.12 LEGAL STATUS OF BIDDER

Each bid must provide the following information:

L.12.1 Name, address, telephone number and federal tax identification number of bidder;

L.12.2 A copy of each District of Columbia license, registration or certification that the bidder is required by law to obtain. If the bidder is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the bid shall certify its intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements; and

L.12.3 If the bidder is a partnership or joint venture, the names and addresses of the general partners or individual members of the joint venture, and copies of any joint venture or teaming agreements.

L.13 BID OPENING

The District shall make publicly available the name of each bidder, the bid price, and other information that is deemed appropriate.

L.14 CERTIFICATES OF INSURANCE

Prior to commencing work, the Contractor shall have its insurance broker or insurance company submit certificates of insurance giving evidence of the required coverages to the CO. **Each certificate of insurance must identify the contract or solicitation number.**

L.15 GENERAL STANDARDS OF RESPONSIBILITY

L.15.1 To be determined responsible, a prospective contractor must demonstrate that it:

(a) Has adequate financial resources, or the ability to obtain such resources, required to perform the contract;

(b) Is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and government contract commitments;

(c) Has a satisfactory performance record;

(d) Has a satisfactory record of integrity and business ethics;

(e) Has a satisfactory record of compliance with the applicable District licensing and tax laws and regulations;

(f) Has a satisfactory record of compliance with the law, including labor and civil rights laws and rules, and the First Source Employment Agreement Act of 1984, D.C. Official Code § 2-219.01 *et seq*., as amended;

(g) Has, or has the ability to obtain, the necessary organization, experience, accounting, and operational control, and technical skills;

(h) Has, or has the ability to obtain, the necessary production, construction, technical equipment, and facilities;

(i) Has not exhibited a pattern of overcharging the District;

(j) Does not have an outstanding debt with the District or the federal government in a delinquent status; and

(k) Is otherwise qualified and is eligible to receive an award under applicable laws and regulations.

L.15.2 If the prospective contractor fails to supply the information requested, the CO shall make the determination of responsibility or nonresponsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the CO shall determine the prospective contractor to be nonresponsible.

L.15.3 In order to determine the fiscal viability of the bidder or any subcontractor (if applicable), the DCPS reserves the right to conduct a financial determination to determine the bidder's financial responsibility pursuant to L.15.1(a). The bidder under consideration for award may be required to provide one or more of the following financial documents:

1. Balance Sheet;
2. Income Statement;
3. Cash Flow Statement;
4. Bank Letter of Credit;
5. An audited Financial Statement

Document submitted will be kept confidential and used only for the determination of fiscal viability by the DCPS.

L.16 SPECIAL STANDARDS OF RESPONSIBILITY

L.16.1 In addition to the general standards of responsibility set forth above, the prospective contractor must demonstrate to the satisfaction of the District, **bidder must submit with its bid** convincing

evidence that demonstrates that the bidder meets the Special Standard(s) of Responsibility. At a minimum, a bidder must provide the following evidence:

- **Minimum of three (3) years in the provision of Drug and Alcohol Testing services in an urban school setting**
- **Bidder holds a certification from the Department of Health and Human Services as a specimen collector.**
- **Bidder must be a certified Medical Review Officer from any nationally recognized Medical Review Officer Certification board.**

SECTION M: EVALUATION FACTORS

M.1. Preferences for Certified Business Enterprises

Under the provisions of the "Small and Certified Business Enterprise Development and Assistance Act of 2005", D.C. Official Code § 2-218.01 *et seq*., as amended ("Act", as used in this section), the District shall apply preferences in evaluating bids from businesses that are certified by the Department of Small and Local Business Development (DSLBD) pursuant to Part D of the Act.

M.1.1. Application of Preferences

For evaluation purposes, the allowable preferences under the Act shall be applicable to prime contractors in response to this IFB as follows:

M.1.1.1 A small business enterprise certified by the DSLBD will receive a three percent (3%) reduction in the bid price.

M.1.1.2 A resident-owned business certified by DSLBD will receive a five percent (5%) reduction in the bid price.

M.1.1.3 A longtime resident business certified by DSLBD will receive a ten percent (10%) reduction in the bid price.

M.1.1.4 A local business enterprise certified by DSLBD will receive a two percent (2%) reduction in the bid price.

M.1.1.5 A local business enterprise with its principal offices located in an enterprise zone certified by DSLBD will receive a two percent (2%) reduction in the bid price.

M.1.1.6 A disadvantaged business enterprise certified by DSLBD will receive a two percent (2%) reduction in the bid price.

M.1.1.7 A veteran-owned business certified by DSLBD will receive a two percent (2%) reduction in the bid price.

M.1.1.8 A local manufacturing business enterprise certified by DSLBD will receive a two percent (2%) reduction in the bid price.

M.1.2 Maximum Preference Awarded

Notwithstanding the availability of the preceding preferences, the maximum total preference to which a certified business enterprise is entitled is twelve per cent (12%). There will be no preference awarded for subcontracting by the prime contractor with certified business enterprises.

M.1.3 Preferences for Certified Joint Ventures

A joint venture certified by DSLBD for this solicitation will receive preferences as a prime contractor as determined by DSLBD.

M.1.4 Verification of Bidder's Certification as a Certified Business Enterprise

M.1.4.1 Any bidder seeking to receive preferences on this solicitation must be certified at the time of submission of its bid. The CO will verify the bidder's certification with DSLBD, and the bidder should not submit with its bid any documentation regarding its certification as a certified business enterprise.

M.1.4.2 Any bidder seeking certification in order to receive preferences under this solicitation should contact the:

Department of Small and Local Business Development
ATTN: CBE Certification Program
441 Fourth Street, NW, Suite 850N
Washington DC 20001

M.1.4.3 All bidders are encouraged to contact DSLBD at (202) 727-3900 if additional information is required on certification procedures and requirements.

M.2 EVALUATION OF OPTION YEARS

The District will evaluate bids for award purposes by evaluating the total price for all options as well as the base year. Evaluation of options shall not obligate the District to exercise them. The total District's requirements may change during the option years. Quantities to be awarded will be determined at the time each option is exercised.

***

END OF DOCUMENT

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