


SOLICITATION, OFFER, AND AWARD  Government of the District of Columbia		1. Caption		Page of Pages	
		Microsoft Software and Associated Services and Support		1	46
2. Contract Number	3. Solicitation Number	4. Type of Solicitation		5. Date Issued	6. Type of Market
	GAGA-2016-I-0091	X	Sealed Bid (IFB)	October 13, 2016	Open
			Sealed Proposals (RFP)		Set Aside
			Other		X
7. Issued By: District of Columbia Public Schools (DCPS) Office of Contracts and Acquisitions 1200 First Street, N.E., 11 th floor, Washington, D.C. 20002				8. Address Offer to: Same as Block 7	

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

SOLICITATION

9. Sealed offers in **electronic format (USB flash drive) and one (1) original and three (3) copies** for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand carried to the bid counter located at 1200 First Street, N.E., 11th floor, until **2:00 p.m. local time on Tuesday October 21, 2016**

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
	<input type="checkbox"/>	Zahra Hashmi	202	442-5120 Fax	Zahra.hashmi@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	Date	Amendment Number	Date

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

15B. Telephone	<input type="checkbox"/> 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
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SECTION B: CONTRACT TYPE, SUPPLIES OR SERVICES AND PRICE/COST

B.1 The District of Columbia Public Schools (DCPS), Office of Contracts and Acquisitions (OCA), on behalf of the Office of Information Technology in the Chief Operating Officer (OCCO), District of Columbia Public Libraries (DCPL), and Office of the Superintendent of State Education (OSSE), herein referred to as “the District” is seeking a Contractor to provide Microsoft software, services and support. This contract will be an “Enterprise Education and Libraries Agreement (E&L Agreement.)”

B.1.1 The District contemplates award of one Firm Fixed Price (FFP) requirements type contract (27 DCMR Chapter 24 (2402) to contractor who determined to be responsive and responsible.

B.2 Subcontracting Requirement

A bidder responding to this solicitation which is required to subcontract shall submit with its bid, any subcontracting plan required by law. Bids responding to this solicitation will be deemed nonresponsive and will be rejected if the bidder fails to submit a subcontracting plan that is required by law. For contracts in excess of \$250,000, at least 35% of the dollar volume of the contract shall be subcontracted in accordance with **Section I.7**.

A Subcontracting Plan form is available at <http://ocp.dc.gov>, click on “Required Solicitation Documents”.

B.3 PRICE SCHEDULE - REQUIREMENTS

B.3.1 Prospective contractor must complete all the line items for the base year and all option years to be considered responsive.

B.3.2 The District contemplates award of one contract with one base year and four one-year option periods exercised solely at the discretion of the District.

B.4 TABLE OF CONTRACT AWARD DATE

B.4.1 See attached Procurement Price Schedule for Base Period and Option-Year Periods (Attachment J.10).

SECTION C: SPECIFICATIONS/WORK STATEMENT

C.1 BACKGROUND/HISTORY

C.1.1 The District of Columbia Public Schools (DCPS) educates nearly 49,000 students in 115 schools and educational centers. It employs almost 8000 teachers, principals, and faculties to carry out the public education mission. The District also counts amongst its facilities another four administrative locations and mission oriented offices, such as the Central office location, support sites, warehouse and logistics facilities.

C.1.2 In the past, the District of Columbia Office of the Chief Technology Officer (OCTO) procured this service on behalf of DCPS, the District of Columbia Public Libraries (DCPL), and Office of the Superintendent of State Education (OSSE). The original contract was established by the Office of Contracts and Procurement (OCP) and awarded to Bell Technologix (a Microsoft licensed reseller) on behalf of OCTO for education entities 5 years ago. Currently an emergency extension was issued on June 30, 2016 through October 30, 2016. The new contract shall begin on November 1, 2016.

C.2 OBJECTIVES/SCOPE

C.2.1 The District expects that the contractor will perform this requirement in a manner that enables the District to satisfy its mission of serving its customers. The District expects the contractor's commitment to continuous and reliable services, presenting new ideas, dedicated knowledgeable staff to aid the District on achieving its IT goals. The overall objective of this contract is to assist the District (DCPS, OSSE, DCPL) to carry out their public education mission.

C.2.2 The District seeks to acquire certain applications, operating system and web software along with associated services and support as depicted in the attached Procurement Price Schedule. The standard of level of performance should coincide with those laid out in the Service Level Agreement for Microsoft Online Services, October 1, 2016. The software and support services include, but is not limited to:

- a. Applications, i.e., Microsoft Word, Excel, PowerPoint, Visio, Project, Forefront Security, etc.
- b. Operating System, i.e., Microsoft Windows
- c. Server (Applications, Operating System, Security), i.e., Microsoft SQL Database, Microsoft Windows Server 2008
- d. Services, i.e., Microsoft "365" or "Azure"
- e. Supports, i.e., online, telephone, in-person assist with ensuring that software/services are working properly and/or resolving issues prevent correct operation.

C.2.3 There may be a fluctuation in number of items, or level of services procured under this contract, which the District reserves the right to increase or decrease the supplies and/or services.

C.2.4 The District will require the latest and the most updated products and services to be provided during the contract period of performance.

- C.2.5 The Contractor shall have the sole responsibility to provide management, staff, equipment and all that is required to perform this contract, and shall compensate its employees, including all applicable taxes, insurance, and workmen’s compensation and shall be solely responsible for any losses incurred by DCP, resulting from dishonesty, fraudulent, or negligent acts on the part of its employees or agents.
- C.2.6 The Contractor and its employees shall comply with all wages and hours of employment requirements of Federal and State Law and the Service Contract Act. The Contract shall provide wage/salary and benefits per the most applicable recent Wage Determination Rates set by the U.S. Department of Labor under the Service Contract Act. All employees of the contractor shall be paid in accordance of the Fair Labor Standards Act, as amended and any other applicable statutes. Attached as **Attachment J.2.**
- C.2.7 Payment for the time spent in training shall be made by the contractor.
- C.2.8 The prospective bidder must document in writing and submit with their bids, their capability and capacity to meet each and every one of the requirements outlined in Section B, and Section C of this solicitation to be considered responsive.
- C.2.9 The prospective bidder shall be a certified reseller and present evidence of such in bid response. **No “Gray Market” software or equipment will be accepted.**
- C.2.10 The prospective bidder shall be authorized by the manufacturer to resell all the items solicited and submit evidence of certification/authorization.
- C.2.11 The prospective contractor shall provide the items listed in the “Procurement Price Schedule,” at **Attachment J.10.**

C.3 APPLICABLE DOCUMENTS

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

Item No.	Document Type	Title	Date
1	Non-Disclosure Agreement (Attachment J.11)	Security Pledge for the Use of Confidential Data from DCPS	2016

C.4 MICROSOFT REQUIREMENTS

C.4.1 The Contractor shall provide pricing for the required items as set forth in **Attachment J.10**, based on the following amendments issued by Microsoft. Upon award of the contract, the Contractor shall be required to sign and adhere to these amendments throughout the entirety of the contract.

C.4.1.1 D.C. Public Schools, Start Date – Level B – ID: 000-niward-E40

This amendment states:

1. Price level B will apply to the software Products available at that price for the Institution. (Price level B is not available for all Products. For applicable products, two price levels based on the number of eligible PCs in the participating school(s) or school district(s).
 - a. Level A: Less than 2,500 PCs
 - b. Level B: 2,500 plus PCs).

C.4.1.2 D.C. Public Library, Start Date – Level B-10 mon-lower FTE req. – ID: 000-niward-E41

This amendment states:

1. The section of the Enrollment entitled “Overview of the Enrollment for Education Solutions is hereby amended to add the following new sentence:
Institution is permitted to submit a lower FTE count for faculty and staff provided that the FTE for faculty/staff is at least 650. All other minimum requirements are still deemed to be in full force and effect
2. Price level B will apply to the software Products available at that price level for the Institution. (Price level B is not available for all Products. For applicable products, two price levels based on the number of eligible PCs in the participating school(s) or school district(s).
 - a. Level A: Less than 2,500 PCs
 - b. Level B: 2,500 plus PCs).
3. Notwithstanding anything written to the contrary in the Academic Qualified Education User Definition as it pertains to Libraries and Museums, District of Columbia Library may purchase under the Enrollment for Education Solutions Subscribing program for the initial term.
4. This Amendment is valid until the expiration of the current term of the Enrollment. The term of this Amendment will not be extended without Microsoft’s prior written approval.

C.4.1.3 D.C. Office of the State Superintendent of Education, Start Date – Level B-11 mon-lower – ID: 000-niward-E39

This amendment states:

1. The section of the Enrollment entitled “Overview of the Enrollment for Education Solutions is hereby amended to add the following new sentence:

Institution is permitted to submit a lower FTE count for faculty and staff provided that the FTE for faculty/staff is at least 400. All other minimum requirements are still deemed to be in full force and effect

2. Price level B will apply to the software Products available at that price level for the Institution. (Price level B is not available for all Products. For applicable products, two price levels based on the number of eligible PCs in the participating school(s) or school district(s).
 - i. Level A: Less than 2,500 PCs
 - ii. Level B: 2,500 plus PCs).
3. Contractor must be advised that if there are questions concerning the above referenced amendments, they should contact Steve Hancock, Licensing Specialist, Education – Mid Atlantic and Southeast, at (205) 298.8159 or shancock@microsoft.com, Jamie Bakert at Jamie.Bakert@microsoft.com.

C.5 TECHNICAL REQUIREMENTS

- C.5.1 The Contractor shall maintain Microsoft Select- and Enterprise-sales representatives dedicated to and knowledgeable in the management and administration of the Select and Enterprise programs.
- C.5.2 The Contractor shall adhere to any certification required by Microsoft for such representatives. The name, address, telephone & fax numbers and email address of these individuals shall be provided to the Contract Administrator at the time of Contract award. Any change to the designated representative(s) must be provided to the Contract Administrator at least five (5) business days before the effective date of the change.
- C.5.3 The Contractor shall be responsible for adhering to all terms and conditions of the District's Microsoft Enterprise Agreements.
- C.5.4 The Contractor shall provide all sales, support, management and reporting services required to process and account for requests for and sales of Microsoft Select and Enterprise software products, services, and licenses via the Microsoft Agreements.
- C.5.5 The Contractor shall ensure that all orders submitted to Microsoft contain all Microsoft required data in accordance with the Microsoft Select and Enterprise Agreements.
- C.5.6 The Contractor shall provide an 800 or toll free telephone number for use by the District for order tracking/delivery schedule information, contract administration issues, as well as other questions related to the day-to-day operation and use of the Contract other than product support. The number must be available Monday through Friday on District business days between the hours of 8 a.m. to 5 p.m. Local Time.

- C.5.7 The Contractor shall maintain during the life of the Contract a dedicated Internet Web page to provide District access to product and Contract information to include:
- a. Product Number;
 - b. Product Name;
 - c. Applicable Select and/or Enterprise Level D price lists;
 - d. Percentage Discount Off;
 - e. Total Discount Price;
 - f. Enrollment Forms and Procedures;
 - g. Contact Information; and
 - h. An "Announcement & Information Page" to include the most recent Contractor announcements and any information requested by the District. This page shall include a formatted information form developed by the Contractor that identifies the specific information needed by the Contractor to respond to a specific request with accurate contract and price information; and a product number or a keyword search engine.
- C.5.8 The Contractor shall be responsible for processing all enrollment requests within one (1) business day after receipt and providing assistance in the enrollment process.
- C.5.9 The Contractor shall provide a response to requests for information or price quotes within one (1) business day after receipt of the request. All price quotes shall be in writing and include the applicable Microsoft Enterprise current applicable product and/or service price in effect as of the order date, percentage discount off (no less than the approved percentage discount off allowed in the contract), and the total discount price for each product requested.
- C.5.10 The Contractor shall provide an acknowledgement of each product order to the District within one (1) business day after receipt of the order.
- C.5.11 The Contractor shall complete each order and provide the requested product and/or service within five (5) business days after receipt of the order. For any product or service that cannot be completed within this timeframe, the Contractor shall notify the District of the reason and expected order fulfillment date.
- C.5.12 The Contractor shall apply the Contracted fixed percentage discount off to the current Microsoft Enterprise Level B price lists for all sales.
- C.5.13 The Contractor shall **provide an electronic "Activity Report"** on a quarterly basis to the District Contract Manager in MS Excel format, or other format acceptable to the District, by the 15th of the following month that includes:
- a. Microsoft Select/Enterprise Master Agreement Number
 - b. Applicable Reporting Period
 - c. District's Name
 - d. District's Enrollment Number

- e. District's Purchase Order Number
- f. District's Contact Name, Address, Telephone/Fax Numbers & email address
- g. Microsoft Product Number
- h. Microsoft Product Name/Description
- i. Select and/or Enterprise price from its applicable price list
- j. Percentage Discount Off
- k. Total Discount Price
- l. Quantity

C.5.14 The Contractor shall provide guidance and information through expeditious customer service that shall include but not be limited to the following:

- a. Responses to inquiries concerning such topics as the terms of the Agreements, services or products provided, how to complete the enrollment process, etc.;
- b. Cost benefits and practicable ramifications of the Microsoft Enterprise Agreements, and the difference between the two; and
- c. The identification of which version for the customer's operation, and the most cost effective approach to securing site licenses, media, and documentation.
- d. The Contractor shall manage District's access of the Microsoft Volume Licensing Agreement on the Microsoft Volume Licensing Service (MVLS) Website. See: <https://licensing.microsoft.com>

C.6 SERVICE REQUIREMENTS

- C.6.1 The Contractor shall provide product/service acknowledgment and the actual product/service to the District.
- C.6.2 The Contractor shall provide warranties as provided by Microsoft for Microsoft's products, services, and on-site support.
- C.6.3 The Contractor shall provide additional warranty periods if available and administered as product and/or service through the Microsoft product/service line.
- C.6.4 All reports and information required under the Microsoft Enterprise Agreements shall be submitted to the District in the format specified by Microsoft. It is the responsibility of the Contractor to use the correct Microsoft format.
- C.6.5 **The Contractor shall provide an electronic "Reconciliation Report,"** via email in Microsoft Excel format, or other format acceptable to the District, and any required reconciliation assistance, to the District Contract Manager within ten (10) business days after receipt of the Microsoft License Confirmation List. The Reconciliation Report shall include:
 - a. District's Purchase Order Number
 - b. Corresponding Microsoft License Number

- C.6.6 The Reconciliation Report for the District Contract Manager shall be a single report itemizing the number of additional Microsoft licenses purchased by the District during the reporting period. The report shall be broken down by the District's agency or other cooperating purchase entity, and referencing all changes to the listing for each agency entity. For any month the District's use does not increase, the Contractor shall provide to Microsoft and the District a single certified report confirming the total number of copies of software in use by the District during the month.
- C.6.7 For the most recent reporting period, the individual purchases shall be reported by District agency and/or Department, which would include the Purchase Order Number, Quantity, Price, and Product Number and Product Description.
- C.6.8 Invoicing: The Contractor shall provide for invoicing for each product and/or service ordered at the time of delivery to the end District within the following guidelines:
- a. Invoices shall be in accordance with the attached contract and itemized to separate the cost of the individual Microsoft products/service;
 - b. Invoices submitted without clear, concise, readable, definitive information shall be returned for clarification, and may delay payment;
 - c. Invoices are to be submitted to the originating contact;
 - d. Invoices must include the Contractor's Federal Employer Identification Number (FEIN) and the District's Purchase Order Number; and,
 - e. Invoices shall only be issued upon complete delivery of the District's order, or for services, at the completion of satisfactory service requested by District as described in this IFB; therefore, partial invoicing is not permitted.
 - f. Products and services are viewed as accepted by the District upon delivery (by carrier shipments(s), electronic delivery or otherwise) to the District, and upon completion of services, respectively; provided, however, that in the event District returns a software product or denies satisfaction of service in writing to the Contractor, the Contractor shall provide the District with full credit on applicable District's invoice(s) and account(s) no later than sixty (-60-) days from the return date of the product(s) or the date of written notification of denial of satisfaction of service by the District as the case may be.

SECTION D: PACKAGING AND MARKING

- D.1 Not Applicable.

SECTION E: INSPECTION AND ACCEPTANCE

E.1 The inspection and acceptance requirements for this contract will be governed by clause number five (5) for supplies and Clause Number six (6), Inspection of Services of the Government of the District of Columbia's Standard Contract Clauses for use with Supplies and Services Contracts, July 2010. **(Attachment J.1)**

E.2 SUPERVISION AND INSPECTION

Inspection and acceptance of the required services will be performed by the appointed Contract Administrator (CA).

E.3 INSPECTIONS

E.3.1 The method of inspection will be through direct observation of contractor's performance.

E.3.2 The Contractor shall meet in person with the Contract Officer (CO), Task Order Contracting Officer's Representative/Contract Administrator (COR/CA) and/ within five (5) working days after award of the contract to begin procedural duties. Inspections will be made at the three (3), six (6), and nine (9) month marks, or different schedule as deems necessary and required by the District.

E.5 REJECTION OF WORK

All rejected work will be handled in accordance with clause 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 TYPE OF CONTRACT

The District intends to award a single Firm Fixed Price Requirement contract resulting from this request for bid to the responsible bidder whose bid conforming to the solicitation will be most advantageous to the District, and offers the lowest price.

F.2 TERM OF CONTRACT

The term of the contract shall be for one year from date of award.

F.3 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.3.1 The District may extend the term of this contract for a period of four (4) one-year option period 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 the options is subject to the availability of funds at the time of the exercise of the options. 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.3.2 If the District exercises the options, the extended contract(s) shall include this option Clause.

F.3.3 The price for the option period(s) shall be as specified in the Section B (**Attachment J.10**) of the contract.

F.3.4 The total duration of this contract, including the exercise of any options under this clause, shall not exceed five years.

F.4 DELIVERABLES

F.4.1 The Contractor shall submit to the District, as a deliverable, the report described in section H.7.5 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.

F.4.2 The Contractor shall perform all services and deliver all items listed in the Requirement Price Schedule, and do all activities required to successfully complete the District’s requirements and submit each deliverable to the Contract Administrator (CA) identified in section G.9 in accordance with the following:

Section	Deliverable	Quantity	Format/Method of Delivery	Due Date
C.5.13	Activity Report	1	Electronic	On a quarterly basis by the 15 th of the following month
C.6.5	Reconciliation Report	1	Electronic	Within ten (10) business days after receipt of the Microsoft License Confirmation List

F.5 NOTICE OF DISAPPROVAL

- F.5.1 The CA will provide written notice of disapproval of a deliverables to the Contractor within fourteen (14) days of submission if it is disapproved.
- F.5.2 The notice of disapproval shall state the reasons for disapproval as specifically as is reasonably necessary and the nature and extent of the corrections required for meeting the contract requirements.

F.6 RESUBMISSION WITH CORRECTIONS

Within fourteen (14) business days after receipt of a notice of disapproval, the Contractor shall make the corrections and resubmit the deliverables.

F.7 NOTICE OF APPROAL/DISAPPROVAL OF RESUBMISSION

Within thirty (30) days following resubmission of any disapproved deliverable, the CA will give written notice to the Contractor of the approval, conditional approval or disapproval.

F.8 FAILURE TO RESPOND TO RESUBMISSION

In the event that the CA fails to respond to Contractor’s resubmission within the applicable time period, the Contractor shall notify the CA in writing that is intends to delay subsequent work until CA responds in writing to the resubmission.

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.1.3 The District follows a specific policy for services related to software/hardware (SW/HW) maintenance/licenses and support services. These services must be provided and billed within the District Fiscal Year (October 01 to September 30). Invoices shall only cover one fiscal year and the District cannot be held liable for any such services not billed and paid within the same fiscal year (October 01 to September 30). The District issues separate payment for each fiscal year for accounting and budgetary reasons.

G.1.4 By responding to this bid and accepting the contract (winning the bid) for the SW/HW maintenance/licenses and support services, you shall/agree that a proper invoice constitutes a service period that covers ONLY October 01 to September 30.

G.2 INVOICE SUBMITTAL

G.2.1 The Contractor shall submit proper invoices on a monthly basis or as otherwise specified in Section G.4. Invoices shall be prepared in duplicate and submitted to the agency Chief Financial Officer with concurrent copies to the Contract Administrator (CA) specified in Section G.9. The address of the CFO is:

District of Columbia Public Schools
Office of the Chief Financial Officer
Accounts Payable
1200 First Street NE, 11th floor
Washington, D.C. 20002
(202) 442-5255

G.2.1.1 The Contractor shall submit its invoices electronically to the DCPS Accounts Payable Office at dcps.invoices@dc.gov, and the Contract Administrator identified in Section G.9.

G.2.2 To constitute a proper invoice, the Contractor shall submit the following information on the invoice:

G.2.2.1 Contractor's name, federal tax ID and invoice date (date invoices as of the date of mailing or transmittal);

G.2.2.2 Contract number and invoice number;

G.2.2.3 Description, price, quantity and the date(s) that the supplies or services were delivered or performed;

G.2.2.4 Other supporting documentation or information, as required by the Contracting Officer;

G.2.2.5 Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;

G.2.2.6 Name, title, phone number of person preparing the invoice;

G.2.2.7 Name, title, phone number and mailing address of person (if different from the person identified in G.2.2.6 above) to be notified in the event of a defective invoice; and

G.2.2.8 Authorized signature.

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 will not make final payment to the Contractor until the agency CFO has received the Contracting Officer's final determination or approval of waiver of the Contractor's compliance with 51% District Residents New Hires Requirements and First Source Employment Agreement requirements.

G.4 PAYMENT

Payments will be based upon Section B, (Price Schedule) and Section F (Deliverables), and after inspection and acceptance of goods and services.

G.4.1 ELECTRONIC PAYMENTS

- G.4.1.1** The District reserves the right to make payments to the Contractor by wire or NACHA transfer and will provide the Contractor at least thirty (30) days' notice prior to the effective date of any such change.
- G.4.1.2** Where payments are made by electronic funds transfer, the District will not assume responsibility for any error or delay in transfer or indirect or consequential damages arising from the use of the electronic funds transfer process. Any changes or expenses imposed by the bank for transfers or related actions shall be borne by the Contractor.

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:

Glorious Bazemore
Contracting Officer
Office of Contracts and Acquisitions
District of Columbia Public Schools
1200 First Street NE, 9th Floor
Washington, DC 20002
Telephone: 202-724-5112
Fax: 202-442-5634
Email address: glorious.bazemore@dc.gov

G.8 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER

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

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

G.8.3 In the event the Contractor effects any change at the instruction or request of any person other than the CO, the change will be considered to have been made without authority and no

adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

G.9 CONTRACT ADMINISTRATOR (CA)

G.9.1 The CA is responsible for general administration of the contract and advising the CO as to the Contractor’s compliance or noncompliance with the contract. The CA has the responsibility of ensuring the work conforms to the requirements of the contract and such other responsibilities and authorities as may be specified in the contract. These include:

G.9.1.1 Keeping the CO fully informed of any technical or contractual difficulties encountered during the performance period and advising the CO of any potential problem areas under the contract;

G.9.1.2 Coordinating site entry for Contractor personnel, if applicable;

G.9.1.3 Reviewing invoices for completed work and recommending approval by the CO if the Contractor’s prices and costs are consistent with the contractual 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 (will be identified upon award of the contract).

G.9.3 It is understood and agreed that 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 shall 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.

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 No. 3; Date of Revision: 04/08/16, issued by the U.S. Department of Labor in accordance with the Service Contract Act, 41 U.S.C. §351 *et seq.*, and listed 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 Section 24 of the SCP. If an option is exercised, the Contractor shall be bound by the applicable wage rates at the time of the 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 PUBLICITY

The Contractor shall at all times obtain the prior written approval from the CO before the Contractor, any of its officers, agents, employees or subcontractors, either during or after expiration or termination of the contract, make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.

H.6 FREEDOM OF INFORMATION ACT

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

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

H.7 51% DISTRICT RESIDENTS NEW HIRES REQUIREMENTS AND FIRST SOURCE EMPLOYMENT AGREEMENT

- H.7.1 The Contractor shall comply with the First Source Employment Agreement Act of 1984, as amended, D.C. Official Code §2-219.01 *et seq.* (First Source Act).
- H.7.2 The Contractor shall enter into and maintain during the term of the contract, a First Source Employment Agreement (Employment Agreement), (Section J.4) 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 this 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.7.3 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.7.4 The Contractor agrees that at least 51% of the new employees hired to perform the contract shall be District residents.
- H.7.5 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.7.6 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.7.7 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.7.8 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.7.9 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.7.10 The provisions of the First Source Act do not apply to nonprofit organizations which employ 50 employees or less.

H.8 SUBCONTRACTING REQUIREMENTS

H.8.1 Mandatory Subcontracting Requirements

- H.8.1.1 For all contracts in excess of \$250,000, at least 35% of the dollar volume of the contract shall be subcontracted to qualified small business enterprises (SBEs).
- H.8.1.2** If there are insufficient SBEs to completely fulfill the requirement of paragraph H.9.1.1, then the subcontracting may be satisfied by subcontracting 35% 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.8.1.3 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.8.1.4 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 35% of the contracting effort with its own organization and resources and, if it subcontracts, 35% of the subcontracting effort shall be with CBEs. A CBE prime contractor that performs less than 35% of the contracting effort shall be subject to enforcement actions under D.C. Official Code § 2-218.63.
- H.8.1.5 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, 35% 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.8.1.6 Each CBE utilized to meet these subcontracting requirements shall perform at least 35% of its contracting effort with its own organization and resources.
- H.8.1.7 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.8.2 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;
- (1) A current certification number of the small or certified business enterprise;
- (2) The scope of work to be performed by each subcontractor; and
- (3) The price that the prime contractor will pay each subcontractor.

H.8.3 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, the District of Columbia Auditor and the Director, DSLBD.

H.8.4 Subcontracting Plan Compliance Reporting.

H.8.4.1 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.8.4.2 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.8.5. Annual Meetings

Upon at least 30-days written notice provided by DSLBD and the District of Columbia Auditor and the Director of DSLBD to provide an update on its subcontracting plan.

H.8.6 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.8.7 Enforcement and Penalties for Breach of Subcontracting Plan

- H.8.7.1 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.8.7.2 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.8.7.3 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.9 FAIR CRIMINAL RECORD SCREENING

H.9.1 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.9.2 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.9.3 After making a conditional offer of employment, the Contractor may require an applicant to disclose or reveal a criminal conviction.

H.9.4 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.9.5 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.9.6 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.10 SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended.

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

H.11 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.12 WAY TO WORK AMENDMENT ACT OF 2006

H.12.1 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.12.2 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.12.3 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.12.4 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.12.5 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.12.6 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.12.7 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.12.8 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 imminent threat to public health or safety declared by the Mayor;
- (5) Contracts or other agreements that provide trainees with additional services including, but not limited to, case management and job readiness services; provided that the trainees do not replace employees subject to the Living Wage Act of 2006;
- (6) An employee under 22 years of age employed during a school vacation period, or enrolled as a full-time student, as defined by the respective institution, who is in high school or at an accredited institution of higher education and who works less than 25 hours per week; provided that he or she does not replace employees subject to the Living Wage Act of 2006;
- (7) Tenants or retail establishments that occupy property constructed or improved by receipt of government assistance from the District of Columbia; provided, that the tenant or retail establishment did not receive direct government assistance from the District;
- (8) Employees of nonprofit organizations that employ not more than 50 individuals and qualify for taxation exemption pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));
- (9) Medicaid provider agreements for direct care services to Medicaid recipients, provided, that the direct care service is not provided through a home care agency, a community residence facility, or a group home for mentally retarded persons as those terms are defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501); and
- (10) Contracts or other agreements between managed care organizations and the Health Care Safety Net Administration or the Medicaid Assistance Administration to provide health services.

H.12.9 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.

SECTION I: CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT CLAUSES

The Standard Contract Clauses 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 www.ocp.dc.gov, click on OCP Policies under the heading “Information”, then click on “Standard Contract Provisions – Supplies and Services Contracts”.

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

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 shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO.

All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A-VIII or higher. The Contractor shall require all of its subcontractors to carry the same insurance required herein. The Contractor shall ensure that all policies provide that the CO shall be given thirty (30) days prior written notice in the event the stated limit in the declarations page of the policy is reduced via endorsement or 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.

1. Commercial General Liability Insurance. The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate; Bodily Injury and Property Damage including, but not limited to: premises-operations; broad form property damage; Products and Completed Operations; Personal and Advertising Injury; contractual liability and independent contractors. The policy coverage shall include the District of Columbia as an additional insured, shall be primary and non-contributory with any other insurance maintained by the District of Columbia, and shall contain a waiver of subrogation. The Contractor shall

maintain Completed Operations coverage for five (5) years following final acceptance of the work performed under this contract.

2. Automobile Liability Insurance. The Contractor shall provide automobile liability insurance to cover all owned, hired or non-owned motor vehicles used in conjunction with the performance of this contract. The policy shall provide a \$1,000,000 per occurrence combined single limit for bodily injury and property damage.
 3. Workers' Compensation Insurance. The Contractor shall provide Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the contract is performed.
 4. Employer's Liability Insurance. The Contractor shall provide employer's liability insurance as follows: \$500,000.00 per accident for injury; \$500,000 per employee for disease; and \$500,000.00 for policy disease limit.
 5. Umbrella or Excess Liability Insurance. The Contractor shall provide umbrella or excess liability (which is excess over employer's liability, general liability, and automobile liability) insurance as follows: \$5,000,000.00 per occurrence, including the District of Columbia as additional insured.
 6. The Contractor shall maintain this insurance for five (5) years following the District's final acceptance of the work performed under this contract.
 7. Employment Practices Liability. The Contractor shall provide evidence satisfactory to the Contracting Officer with respect to the operations performed to cover the defense of employment related claims that the District of Columbia would be named as a co-defendant in claims arising from: Discrimination, Sexual Harassment, Wrongful Termination, or Workplace Torts. Policy shall include the Client Company Endorsement for Temporary Help Firms and the Independent Contractors Endorsement. The policy shall provide limits of \$1,000,000 for each wrongful act and \$1,000,000 annual aggregate for each wrongful act. The Contractor shall maintain this insurance for five (5) years following the District's final acceptance of the work performed under this contract.
- B. DURATION. The Contractor shall carry all required insurance until all contract work is accepted by the District, and shall carry the required General Liability; any required Professional Liability; and any required Employment Practices Liability insurance for five (5) years following final acceptance of the work performed under this contract.
- C. LIABILITY. These are the required minimum insurance requirements established by the District of Columbia. **HOWEVER, THE REQUIRED MINIMUM INSURANCE REQUIREMENTS PROVIDED ABOVE WILL NOT IN ANY WAY LIMIT THE CONTRACTOR'S LIABILITY UNDER THIS CONTRACT.**
- D. CONTRACTOR'S PROPERTY. Contractor and subcontractors are solely responsible for any loss or

damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.

- E. MEASURE OF PAYMENT. The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.
- F. NOTIFICATION. The Contractor shall immediately provide the CO with written notice in the event that its insurance coverage has or will be substantially changed, canceled or not renewed, and provide an updated certificate of insurance to the CO.
- G. CERTIFICATES OF INSURANCE. The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work. Evidence of insurance shall be submitted to:

Glorious Bazemore
District of Columbia Public Schools
Office of Contracts and Acquisition
1200 First Street, NE, 9th Floor
Washington DC 20002
Telephone No.: (202) 442-5112
Facsimile No.: (202) 442-5634/5093
E-mail address: glorious.bazemore@dc.gov

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

I.9 EQUAL EMPLOYMENT OPPORTUNITY

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

I.10 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/RFP, as amended
- (6) Proposal/Bid

I.11 CONTRACTS IN EXCESS OF ONE MILLION DOLLARS

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

I.12 GOVERNING LAW

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

I.13 DISPUTES

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.

SECTION J: ATTACHMENTS

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

Attachment Number	Document	To Be Submitted with Bid
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 "Solicitation Attachments"	No
J.2	U.S. Department of Labor Wage Determination NO. : 2015-4281, Revision No. : 3, Date of Revision: 04/08/2016	No
J.3	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"	Yes
J.4	Department of Employment Services First Source Employment Agreement available at www.ocp.dc.gov click on "Solicitation Attachments"	Yes
J.5	Way to Work Amendment Act of 2006 - Living Wage Notice	No
J.6	Way to Work Amendment Act of 2006 - Living Wage Fact Sheet	No
J.7	Tax Certification Affidavit	Yes
J.8	Bidder/Offeror Certifications available at www.ocp.dc.gov click on "Solicitation Attachments"	Yes
J.9	Subcontracting Plan Form	Yes
J.10	B.4.1 Procurement Price Schedule for Base Period and Option-Year Periods.	Yes
J.11	Non-Disclosure Agreement	No

SECTION K: REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF BIDDERS

K. CERTIFICATION REGARDING A DRUG-FREE WORKPLACE (JULY 1990)

K.1 Definitions. As used in this provision:

K.1.1 **Controlled substance:** means a controlled substance in schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. § 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

K.1.2 **Conviction:** means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.

K.1.3 **Criminal drug statute:** means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession or use of any controlled substance.

K.1.4 **Drug-free workplace:** means the site(s) for the performance of work done by the Contractor in connection with a specific contract at which employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

K.1.5 **Employee:** means an employee of a contractor directly engaged in the performance of work under a District contract. "Directly engaged" is defined to include all direct cost employees and any other contractor employee who has other than a minimal impact or involvement in contract performance.

K.1.6 **Individual:** means a bidder/contractor that has no more than one employee including the bidder/contractor.

K.2 The Contractor, if other than an individual, shall within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration:

- (1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (2) Establish an ongoing drug-free awareness program to inform such employees about:
 - a. The dangers of drug abuse in the workplace;
 - b. The Contractor's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

- (3) Provide all employees engaged in performance of the contract with a copy of the statement required by section K.2.(1) of this clause;
- (4) Notify such employees in writing in the statement required by section K.2.(1) of this clause that, as a condition of continued employment on this contract, the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction.
- (5) Notify the Contracting Officer in writing within 10 days after receiving notice under section K.2.(4)(b) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- (6) Within 30 days after receiving notice under section K.3.(4)(b) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
 - a. Take appropriate personnel action against such employee, up to and including termination; or
 - b. Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency; and
- (7) Make a good faith effort to maintain a drug-free workplace through implementation of section K.2(1) through K.2.(6) of this clause.

K.3 The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

K.4 In addition to other remedies available to the District, the Contractor's failure to comply with the requirements of sections K.2 or K.3 of this clause may render the Contractor subject to suspension of contract payments, termination of the contract for default, and suspension or debarment.

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 Contracting Officer 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 PREPARATION AND SUBMISSION OF BIDS

L.2.1 Bidders shall submit a signed original and 3 copy. The DCPS will not accept a facsimile copy of a bid as an original bid. All items accepted by the DCPS, all pages of the Invitation for Bids (IFB), all attachments and all documents containing the bidder's offer shall constitute the formal contract. **Each bid shall be submitted as specified in Section A.3 in a sealed envelope conspicuously marked: "Bid in Response to SOLICITATION NO: GAGA-2016-I-0091: Microsoft Software, Services and Support.**

L.2.2 The original bid shall govern if there is a variance between the original bid and the copy submitted by the bidder. Each bidder shall return the complete solicitation as its bid.

L.2.2 The DCPS may reject as non-responsive any bid that fails to conform in any material respect to the IFB.

L.2.3 The DCPS may also reject as non-responsive any bids submitted on forms not included in or required by the solicitation. Bidders shall make no changes to the requirements set forth in the solicitation.

L.2.4 The bidder must bid on all CLINs to be considered for this award. Failure to bid on all CLINs will render the bid non-responsive and disqualify the bid.

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 shall 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 BID SUBMISSION DATE AND TIME

L.4.1 Bids must be submitted **no later than 2:00pm**, local time on **Tuesday, October 21, 2016**, as specified in Section A.9 of the solicitation cover page.

L.4.2 Bids will be opened after the bid closing date and time on Tuesday, October 21, 2016. DCPS will make available the name of each bidder, the bid price, and other information that deemed appropriate.

L.5 WITHDRAWAL OR MODIFICATION OF BIDS

A bidder may modify or withdraw its bid upon written, facsimile transmission or e-mail at any time before the closing date and time for receipts of Bids.

L.6 LATE SUBMISSIONS, LATE MODIFICATIONS, AND LATE WITHDRAWALS

L.6.1 Bids, modifications to bids, or requests for withdrawals that are received in the designated District Office after the exact local time specified above, are “late” and shall be considered only if they are received before the award is made and any of the following circumstance apply:

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

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 from the U.S. 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 presume 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.

L.6.3 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.6.4 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.6.5 Late Bids

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

L.7 HAND DELIVERY OR MAILING OF BIDS

Bidders must deliver or mail their bids to the address in Section A.8 of the cover page.

L.8 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.9 QUESTIONS ABOUT THE BID

If a prospective bidder has any questions relative to this bid, the prospective bidder shall submit the questions in writing to the CO. The prospective bidder **shall** submit questions no later than **Tuesday, October 17, 2016, 2:00pm EDT**. The DCPS will furnish responses promptly to all prospective bidders. An Amendment to the solicitation/bid will be issued on October 19, 2016, if that information is necessary in submitting bids, or if lack of it would be prejudicial to any prospective bidders. Oral explanations or instructions given before the award of the contract will not be binding.

L.10 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 bid 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 IFB, 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.

L.11 SIGNING OF BIDS

L.11.1 The bidder 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 Contracting Officer.

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. Bidders shall complete and sign all Representations, Certifications and Acknowledgments as appropriate. Failure to do so may result in a bid rejection.

L.12 ACKNOWLEDGMENT OF AMENDMENTS

The bidder shall acknowledge receipt of any and all 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, Solicitation, Offer and Award form; or (c) by letter, telegram or e-mail from an authorized representative. 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.13 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.14 LEGAL STATUS OF BIDDER

Each bid must provide the following information:

L.14.1 Name, address, telephone number and federal tax identification number of bidder;

L.14.2 A copy of each District of Columbia license, registration or certification that the bidder is required by law to obtain. This mandate also requires the bidder to provide a copy of the executed "Clean Hands Certification" that is referenced in D.C. Official Code §47-2862, if the bidder is required by law to make such certification. 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.14.3 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.15 BID OPENING

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

L.16 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 coverage to the CO. **Each certificate of insurance must identify the contract or solicitation number.**

L.17 GENERAL STANDARDS OF RESPONSIBILITY

GENERAL STANDARDS OF RESPONSIBILITY:

L.17.1 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.17.2 If the prospective contractor fails to supply the information requested, the CO shall make the determination of responsibility or non-responsibility 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 non-responsible.

SECTION M: EVALUATION FACTORS

M.1. Preferences for Certified Business Enterprises

Under the provisions of the “Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2014”, 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 (DSLDB) 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 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.