

SOLICITATION, OFFER, AND AWARD			1. Caption District of Columbia Court of Appeals Audiovisual Updates Project				Page of Pages 1 30	
			2. Contract Number		3. Solicitation Number CPFMD-17-1115		4. Type of Solicitation <input type="checkbox"/> Sealed Bid (IFB) <input checked="" type="checkbox"/> Sealed Proposals (RFP) <input type="checkbox"/> Sole Source <input type="checkbox"/> Emergency	
6. Type of Market <input checked="" type="checkbox"/> Open - Construction, Building (General Construction, etc.) <input type="checkbox"/> Set Aside		7. Issued By DISTRICT OF COLUMBIA COURTS CAPITAL PROJECTS FACILITIES MANAGEMENT DIVISION 616 H STREET, N.W., ROOM 622 WASHINGTON, D.C. 20001						
8. Address Offer to: DISTRICT OF COLUMBIA COURTS CAPITAL PROJECTS FACILITIES MANAGEMENT DIVISION 616 H STREET, N.W., ROOM 622 WASHINGTON, D.C. 20001								
NOTE: In sealed bid solicitations "offer" or "Contractor" means "bid or "offeror"								
SOLICITATION								
9. Sealed offers in original and <u> 3 </u> copies for furnishing the items in the Schedule will be submitted to the address listed above in Section L; at the attention of Ms. Monica I. Wilkerson, not later than <u> 3:00 p.m.(est.) </u> local time <u> December 20, 2016 </u> (Hour) (Date)								
CAUTION: See L.2 PROPOSAL SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, WITHDRAWAL OR MODIFICATION OF PROPOSALS AND LATE PROPOSALS. All offers are subject to all terms & conditions contained in solicitation.								
10. For Information Contact		A. Name Monica I. Wilkerson		B. Telephone (Area Code) (Number) (Ext)		C. E-mail Address Monica.Wilkerson@dcsc.gov		
11. Table of Contents								
(X)	Section	Description	Page No.	(X)	Section	Description	Page No.	
PART I – THE SCHEDULE				PART II – CONTRACT CLAUSES				
X	A	Solicitation/Contract Form	1	X	I	Contract Clauses	12	
X	B	Supplies or Services and Price/Cost	2	PART III – LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS				
X	C	Specifications/Work Statement	3	X	J	List of Attachments & Appendices	16	
X	D	Packaging and Marking	4	PART IV – REPRESENTATIONS AND INSTRUCTIONS				
X	E	Inspection and Acceptance	5	X	K	Representations, certification and other statements of Contractors	17	
X	F	Deliveries or Performance	6	X	L	Instructions, conditions & notices to Contractors	20	
X	G	Contract Administration Data	7	X	M	Evaluation factors for award	27	
X	H	Special Contract Requirements	10					
Total Proposed Contract Amount (from page 2 – Price Schedule)						\$ _____		
12. In conjunction with the above, the undersigned agrees, if this offer is accepted within <u> 120 </u> calendar days from the receipt of offers specified above, to furnish any or 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 Contractor acknowledges receipt of amendments to the SOLICITATION):			Amendment Number	Date	Amendment Number	Date		
15A. Name and Address of Contractor			16. Name and Title of Person Authorized to Sign Offer/Contract					
15B. Telephone (Area Code) (Number) (Ext)			15 C. Check if remittance address is different from above – Refer to section G		17. Signature		Date	
AWARD (TO BE COMPLETED BY THE DC COURTS)								
19. Accepted as to Items Numbered			20. Amount	21. Accounting and Appropriation/Certification of Funding date:				
22. Name of Contracting Officer (Type or Print) Dr. Cheryl Bailey			23. Signature of Contracting Officer (Courts)			24. Award Date		

All written communications regarding this solicitation should be *addressed* to the Contracting Officer at the mailing address listed on page 1.

All communications should be *directed* by e-mail to: Monica.Wilkerson@dcsc.gov

This solicitation is an **OPEN MARKET** procurement.

PART I

SECTION B – SUPPLIES OR SERVICES AND PRICE/COST

- B.1 The District of Columbia Courts (The Courts) is seeking a qualified Contractor to provide Audiovisual Systems for 430 “E” Street, NW – AV Updates.
- B.2 The Courts intend to award a firm-fixed price contract.
- B.3 The Offeror shall submit a price in accordance with Section C, Description, Specification, and Work Statement, of this Request for Proposal (RFP). In Addition to the price summary in B.4.1, the offeror shall submit a supporting price proposal for the work to be performed.

B.4 PRICE SCHEDULE

Offerors are to complete pricing summary sheet found in **Attachment J.13**.
Incomplete pricing will not be evaluated or considered for award.

- B.4.1 Offeror's price shall include a standard 12 month manufacturer warranty, all applicable freight, delivery, installation, and inspection services, all equipment, parts, tools, supplies, labor, travel time, disposal and transportation costs, taxes, per diem, fuel surcharges, etc. required to perform the scope of work and specifications provided herein. Offeror shall also state any additional costs associated with any extended warranties offered after the standard 12 month warranty period.

SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1 INTRODUCTION

The District of Columbia Courts intend to contract with an Audio Visual/Multimedia contractor, to furnish and install the complete and operational audio visual (AV) system for the District of Columbia Court of Appeals Building (Historic Courthouse) located at 430 E. Street NW, Washington, DC. The Scope of Work requires the selected contractor to update the AV systems for two (2) Courtrooms, six (6) conference rooms, the Gym, the Chief Judge's Study, a Multipurpose room and a Central IP video system (**See Appendix C**). In addition, the contract shall provide a portable audio system for use in spaces without fixed audio systems. This is for a **Firm Fixed Price** contract.

C.2. BACKGROUND

The existing audiovisual systems were provided in 2008 during an extensive renovation of the Historic Courthouse. The existing systems require a technology upgrade to reflect the current use of digital video technologies (as opposed to analog video) and to provide updated AV system functionality.

C.3. SCOPE OF WORK

The scope of work for the resultant contract is provided in the attached AV drawings package which consists of these and four (4) Appendices and drawings:

1. Appendix A - Audiovisual Equipment Specification dated November 15, 2016
2. Appendix B - Audiovisual Systems Description dated November 15, 2016
3. Appendix C- Audiovisual Systems Equipment List dated November 15, 2016
4. Appendix D – Sample Touch Panel Guide from Courtroom C-10 Project.
5. Appendix E - Audiovisual Drawings AV.00 – AV.24 dated November 1, 2016.

C.3.1 Offerors are required to review the Scope of Work for this solicitation as found in Appendix A and Appendix B, with the required equipment listing in Appendix C.

C.3.2. Appendix D includes a sample touch panel guide. Offerors are required to provide a touch panel similar to this sample.

C.3.3. Appendix E provides you with audiovisual drawings that reflect the layout of the systems.

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5. Appendix E - Audiovisual Drawings AV.00 – AV.24 dated November 1, 2016. (see Zip Drive – AV Drawings)

C.3.1 Offerors are required to review the Scope of Work for this solicitation as found in Appendix A and Appendix B, with the required equipment listing in Appendix C.

C.3.2. Appendix D includes a sample touch panel guide. Offerors are required to provide a touch panel similar to this sample.

C.3.3. Appendix E provides you with audiovisual drawings that reflect the layout of the systems.

SECTION D - PACKAGING AND MARKING

FOR THIS SOLICITATION, THERE ARE NO CLAUSES IN THIS SECTION

SECTION E - INSPECTION AND ACCEPTANCE

E.1 INSPECTION OF SERVICES

- E.1.1 DEFINITIONS: "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- E.1.2 The Contractor shall provide and maintain an inspection system acceptable to the District of Columbia Courts covering the services furnished under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Courts during contract performance and for as long as the contract requires.
- E.1.3 The Courts have the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Courts shall perform inspections and test in a manner that will not unduly delay the work.
- E.1.4 If the Courts perform inspections the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in the contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- E.1.5 If any of the services do not conform to the contract requirements, the Courts may require the Contractor to perform the services again in conformity with the contract requirements, at no increase in the contract amount. When the defects in services cannot be corrected by performance, the Courts may:
- (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and
 - (2) reduce the contract price to reflect the reduced value of the services performed.
- E.1.6 If the Contractor fails to promptly perform the services again or take the necessary action to ensure future performance in conformity with the contract requirements, the Courts may (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Courts that is directly related to the performance of such service or (2) terminate the contract for default.

SECTION F – PERIOD OF PERFORMANCE AND DELIVERABLES

F.1. PERIOD OF PERFORMANCE

This Request for Proposal (RFP) will establish a contract to remain in effect until all equipment/materials, installation, inspection and testing services have been delivered and accepted by the Courts. This should not exceed one year or until completed, whichever comes first.

F.1.2. WARRANTY

Offeror shall ensure that a standard 12 month manufacturer warranty applies to all equipment, parts and supplies providing under the resulting contract. The Offeror shall guarantee that all labor and products provided are free of material defects and/or workmanship for a minimum of twelve (12) months from the date of the Courts' acceptance. Any extended warranties offered after the standard manufacturer's warranty shall be stated in the bid submittal per **Appendix A - Section 3.5.G** along with any associated cost.

F.2. DELIVERABLES

- F.2.1. All deliverables shall be in a form and manner acceptable to the Courts. The Contractor shall furnish materials, equipment, and employees required to meet and perform the requirements of this Contract.
- F.2.2. The Contractor shall provide the Courts with timeframes for the completion of each courtroom requiring the services specified. The Courts will provide a priority list based on the timeframes provided.
- F.2.3. The Contractor shall provide the Courts with a schedule for final review.

SECTION G -CONTRACT ADMINISTRATION DATA

G.1. PAYMENT/INVOICES

- G.1.1 The Courts will make payments to the Contractor, upon the submission of proper invoices, at the prices stipulated in this contract, for services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.
- G.1.2. Payment will be made on or before thirty (30) days after receipt of a proper invoice.

G.2. INVOICE SUBMITTAL

- G.2.1 The Contractor shall prepare and submit invoices to the Budget and Finance Division specified in section G.3.1. The Contractor shall submit to the COTR a breakdown of all services performed for review. The COTR shall review each invoice for certification of receipt of satisfactory supplies prior to authorization of payment or in the case of dispute, subject to final determination by the Contracting Officer.
- G.2.2 At a minimum, to constitute a proper invoice, the Contractor's invoice shall include the following information:
- a. Name and address of the Contractor;
 - b. The Contract number and Purchase Order number;
 - c. Invoice date;
 - d. Description, quantity, unit of measure, and extended price of the services or supplies actually rendered;
 - e. Date the services or supplies were rendered;
 - f. Shipping & payment terms;
 - g. Name and address of the Contractor official to whom payment is to be sent;
 - h. Name, title, phone number, and mailing address of person to be notified in the event of a defective invoice;
 - i. The Contractor's Electronic Fund Transfer (EFT) routing identification (bank name and code, account number) or the Contractor's complete remittance or check mailing address, including the name (where practicable), title, phone number, and complete mailing address of responsible official to whom payment is to be sent;
 - j. Signature of a person so authorized to certify that the services or supplies were provided as stated.
- G.2.3. The Contractor shall submit final invoices within thirty (30) days after the expiration of this contract.
- G.2.4. The Contractor shall complete and submit **Attachment J.7- District of Columbia Courts Release of Claims** to the Contracting Officer within thirty (30) days after receipt of final payment.

G.2.3 PAYMENT OFFICE

The Contractor shall prepare and submit invoices

to: Accounting Supervisor
Budget and Finance
Division District of
Columbia Courts 616 H
Street, N.W., Suite 600
Washington, D.C. 20001
202-879-2813

G.3. AUDITS

G.3.1 At any time or times before final payment and three (3) years thereafter, the Contracting Officer may have the Contractor's invoices or vouchers and statements of costs audited. Any payment may be reduced by amounts found by the Contracting Officer not to constitute allowable costs as adjusted for prior overpayment or underpayment. In the event that all payments have been made to the Contractor by the Courts and a discrepancy of overpayment is found, the Courts shall be reimbursed for said overpayment within thirty (30) days after written notification.

G.4. CONTRACTING OFFICER AND CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)

G.4.1. Contracting Officer: The District of Columbia Courts' Contracting Officer has the appropriate contracting authority is the only Courts official authorized to contractually bind the Courts through signing contract documents. All correspondence to the Contracting Officer shall be forwarded to:

Dr. Cheryl Bailey
CPFMD Contracting Officer
Capital Projects and Facilities Management
District of Columbia Courts
616 H St. NW - Suite 622
Washington, D.C. 20001

G.4.2. Contracting Officer's Technical Representative (COTR): The COTR is responsible for general administration of the contract and advising the Contracting Officer as to the Contractor's performance or non-performance of the contract requirements. In addition, the COR is responsible for the day-to-day monitoring and supervision of the contract. The COR shall be:

Norma J. Thompson
Branch Chief, Information Technology Division
Courtroom Technology Branch
District of Columbia Courts
500 Indiana Avenue, NW, Suite 1450
Washington, DC 20001

G.5 AUTHORIZED REPRESENTATIVE OF THE CONTRACTING OFFICER

G.5.1. The COTR will have the responsibility of ensuring that the work conforms to the requirements of the contract and such other responsibilities and authorities as may be specified in this contract. It is understood and agreed that the COTR shall not have authority to make changes in the scope or terms and conditions of the contract.

G.5.2 THE RESULTANT CONTRACTOR IS HEREBY FOREWARNED THAT ABSENT THE REQUISITE AUTHORITY OF THE COTR TO MAKE ANY SUCH CHANGES, CONTRACTOR MAY BE HELD FULLY RESPONSIBLE FOR ANY CHANGES NOT AUTHORIZED IN ADVANCE, IN WRITING, BY THE CONTRACTING OFFICER, MAY BE DENIED COMPENSATION OR OTHER RELIEF FOR ANY ADDITIONAL WORK PERFORMED THAT IS NOT SO AUTHORIZED, AND MAY BE ALSO BE REQUIRED, AT NO ADDITIONAL COST TO THE COURTS, TO TAKE ALL CORRECTIVE ACTION NECESSITATED BY REASON OF THE UNAUTHORIZED CHANGES.

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1. CONTRACTOR MANAGEMENT RESPONSIBILITY

- H.1.1. The Contractor shall appoint a Project Manager who will be the Contractor's Authorized Representative for technical and administrative performance of all services required hereunder. The Project Manager shall provide the single point of contact through which all Contractor/Court communications, work and technical direction shall flow.
- H.1.2. The Contractor shall immediately notify the Contracting Officer in writing in the event that the Project Manager changes during the term of this Contract.

H.2. OTHER CONTRACTORS

- H.2.1. The Contractor shall not commit or permit any act which will interfere with the performance of work done by any other Courts Contractor or by any Courts employee. If another contractor is awarded a future contract for performance of the required services, the original contractor shall cooperate fully with the Courts and the new contractor in any transition activities which the Contracting Officer deems necessary during the term of the contract.

H.3. DISCLOSURE OF INFORMATION

- H.3.1. Any information made available by the District of Columbia Courts shall be used only for the purposes of carrying out the provisions of this contract, and shall not be divulged nor made known in any manner to any person except as may be necessary in the performance of the contract.
- H.3.2. In performance of this Contract, the Contractor agrees to assume responsibility for protection of the confidentiality of Courts records and that all work shall be performed under the supervision of the Contractor or the Contractor's responsible employees.
- H.3.3. Each officer or employee of the Contractor to whom information may be available or disclosed shall be notified in writing by the Contractor that information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such information, by any means, for a purpose or to an extent unauthorized herein, may subject the offender to criminal sanctions.
- H.3.4. No information regarding the Contractor's performance of the contract shall be disclosed by the Contractor to anyone other than the District of Columbia Courts officials unless written approval is obtained in advance from the Contracting Officer.

H.4. SECURITY REQUIREMENTS

- H.4.1. The requirement for Contractor personnel to obtain a security clearance and temporary Court identification badges, as designated by the Contracting Officer, may arise per District of Columbia Courts' security policies and procedures. The District of Columbia Courts will notify the Contractor of all such requirements as soon as practicable.

PART II
SECTION I - CONTRACT
CLAUSES

I.1. **APPLICABILITY OF GENERAL PROVISIONS APPLICABLE TO THE COURTS CONTRACTS**

The General Provisions Applicable to Courts Contracts (Attachment J. 1) shall be applicable to the contract resulting from this solicitation.

I.2. **RESTRICTION ON DISCLOSURE AND USE OF DATA**

Offerors who include in their proposals data that they do not want disclosed to the public or used by the Courts except for use in the procurement process shall so state in their proposal.

I.3. **DISPUTES**

Any dispute arising under or out of this contract is subject to the provisions of Chapter 8 of the Procurement Guidelines of the Courts.

I.4. **EXAMINATION OF BOOKS AND RECORDS**

The Contracting Officer or any of the Contracting Officer's duly authorized representatives shall, until three years after final payment, have the right to examine any directly pertinent books, documents, papers and record of the Contractor involving transactions related to the contract.

I.5. **RECORD KEEPING**

The Contractor shall be expected to maintain complete and accurate records justifying all actual and accrued expenditures. The Contractor's records may be subject to periodic audit by the Court.

I.6. **NON-DISCRIMINATION**

I.6.1 The Contractor agrees that it will comply with the nondiscrimination requirements set forth in D.C. Code, Section 1-2512 (1981 ed.) which will be incorporated into any contract awarded. The Contractor agrees to comply with requests from the Courts to support the Contractor's adherence to this section.

I.7. **PROTEST**

I.7.1. Any aggrieved person may protest this solicitation, award or proposed contract award in accordance with Chapter 8 of the Procurement Guidelines of the District of Columbia Courts. Protest shall be filed in writing, within ten (10) working days after the basis of the protest is known (or should have been known); whichever is earlier with the Contracting Officer at:

Dr. Cheryl Bailey
CPFMD Contracting Officer
Capital Projects and Facilities Management
District of Columbia Courts
616 H St. NW - Suite 622
Washington, D.C. 20001

- I.7.2. A protest shall include the following:
- a. Name, address and telephone number of the protester;
 - b. Solicitation or Contract number;
 - c. Detailed statement of the legal and factual grounds for the protest
copies of relevant documents;
 - d. Request for a ruling by the Contracting Officer; and
 - e. Statement as to the form of relief requested.

I.8 INSURANCE

I.81 General Requirements: Prior to execution of the contract, the Contractor shall obtain at its own cost and expense and keep in force and effect during the term of this contract, including all extensions, the insurance specified below with an insurance company licensed or qualified to do business with the District of Columbia Courts. **All insurance shall set forth the District of Columbia Courts as an additional insured.** 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 show on the certificate. The Contractor shall provide the CO with Ten (10) days prior written notice in the event of non-payment of premium. The Contractor must submit to the Contracting Officer a certificate of insurance as evidence of compliance within ten (10) calendar days after request.

- a. General Liability Insurance. The Contractor shall provide bodily injury liability insurance coverage of at least \$500,000.00 per occurrence.
- b. 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 coverage of at least \$200,000.00 per person and \$500,000 per occurrence for bodily injury and \$20,000.00 for property damage.
- c. Workers' Compensation Insurance. The Contractor shall provide Workers' Compensation insurance covering all of its employees working in conjunction with the performance of this contract. Contractor agrees to comply at all times with applicable Federal and District of Columbia workers' compensation and occupational disease statutes.

I.8.2 Duration: The Contractor shall carry all required insurance until all contract

work i accepted by the Courts, and shall carry the required General Liability; any required Professional Liability; and any required Employment Practices Liability insurance for three (3) years following final acceptance of the work performed under this contract.

I.8.3 Liability: These are the required minimum insurance requirements established by the Courts. However, the required minimum insurance provided above will not in any way limit the Contractor's liability under this Contract.

I.8.4 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 Courts.

I.8.5 Measure of Payment: The Courts 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.

I.8.6 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.

I.8.7 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:

Monica I. Wilkerson
Procurement and Contracts Attorney
Advisor Capital Projects and Facilities
Management District of Columbia Courts
616 H St. NW, Suite 622
Washington, D.C. 20001
Monica.Wilkerson@dcsc.gov

I.8.8 Disclosure of Information: The Contractor agrees that the Courts may disclose the name and contact information of its insurers to any third party which presents a claim against the Courts 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 CANCELLATION CEILING

I.9.1 In the event of cancellation of the contract because of non appropriation for any fiscal year after fiscal year 2017, there shall be a cancellation ceiling of zero dollars representing reasonable preproduction and nonrecurring costs, which would be applicable to the items or services being furnished and normally amortized over the life of the contract.

I.10 GOVERNING LAW

I.10.1 This Contract, and any disputes arising out of or related to this Contract, shall be governed by, and construed in accordance with, the laws of the District of Columbia.

PART III

LIST OF ATTACHMENTS

SECTION J - LIST OF ATTACHMENTS AND APPENDICES

The following list of attachments and appendices are incorporated into the solicitation by reference.

ATTACHMENTS:

- J.1 DC Courts General Contract Provisions
- J.2 Reserved
- J.3 Anti-Collusion Statement
- J.4 Certification of Eligibility
- J.5 Certification Regarding a Drug-Free Workplace
- J.6 Tax Certification Affidavit
- J.7 Release of Claims
- J.8 Reserved
- J.9 Ethics in Public Contracting
- J.10 Non-Discrimination
- J.11 Solicitation/Offer/Award Form for Supplies or Services
- J.12 Bid/Offer Form
- J.13 Bid/Offer Breakdown Sheet (Pricing Summary Sheet)
- J.14 Bid/Offer Bond Form

APPENDICES:

- A Audiovisual Equipment Specifications
- B Audiovisual Systems Description
- C Audiovisual Systems Equipment List
- D Sample Touch Panel Guide from Courtroom C-10 Project
- E Audiovisual Drawings AV.00 – AV.24 dated November 1, 2016

PART IV

REPRESENTATIONS AND INSTRUCTIONS

SECTION K - REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

K.1 Certification Regarding a Drug-Free Workplace

K.1.1.1 Definitions: As used in this provision:

K.1.1.2 "Controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C.) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

K.1.1.3 "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.1.1.4 "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession or use of any controlled substance.

K.1.1.5 "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.1.1.6 "Employee" means an employee of a Contractor directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct costs employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

K.1.1.7 "Individual" means a offeror/contractor that has no more than one employee including the offeror/contractor.

K.1.2 By submission of its bid, the offeror, if other than an individual who is making a bid that equals or exceeds \$25,000.00, certifies and agrees, that with respect to all employees of the offeror to be employed under a contract resulting from this solicitation, it will - no later than 30 calendar days after contract award (unless a longer period is agreed to in writing), for contracts of 30 calendar days or more performance duration: or as soon as possible for contract of less than 30 calendar days performance duration, but in any case, by a date prior to when performance is expected to be completed.

- K.1.2.1 Publish a statement notifying such 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;
- K.1.2.2 Establish an ongoing drug-free awareness program to inform such employees about -
- (i) The dangers of drug abuse in the workplace;
 - (ii) The Contractor's policy of maintaining a drug-free workplace;
 - (iii) Any available drug counseling, rehabilitation, and employee assistance program; and
 - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- K.1.2.3 Provide all employees engaged in performance of the contract with a copy of the statement required by subparagraph K.1.2.1 of this provision;
- K.1.2.4 Notify such employees in writing in the statement required by subparagraph K.1.2.1 of this provision that, as a condition of continued employment on the contract resulting from this solicitation, the employee will -
- (i) Abide by the terms of the statement; and
 - (ii) 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 calendar days after such conviction;
- K.1.2.5 Notify the Contracting Officer in writing within 10 calendar days after receiving notice under subdivision K.1.2.2 (ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- K.1.2.6 The notice shall include the position title of the employee; and
- K.1.2.7 Within 30 calendar days after receiving notice under subdivision K.1.2.4 (ii) of this provision 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:
- (i) Take appropriate personnel action against such employee, up to and including termination; or
 - (ii) Require such employee to satisfactorily participate in drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

K.1.2.8 Make a good faith effort to maintain a drug-free workplace through implementation of subparagraphs K.1.2.1 through K.1.2.6 of this provision.

K.1.3 By submission of its bid, the offeror, if an individual who is making a bid of any dollar value, certifies and agrees that the offeror will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the performance of the contract resulting from this solicitation.

K.1.4 Failure of the offeror to provide the certification required by paragraphs K.1.2 or K.1.3 of this provision renders the offeror unqualified and ineligible for award. (See FAR 9.104-1(g) and 19-602-1 (A) (2) (I) and (II).

K.1.5 In addition to other remedies available to the Government, the certification in paragraphs K.1.2 or K.1.3 of this provision concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

K.1.6.CERTIFICATION REGARDING A DRUG-FREE WORKPLACE

Print Name of Authorized Representative

Title

Signature of Authorized Representative

SECTION L - INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

L.1 METHOD OF AWARD

- L.1.1. The Courts reserves the right to accept/reject any/all proposals resulting from this solicitation. The Contracting Officer may reject all proposals or waive any minor informality or irregularity in proposals received whenever it is determined that such action is in the best interest of the District.
- L.1.2. The Courts intend to award a single contract resulting from this solicitation to a responsive and responsible offeror whose offer meets the requirements set forth in this solicitation.

L.2. PREPARATION AND SUBMISSION

- L.2.1. **Offerors shall submit one (1) signed original and three (3) copies including one (1) electronic (PDF) signed copy of the offer. The District of Columbia Courts will not accept a facsimile copy of an offer as an original.** Offerors shall submit all pages of the Request for Proposal (RFP), all attachments, and all documents containing the offeror's offer.

- L.2.2. The offeror shall submit his/her offer in a sealed envelope conspicuously marked as follow:

Name and Address: District of Columbia Courts
Capital Projects and Facilities Management Division
Attn: Monica I. Wilkerson, Attorney Advisor
616 H Street, NW, Suite 622
Washington, DC 20001

Solicitation Number: CPFMD 17-1115
Caption: Audiovisual Update Project
Solicitation Closing Date: December 20, 2016
Solicitation Closing Time: 3:00PM

- L.2.3. The original offer shall govern if there is a variance between the original offer and the copies submitted by the offeror.
- L.2.4. The Courts may reject as non-responsive any offer that fails to conform to material aspects of this solicitation.
- L.2.5. The Courts may also reject as non-responsive any offers submitted on forms not included in or required by this solicitation. Offerors shall make no changes to the requirements set forth in this solicitation.
- L.2.6. The offeror must offer on all items listed in the attached Bid/Offer Form (see **Attachment J.12**) to be considered for this award. Failure to offer on all items will render the offer non-responsive and disqualify an offer from consideration.

L.2.7. All potential proposal offerors are **required** to attend the pre-proposal meeting with site visit that is scheduled for **November 22, 2016 at 11:00 AM** located at:

**DC Court of Appeals
403 E Street, NW, Room 315
Washington, DC 20001**

L.2.8 Proposals will not be deemed responsive and therefore will not be reviewed if the potential Offeror does not participate in this mandatory meeting.

L.2.9 Proposals shall be mailed and/or hand delivered on or before December 20, 2016 at 3:00 PM to the following address:

District of Columbia Courts
Capital Projects and Facilities Management Division
Attn: Monica I. Wilkerson, Attorney Advisor
616 H Street, N.W., Suite 622
Washington, D.C. 20001

L.3. CONFIDENTIALITY OF SUBMITTED INFORMATION

L.3.1 Offerors who include in their offers data that they do not want disclosed to the public or used by the District of Columbia Courts except for use in the procurement process shall mark the title page of the offer document with the following legend:

"This offer includes data that shall not be disclosed outside the District of Columbia Courts and shall not be duplicated, used or disclosed in whole or in part for any purpose except for use in the procurement process."

L.3.2. The specific information within the *offer* which the is making subject to this restriction announced on the title page must be noted on the individual pages which contain it. The offeror shall mark each page containing confidential information or data it wishes to restrict with the following text:

"Use or disclosure of data contained on this page is subject to the restriction on the title page of this offer".

L.3.3. Note that the District of Columbia Courts shall have the right to duplicate, use, or disclose the data to the extent consistent with the Court's internal needs in the procurement process. The Courts may, without permission of the offeror, use, without restriction, information contained in this *offer* package if it is obtained from another source.

L.4. OFFER PRICE

L.4.1. The offer price must be submitted using the attached **Bid/Offer Form** provided in this solicitation. The **offeror's** price offer shall become a part of the awarded contract. The **offeror's** price offer shall include all costs for the required items/services and delivery. Bid/Offer Breakdown Sheet (Pricing Summary Sheet) is located at Attachment J.13.

L.5. OFFER SUBMISSION DATE AND TIME, LATE SUBMISSION, MODIFICATIONS, AND WITHDRAWALS

L.5.1. Offers shall be submitted no later than the date and time specified in the solicitation. Offers, modifications to offers, or requests for withdrawal that are received in the designated Courts 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 one (1) or more of the following circumstances apply:

- a. The offer or modification was sent by registered or certified mail no later than the fifth (5th) calendar day before the date specified for receipt of offers;
- b. The offer or modification was sent by mail and it is determined by the Contracting Officer that the late receipt at the location specified in the solicitation was caused by mishandling by the Courts after receipt; or
- c. The offer is the only offer received.

L.5.2. The only acceptable evidence to establish the date of a late offer, 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. or Canadian Postal Service. If neither postmark shows a legible date, the offer, modification or withdrawal shall be deemed to have been mailed late. When the postmark shows the date but not the hour, the time is presumed to be the last minute of the date shown. If no date is shown in the postmark, the offer shall be considered late unless the **offeror** can furnish evidence from the postal authorities of timely mailing.

L.5.3. A late offer, late request for modification or late request for withdrawal shall not be considered, except as provided in this section.

L.5.4. A late modification of a successful offer which makes its terms more favorable to the Courts shall be considered at any time it is received and may be accepted.

L.5.5. A late offer, late modification or late withdrawal of offer that is not considered shall be held unopened, unless opened for identification, until after award and then retained with unsuccessful offers resulting from this solicitation.

L.6. QUESTIONS AND PRODUCT SUBSTITUTION REQUESTS

L.6.1. Questions and product substitution requests concerning this Invitation from Offerors must be directed in **writing** no later than **Tuesday, November 29, 2016 at 2:00 PM (EST)** to:

District of Columbia Courts
Capital Projects and Facilities Management Division
Attn: Monica I. Wilkerson, Attorney Advisor
616 H Street, N.W., Suite 622
Washington, D.C. 20001
Monica.Wilkerson@dcsc.gov

L.6.2. For further information on submission of questions, please refer to section L.7. of this solicitation.

L.7. EXPLANATION TO PROSPECTIVE OFFERORS

L.7.1. **Any prospective offeror desiring an explanation or interpretation of this solicitation must request it in writing not later than November 29, 2016 at 2:00 PM. The Courts' response to questions, explanations, interpretations, and product substitutions will be issued by way of an Amendment on or about December 5, 2016.** Requests should be directed to the procurement contact person at the address listed in Section L.6.1. Any substantive information given to a prospective offer concerning a solicitation will be furnished to all other prospective offerors as an amendment to the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors. Oral explanations or instructions given before the award of the contract will not be binding.

L.8. CANCELLATION OF AWARD

L.8.1. The District of Columbia Courts reserve the right, without liability to the Court, to cancel the award of any contract at any time prior to the approval of a formal written contract signed by the Executive Officer and the CPFMD Contracting Officer of the District of Columbia Courts.

L.9. OFFICIAL OFFER

L.9.1. Offers 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.10. CERTIFICATIONS, AFFIDAVITS AND OTHER SUBMISSIONS

L.10.1. Offeror shall complete and return with their proposal Page 1 Solicitation, Offer and Award For Supplies and Services; and all forms to be executed and submitted, see Part VIII. All these documents shall be submitted under Volume II – Price Proposal, Tab B.

L.11. RETENTION OF OFFERS

L.11.1. All proposal documents shall be the property of the District of Columbia Courts and retained by the Courts, and therefore will not be returned to the Offerors. One (1) copy of each proposal shall be retained for official files and will become a public record after the award and open to public inspection. It is understood that the proposal will become a part of the official file on this matter without obligation on the part of the Courts except as to the disclosure restrictions contained in Section L.3.

L.12. PUBLIC DISCLOSURE UNDER FOIA

L.12.1. Trade secrets or proprietary information submitted by a offeror in connection with procurement shall not be subject to public disclosure under the District of Columbia Freedom of Information Act (FOIA). This Act is not applicable to the Court. However, the offeror must 'invoke the protection of this section prior to or upon submission of the data or other materials; must identify the specific area or scope of data or other materials to be protected; and state the reasons why protection is necessary. A blanket proscription that the offeror's entire offer is proprietary will have no effect whatsoever.

L.13. EXAMINATION OF SOLICITATION

L.13.1. Offerors are expected to examine the Statement of Work and all instructions and attachments in this solicitation. Failure to do so will be at the offeror's risk.

L.14. ACKNOWLEDGMENT OF AMENDMENTS

L.14.1. Offerors shall acknowledge receipt of any amendment to this solicitation by (a) signing and returning the amendment; (b) identifying the amendment number and date in the proposal; or (c) letter. The District of Columbia Courts must receive the acknowledgment by the date and time specified for receipt of offers. Offeror's failure to acknowledge an amendment may result in rejection of the offer.

L.15. RIGHT TO REJECT OFFERS

L.15.1. The Courts reserve the right to reject, in whole or in part, any and all offers received as the result of this solicitation.

L.16. OFFER PREPARATION COSTS

L.16.1. Each offer shall bear all costs it incurs in providing responses to this solicitation and for providing any additional information required by the Courts to facilitate the evaluation process. The successful offeror shall also bear all costs incurred in conjunction with contract development and negotiation.

L.17. PRIME CONTRACTOR'S RESPONSIBILITIES

L.17.1. Each offeror may propose services that are provided by others, but any service(s) proposed must meet all of the requirements of this RFP.

L.17.2. If the proposal includes services provided by others, the offeror will be required to act as the prime Contractor for all such items and must assume full responsibility for the procurement, delivery and quality of such services. The Contractor will be considered the sole point of contact with regard to all stipulations, including payment of all charges and the meeting of all requirements of this RFP.

L.18. CONTRACT TYPE

L.18.1. This is a **firm fixed price** contract.

L.19. FAILURE TO RESPOND TO SOLICITATION

L.19.1. In the event that a prospective offeror does not submit an offer in response to the solicitation, the prospective offeror should advise the Contracting Officer by letter or postcard whether the prospective offeror wants any future solicitations for similar requirements. If the prospective offeror does not submit a offer for three successive offer openings and does not notify the Contracting Officer that future solicitations are desired, the prospective offeror's name may be removed from applicable mailing list.

L.20. SIGNING OFFERS AND CERTIFICATIONS

L.20.1. Each offer must provide a full business address and telephone number of the offeror and **BE SIGNED BY THE PERSON OR PERSONS LEGALLY AUTHORIZED TO SIGN CONTRACTS.**

All correspondence concerning the offer or resulting contract will be mailed to the address shown above on the offer in the absence of written instructions from the offeror or contractor to the contrary. Any offer submitted by a partnership must be signed with the partnership name by a general partner with authority to bind the partnership. Any offer submitted by a corporation must include the signature and title of the person having authority to sign for the corporation. Upon request, a offeror shall provide to the Courts satisfactory evidence of authority of the person signing on behalf of the corporation. If an agent signs a offer, the offeror shall submit to the Contracting Officer, the agent's authority to bind the offeror. Offerors shall complete and sign all Representations and Acknowledgments, as appropriate. Failure to do so may result in the offer being

rejected.

L.21. ERRORS IN OFFERS

L.21.1. Offerors are expected to read and fully understand all information and requirements contained in the solicitation. Failure to do so will be at the offeror's risk. In the event of a discrepancy between the unit price and the extended price, the unit price shall govern.

L.22. ACCEPTANCE PERIOD

L.22.1. The Offeror agrees to keep its offer open for a period of one hundred and twenty (120) days from the date specified for the submission of offers.

SECTION M – EVALUATION FACTORS

M.1 PROSPECTIVE CONTRACTOR'S RESPONSIBILITY

M.1.1 In order to receive an award under this solicitation, the Court's Contracting Officer must determine that the prospective offeror has the capability in all respects to perform fully the contract requirements. To be deemed responsible, a prospective offeror must provide a "Technical Response" (Volume I), in separately bound volume, includes the following:

M.2 VOLUME I – TECHNICAL PROPOSAL

Provide basic information about the Offering firm. At a minimum provide:

1. Entity name, address, and contact information.
2. Name and address of Parent Company, if applicable.
3. Type of Entity.
4. DUNS Number.
5. Copy of current license, permit, or registration to transact business in the District of Columbia.
6. Statement of percentage of Ownership by Foreign Corporation with interest exceeding five (5) percent.
7. Statement of Authorized Negotiators.

Tab A - Firm's Installation Project Experience (See Appendix A- 1.4.A.2);

"The Contractor shall provide to the owner's representative five (5) references with contact names and valid telephone numbers regarding similar installation projects successfully completed within the last three (3) years. These projects should ideally be justice, law enforcement, or other secure facilities. Experience with custom millwork should be noted."

Tab B - Firm's Live Event AV Production Experience (See Appendix A- 1.4.A.3 and 3.3E); "The Contractor shall provide to the owner's representative two (2) references with contact names and valid telephone numbers for live event AV production services successfully completed within the last three (3) years. These projects should ideally be justice, law enforcement, or other secure facilities".

Tab C – Firm's Staff Qualifications (See Appendix A – 1.4.A.4);

"The Contractor shall be capable of providing manufacturer-specified installation, programming, training, maintenance and repair for all equipment provided"

Tab D - Firm's Touch Panel Samples (See Appendix A- 1.4A.6);

"The Contractor shall provide (3) sample touch panel user guides (inclusive of all pages for each project) from (3) previous projects. "

Tab E - Firm's Rental Equipment Available (See Appendix A 1.4.A.7); and

"The Contractor shall provide a list of available rental AV equipment for use during the warranty period as needed."

Tab F - Quality Control Plan - “The contractor shall provide samples of reports, logs and other documentation used for similar work on other projects. A detailed project specific quality control plan shall be submitted to the DC Courts staff for review and approval prior to the start of work on the project.

No pricing information shall be included in Volume I.

M.3 VOLUME II – PRICE PROPOSAL

In a second separately bound and labeled volume, include the following:

Tab A – Provide a completed and executed copy of the Solicitation, Offer, and Award Form,

Tab B – Provide an executed copy of the Bid Bond.

Tab C - Provide pricing information as listed in **Attachment J-13**.

M.4 EVALUATION CRITERIA

The following criteria will be used to evaluate the proposals presented by the offerors. This is a best value solicitation.

M.4.1 Technical Information – 75 Total Possible Points

1. Understanding of the Project Requirements - 10 points
 - a. Understanding of the scope of the Project.
 - b. Clarity of the proposed scope of work.
2. Technical Approach to Performing the Work – 10 points
 - a. Clear plan for Scheduling, staging, communication, mobilization, installation, and testing.
 - b. Remote control system programming capabilities.
 - c. Impact of exclusions
3. Firm’s history capabilities, and past performance.- 35 points
 - a. Firm’s history performing project of similar scope. Firm’s history includes, but is not limited to: at least three similar projects and projects performed in a secured building during ongoing construction.
 - b. Firm’s references and Overall capabilities.
 - c. Firm’s familiarity with all equipment/submitted.
 - d. Firm’s Live Event AV Production Experience
 - e. Firm’s Rental Equipment Available
 - f. Remote control system programming capabilities

4. Management team – 10 points
 - a. Qualifications of proposed staff members and their previous experience on similar projects.
 - b. Identify any personnel whom are Certified Technology Specialist (CTS).
 - c. Provide personnel references on similar projects.
5. Risk Management – 10 points
 - a. Identification of any foreseeable risk of your proposed plan and your plans for mitigation.

M.4.2 Pricing Information – 25 Total Possible Points

1. Price – 25 points - Cost of overall project.
2. Determination of Points for Price: the total price should be included with the initial response to this request for proposal. Price evaluation will account for up to 25 points of the total score. Unlike the technical evaluation, the price evaluation will be more objective. Hence, the offeror with the lowest total price will receive the maximum points. All other proposals will receive a proportionately lower total score.

M.4.3 Total points (technical and price): 0-100 points

M.4.4 The Courts reserve the right to request, from a prospective contractor, information necessary to determine the prospective contractor's responsibility. Information is to be submitted upon the request of the Courts within the time specified in the request. Failure of an offeror to comply with a request for information may subject the offeror's offer to rejection on responsibility grounds. If a prospective contractor fails to supply the requested information, the Court's Contracting Officer shall make the determination of responsibility or non-responsibility based on available information. If the available information is insufficient to make a determination of non-responsibility, the Court's Contracting Officer shall determine the offeror to be non-responsible.

M.4.5. The Courts intend to award a contract from this solicitation based in part on price and price related factors.

M.4.6 The AV Vendor shall be responsible for all damages to persons or property that occur as a result of the A/V Vendor's fault or negligence, and shall take proper safety and health precautions to protect the work, workers, the public, and the property of others. The A/V Vendor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work, which may have been accepted under the contract.

M.4.7 The drawings and specifications pertaining to this contract are for the sole use of the AV Vendor and/or to the extent necessary, sub AV Vendors, in preparing an offer on this solicitation and/or in performing this contract. Any other use is prohibited. By submission of the offer, the prospective A/V Vendor warrants that no disclosure of the specifications and/or drawings for an unauthorized purpose has occurred.

M.4.8 The AV Vendor shall be responsible for developing procedures relative to handling, storage, reproduction, safeguarding, and disposition of the drawings and specifications. These procedures shall be designed to prevent unauthorized disclosure of the information throughout the course of contract performance.

D.C. COURTS GENERAL CONTRACT PROVISIONS

(Revised 2008)

D.C. COURTS GENERAL CONTRACT PROVISIONS

1.	Definitions.....	3
2.	Changes.....	3
3.	Transfers.....	3
4.	Waiver.....	3
5.	Indemnification.....	3
6.	Patents and Copyrights.....	3
7.	Covenant Against Contingent Fees.....	5
8.	Quality.....	5
9.	Health And Safety Standards.....	5
10.	Inspection Of Supplies.....	5
11.	Inspection Of Services.....	7
12.	Payment.....	8
13.	Taxes.....	8
14.	Appointment of Attorney.....	8
15.	Termination for Default.....	8
16.	Termination for Convenience of the Court.....	10
17.	Termination of Contracts for Certain Crimes and Violations.....	13
18.	Protests and Disputes.....	14
19.	Independent Contractor Relationship.....	14
20.	Security.....	14
21.	Officials not to Benefit.....	14
22.	Retention and Examination of Books.....	15
23.	Recovery of Debts Owed the Court.....	15
24.	Appropriation of Funds.....	15
25.	Non-Discrimination in Employment.....	15
26.	Buy American Act.....	16
27.	Service Contract Act of 1965.....	16
28.	Walsh-Healey Public Contracts.....	48
29.	Governing Law.....	22
30.	Multiyear Contract.....	22

1. Definitions.

The term "Contracting Officer" shall mean the Executive Officer of the District of Columbia Courts or her or his authorized representative. The term "Court" shall, depending on how that term is defined elsewhere in this contract, mean the Superior Court of the District of Columbia, the District of Columbia Court of Appeals or the District of Columbia Court System. If the Contractor is an individual, the term "Contractor" shall mean the Contractor, his or her heir(s), executors and administrators. If the Contractor is a corporation, the "Contractor" shall mean the Contractor and its successor. The term "District of Columbia government" shall mean all the branches of the government of the District of Columbia, including the District of Columbia Courts.

2. Changes.

The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes in this contract within the general scope hereof. If such change causes an increase or decrease in the cost of performance of this contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment under this paragraph must be asserted within twenty-one (21) days from the date the change is offered, provided however, that the Contracting Officer, may, in his or her discretion receive, consider and adjust any such claim asserted at any time prior to the final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined in accordance with Clause 18. Nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

3. Transfers.

This contract or any interest herein shall not be transferred by either the Court or the Contractor except upon written permission of the other party.

4. Waiver.

The waiver of any breach of this contract will not constitute a waiver of any subsequent breach thereof nor a waiver of this contract.

5. Indemnification (Revised 11/24/08).

(a) The Contractor shall indemnify and save harmless the Court and its officers, agents and employees from and against any and all claims, losses, liabilities, penalties, fines, forfeitures, demands, causes of action, suits and expenses incidental thereto (including the cost of defense and attorneys' fees) resulting from, arising out of, or in any way connected to any act, omission or default of the Contractor, its officers, agents, employees, servants or its subcontractors, or any other person acting for or by permission of the Contractor in the performance of this contract, regardless of whether or not any damage resulting from the Contractor's act, omission or default is caused in part by the Court. The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed in performance of this Contract. The Contractor shall also repair or replace any Court property that is damaged by the Contractor, Contractor's officers, employees, agents, servants,

subcontractors, or any other person acting for or by permission of the Contractor While performing work hereunder.

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

(c) The Contractor shall indemnify and save harmless the Courts and its officers, agents, Servants and employees from liability of any nature or kind, including costs and expenses, for or on account of the use of any patented or unpatented invention, item or process, manufactured or used in the performance of this contract, including their use by the Court, unless otherwise specifically stipulated in the contract.

(d) The Contractors hall indemnify and save harmless the Court and its officers, agents, Servants and employees against any claim for copyright infringement relating to any work produced, used or delivered under this contract.

6. Patents and Copyrights.

(a) The Contractor shall not make application for a patent or copyright on any invention, item or process produced under this contract except with the written permission of the Court. The Courts shall have an irrevocable nonexclusive royalty free license with the right to sublicense in any invention conceived or first actually reduced to practice in the course of or under this contract or any subcontract thereunder.

(b) All reports, programs, manuals, discs, tapes, card desks, listing, and other materials prepared by or worked upon by the Contractor's employees under this Agreement shall belong exclusively to the Courts.

(c) Contractor agrees not to publish or disclose any material first prepared under this Agreement without prior permission of the Court.

(d) Contractor will not knowingly include any work copyrighted by others in any material prepared under this Agreement unless it obtained either prior permission from the Court or an irrevocable royalty free license for the Court in such work.

(e) Contractor agrees to give the Court all assistance reasonably required to protect the rights defined in these provisions.

7. Covenant Against Contingent Fees.

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

8. Quality.

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

9. Health And Safety Standards.

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

10. Inspection Of Supplies.

(a) "Supplies," as used in this clause, includes, but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.

(b) The Contractor shall be responsible for the materials or supplies covered by this contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notification of rejection. Upon the Contractor's failure to cure within ten (10) days after date of notification, the Court may return the rejected materials or supplies to the Contractor at the Contractor's risk and expense.

(c) The Contractor shall provide and maintain an inspection system acceptable to the Court covering supplies under this contract and shall tender to the Court for acceptance only supplies that have been inspected in accordance with the inspection system and have been found by the Contractor to be in conformity with contract requirements. As part of the system, the Contractor shall prepare records evidencing all inspections made under the system and the outcome. These records shall be kept complete and made available to the Court during contract performance and for as long afterwards as the contract requires. The Court may perform reviews and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the Contractor of the obligations under this contract.

(d) The Court has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Court will perform inspections and tests in a manner that will not unduly delay the

work. The Court assumes no contractual obligation to perform any inspection and test for the benefit of the Contractor unless specifically set forth elsewhere in the contract.

(e) If the Court performs inspection or test on the premises of the Contractor or subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Court will bear the expense of Court inspections or tests made at other than Contractor's or subcontractor's premises; provided, that in case of rejection, the Court will not be liable for any reduction in the value of inspection or test samples.

(1) When supplies are not ready at the time specified by the Contractor for inspection or test, the Contracting Officer may charge to the Contractor the additional cost of inspection or test.

(2) Contracting Officer may also charge the Contractor for any additional cost of inspection or test when prior rejection makes re-inspection or retest necessary.

(f) The Court has the right either to reject or to require correction of nonconforming supplies. Supplies are nonconforming when they are defective in material or workmanship or otherwise not in conformity with contract requirements. The Court may reject nonconforming supplies with or without disposition instructions.

(g) The Contractor shall remove supplies rejected or required to be corrected. However, the Contracting Officer may require or permit correction in place, promptly after notice, by and at the expense of the Contractor. The Contractor shall not tender for acceptance corrected or rejected supplies without disclosing the former rejection or requirement for correction, and when required, shall disclose the corrective action taken.

(h) If the Contractor fails to remove, replace, or correct rejected supplies that are required to be replaced or corrected within ten (10) days, the Court may either (1) by contract or otherwise, remove, replace or correct the supplies and charge the cost to the Contractor or (2) terminate the contract for default. Unless the Contractor corrects or replaces the supplies within the delivery schedule, the Contracting Officer may require their delivery and make an equitable price reduction. Failure to agree to a price reduction shall be a dispute.

(i) If this contract provides for the performance of Court quality assurance at source, and if requested by the Court, the Contractor shall furnish advance notification of the time (i) when Contractor inspection or tests will be performed in accordance with the terms and conditions of the contract, and (ii) when the supplies will be ready for Court inspection.

(j) The Court request shall specify the period and method of the advance notification and the Court representative to whom it shall be furnished. Requests shall not require more than 2 business days of advance notification if the Court representative is in residence in the Contractor's plant, nor more than 7 business days in other instances.

(k) The Court will accept or reject supplies as promptly as practicable after delivery, unless otherwise provided in the contract. Court failure to inspect and accept or reject the supplies shall not relieve the Contractor from responsibility, nor impose liability upon the Court, for non-conforming supplies.

(l) Inspections and tests by the Court do not relieve the Contractor of responsibility for defects or other failures to meet contract requirements discovered before acceptance. Acceptance shall be conclusive, except for latent defects, fraud, gross mistakes amounting to fraud, or as otherwise provided in the contract.

(m) If acceptance is not conclusive for any of the reasons in subparagraph (l) hereof, the Court, in addition to any other rights and remedies provided by law, or under provisions of this contract, shall have the right to require the Contractor (1) at no increase in contract price, to correct or replace the defective or nonconforming supplies at the original point of delivery or at the Contractor's plant at the Contracting Officer's election, and in accordance with a reasonable delivery schedule as may be agreed upon between the Contractor and the Contracting Officer; provided, that the Contracting Officer may require a reduction in contract price if the Contractor fails to meet such delivery schedule, or (2) within a reasonable time after receipt by the Contractor of notice of defects or noncompliance, to repay such portion of the contract as is equitable under the circumstances if the Contracting Officer elects not to require correction or replacement. When supplies are returned to the Contractor, the Contractor shall bear the transportation cost from the original point of delivery to the Contractor's plant and return to the original point when that point is not the Contractor's plant. If the Contractor fails to perform or act as required in (1) or (2) above and does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure, the Court will have the right to return the rejected materials at Contractor's risk and expense or contract or otherwise to replace or correct such supplies and charge to the Contractor the cost occasioned the Court thereby.

11. Inspection Of Services.

(a) "Services" as used in this clause includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Court covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Court during contract performance and for as long afterwards as the contract requires.

(c) The Court has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Court will perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Court performs inspections or tests on the premises of the Contractor or subcontractor, the Contractor shall furnish, without additional charge, all reasonable facilities and assistance for the safety and convenient performance of these duties.

(e) If any of the services do not conform to the contract requirements, the Court may require the Contractor to perform these services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by performance, the Court may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect value of services performed.

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

12. Payment.

The Court shall pay the Contractor for services performed by the Contractor in the manner set forth in this contract, at the rate prescribed upon the submission by the Contractor of proper invoices or time statements, at the time provided for in this contract, to the Budget and Finance Division for contracts involving the Superior Court of the District of Columbia or the Court System, or to the Clerk of the District of Columbia Court of Appeals for contracts involving the District of Columbia Court of Appeals.

13. Taxes.

The District of Columbia Courts are exempt from and will not pay Federal Excise Tax, Transportation Tax, and the District of Columbia Sales and Use Taxes.

14. Appointment of Attorney (Revised 11/24/08).

The bidder/offeror or Contractor (whichever the case may be) does hereby irrevocably Designate and appoint the Clerk of the District of Columbia Superior Court and his or her Successor in office as the true and lawful attorney of the Contractor for the purpose of Receiving service of all notices and processes issued by any court in the District of Columbia, as well as service of all pleadings and other papers, in relation to any action or legal proceeding arising out of or pertaining to this contractor the work required or performed hereunder.

The bidder/offeror or Contractor (whichever the case may be) expressly agrees that the validity of any service upon the said Clerk as herein authorized shall not be affected either by the fact that the Contractor was personally within the District of Columbia and otherwise subject to personal service at the time of such service upon the said Clerk or by the fact that the contractor failed to receive a copy of such process, notice or other paper so served upon the said Clerk provided the said Clerk shall have deposited in the United States mail, registered and postage prepaid, a copy of such process, notice, pleading or other paper addressed to the bidder/offeror or contractor at the address stated in this contract.

15. Termination for Default.

(a) The Contracting Officer may, subject to the provisions of paragraph (c) below, by written notice to the Contractor, terminate the whole or any part of this contract for any of the following reasons:

- (1) If the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or
- (2) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in

either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

(b) In the event the Contracting Officer terminates this contract in whole or in part as provided in paragraph (a) of this clause, the Contracting Officer may procure, upon such terms and in such manner as the Contracting Officer may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Court for any excess costs for similar supplies or services; provided, that the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

(c) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the District or Federal Government in either their sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without fault or negligence of the Contractor. If the failure to perform is caused by the default of the subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess cost for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

(d) If this contract is terminated as provided in paragraph (a) of this clause, the Court, in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the Court, in the manner and to the extent directed by the Contracting Officer, (i) completed supplies, and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures plans, drawing information, and contract rights (hereinafter called "manufacturing materials") as the Contractor has specifically produced or specifically acquired for the performance of such part of this contract as has been terminated; and the Contractor shall, upon direction of the Contracting Officer, protect and preserve property in possession of the Contractor in which the Court has an interest. Payment for completed supplies delivered to and accepted by the Court will be at the contract price. Payment for manufacturing materials delivered to and accepted by the Court and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and Contracting Officer; failure to agree to such amount shall be a dispute concerning a question of fact within the meaning of the **Disputes** clause of this contract. The Court may withhold from amounts otherwise due the Contractor for such completed supplies or manufacturing materials such sum as the Contracting Officer determines to be necessary to protect the Court against loss because of outstanding liens or claims of former lien holders.

(e) If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination of convenience of the Court, be the same as if the notice of termination had been issued pursuant to such clause.

(f) The rights and remedies of the Court provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(g) As used in paragraph (c) of this clause, the term “subcontractor(s)” means subcontractor(s) at any tier.

16. Termination for Convenience of the Court.

(a) The Court may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Court’s interest. The Contracting Officer shall terminate by delivering to the Contractor a written Notice of Termination specifying the extent of termination and effective date.

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

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

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (6) above; provided, however, that the Contractor (i) is not required to extend credit to any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Court under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) After the expiration of ninety (90) days (or such longer period as may be agreed to) after receipt by the Contracting Officer of acceptable inventory schedules, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality of termination inventory not previously disposed of excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Court to remove those items or enter into an agreement for their storage. Within fifteen (15) days, the Court will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within forty five (45) days from submission of the list, and shall correct the list, as necessary, before final settlement.

(d) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than one year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this one year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after one year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due to the Contractor because of the termination and shall pay the amount determined.

(e) Subject to paragraph (d) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (e) or paragraph (f) below, exclusive of costs shown in subparagraph (f)(3) below, may not exceed the total contract price as reduced by (1) the amount of payment previously made and (2) the contract price of work not terminated. The contract shall be amended, and the Contractor paid the agreed amount. Paragraph (f) below shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

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

(1) The contract price for completed supplies or services accepted by the Court (or sold or acquired under subparagraph (b) (9) above) not previously paid for, adjusted for any saving of freight and other charges.

(2) The total of:

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (f)(1) above;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subparagraph (f)(1) above; and

(iii) A sum, as profit on subparagraph (f)(1) above, determined by the Contracting Officer to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subparagraph (iii) and shall reduce the settlement to reflect the indicated rate of loss.

(3) The reasonable cost of settlement of the work terminated, including-

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontractors (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(g) Except for normal spoilage, and except to the extent that the Court expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (f) above, the fair value as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Court or to a buyer.

(h) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraphs (d), (f) or (j), except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (d) or (j), and failed to request a time extension, there is no right of appeal. If the Contracting Officer has made a determination of the amount due under paragraph (d), (f) or (j), the Court will pay the Contractor (1) the amount determined by the Contracting Officer if there is no right of appeal or if no timely appeal has been taken, or (2) the amount finally determined on an appeal.

(i) In arriving at the amount due the Contractor under this clause, there shall be deducted:

(1) All unliquidated advances or other payments to the Contractor under the termination portion of the contract;

(2) Any claim which the Court has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Court.

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

(k)(1) The Court may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor shall be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Court upon demand together with interest computed at the rate of 10 percent (10%) per year. Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess payment is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(l) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Court, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, micrographs, or other authentic reproductions may be maintained instead of original records and documents.

17. Termination of Contracts for Certain Crimes and Violations.

(a) The District may terminate without liability any contract and may deduct from the contract price or otherwise recover the full amount of any fee, commission, percentage, gift, or consideration paid in violation of this title if:

(1) The Contractor has been convicted of a crime arising out of or in connection with the procurement of any work to be done or any payment to be made under the contract; or

(2) There has been any breach or violation of:

(A) Any provision of the Procurement Practices Act of 1985, as amended, or

(B) The contract provision against contingent fees.

(b) If a contract is terminated pursuant to this clause, the Contractor:

(1) May be paid only the actual costs of the work performed to the date of termination, plus termination costs, if any; and

(2) Shall refund all profits or fixed fees realized under the Contract.

(c) The rights and remedies contained in this are in addition to any other right or remedy provided by law, and the exercise of any of them is not a waiver of any other right or remedy provided by law.

18. Protests and Disputes.

Any protest or dispute arising under or out of this contract is subject to the provisions of Chapter 8 of the Procurement Guidelines of the District of Columbia Courts (August 2003 or subsequent modifications).

19. Independent Contractor Relationship.

It is expressly understood and agreed that the professional technical personnel assigned by the Contractor to work under this contract are the Contractor's employees or agents. Under no circumstances are such individuals to be considered Court employees or agents. Contractor and its employees shall be considered in an independent contract relationship with the Court at all times.

20. Security.

Contractor agrees that its employees shall treat as strictly confidential, all information received as a result of the performance of this contract. Such information will not, except as required by law, be disclosed to anyone outside of the Court's organization during the period of this contract or thereafter.

21. Officials not to Benefit.

Unless a determination is made as provided herein, no officer or employee of the District of Columbia government shall be admitted to any share or part of this contract or to any benefit arising therefrom, and any contract made by the Contracting Officer or any Court employee authorized to execute contracts in which they or an employee of the Court will be personally interested shall be void, and no payment shall be made thereon by the Court or any officer thereof, but this provision shall not be construed to extend to this contract to the extent that this contract is made with a corporation for the corporation's general benefit. A District employee shall not be a party to a contract with the Court and will not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the Court that there is a compelling reason for contracting with the employee, such as when the Court's needs cannot reasonably otherwise be met.

22. Retention and Examination of Books.

The Contractor shall retain all books, records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of three years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of three years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract.

The Contractor shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, Court, or other personnel duly authorized by the Contracting Officer.

The Contracting officer, or his or her duly authorized representative shall, until three years after final payment, have the right to examine any directly pertinent books, documents, papers and records of the Contractor involving transactions related to this contract.

23. Recovery of Debts Owed the Court.

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

24. Appropriation of Funds.

The Court's liability under this contract is contingent upon the availability of appropriated monies with which to make payment for the contract purposes. The legal liability on the part of the Court for the payment of any money shall not arise unless such appropriated monies shall have been provided.

25. Non-Discrimination in Employment.

(a) The Contractor shall not discriminate in any manner against an employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, or political affiliation, as these terms are defined in the District of Columbia Human Rights Act, as amended (D.C. Official Code § 2-1401.02). The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation or political affiliation. The affirmative action shall include, but not be limited to the following: employment, upgrading, or transfer; recruitment or recruitment advertising; demotion, layoff, or termination; rates of pay, or other forms of compensation; and selection for training and apprenticeship.

(b) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions in paragraph (a) of this clause.

(c) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of

the Contractor, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation or political affiliation.

(d) The Contractor agrees to send each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising each labor union or worker's representative of the commitment Contractor has made pursuant to paragraph n (a) of this clause.

(e) The Contractor agrees to permit the Contracting Officer or his or her designated representative access to the Contractor's books, records, and accounts, pertaining to its employment practices for purposes of investigation to ascertain compliance with the provisions contained in this clause.

(f) The Contractor shall include in every subcontract the provisions contained in paragraphs (a), (b), (c), (d) and (e) of this clause so that such provisions will be binding upon each subcontractor.

26. Buy American Act.

(a) The Buy American Act (41 U.S.C. §10a) provides that the District of Columbia give preference to domestic end products. "Components," as used in this clause, means those articles, materials, and supplies incorporated directly into the end products. "Domestic end product," as used in this clause, means (1) an un-manufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States, exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as the products referred to in subparagraphs (b)(3) or (4) of this clause shall be treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic. "End products," as used in this clause, means those articles, materials, and supplies to be acquired for public use under this contract.

(b) The Contractor shall deliver only domestic end products, except those-

(1) For use outside the United States;

(2) For which the Court determines the cost to be unreasonable;

(3) For which the Court determines that domestic preference would be inconsistent with the public interest; or

(4) That the Court determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

27. Service Contract Act of 1965.

(a) Definitions. "Act," as used in this clause, means the Service Contract Act of 1965, as amended (41 U.S.C. §351 *et seq.*). "Contractor," as used in this clause, means the prime Contractor or any

subcontractor at any tier. "Service employee," as used in this clause, means any person (other than a person employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR Part 541) engaged in performing a Court contract not exempted under 41 U.S.C. §356, the principal purpose of which is to furnish services in the United States, as defined in section 22.1001 of the Federal Acquisition Regulation. It includes all such persons regardless of the actual or alleged contractual relationship between them and a contractor or subcontractor.

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

(c) Compensation. (1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or the Secretary's authorized representative, as specified in any wage determination attached to this contract.

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

(B) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit Standard Form (SF) 1444, Request for Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed SF 1444 (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration (ESA), U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(C) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(D)(i) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula.

The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(ii) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds to a contract under which the classification in question was previously conformed pursuant to this paragraph (c), a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (*i.e.*, adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subparagraph (c)(2)(B) of this clause need not be followed.

(iii) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(E) The wage rate and fringe benefits finally determined under subparagraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract;

(F) Upon discovery of failure to comply with subparagraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) If the term of this contract is more than 1 year, the minimum wages and fringe benefits required for service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) Obligation to furnish fringe benefits. The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under subparagraph (c)(2) of this clause by furnishing any equivalent combinations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) Minimum wage. In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor shall pay any service or other employees performing work under this contract less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §206). Nothing in this clause shall relieve the Contractor or any subcontractor of any other legal or contractual obligation to pay a higher wage to any employee.

(f) Successor contracts. If this contract succeeds a contract subject to the Act under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then, in the absence of a minimum wage attachment to this contract, neither the Contractor nor the subcontractor shall pay any service employee performing this contract less than the wages and fringe benefits, including those accrued and any prospective increases, provided for under that agreement. No Contractor or subcontractor may be relieved of this obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing under 29 CFR 4.10, that the wages and fringe benefits provided for by that agreement vary substantially from those prevailing for similar services in the locality or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and 4.11 and parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Board of Service Contract Appeals, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) Notification to employees. The Contractor and any subcontractor shall notify each service employee commencing work on this contract of the minimum wage and any fringe benefits required to be paid, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.

(h) Safe and sanitary working conditions. The Contractor or subcontractor shall not permit services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor that are unsanitary, hazardous, or dangerous to the health or safety of service employees. The Contractor or subcontractor shall comply with the health standards applied under 29 CFR Part 1925.

(i) Records. (1) The Contractor and each subcontractor shall maintain for 3 years from the completion of work, and make available for inspection and transcription by authorized ESA representatives, a record of the following:

(A) For each employee subject to the Act:

(i) Name, address and social security number;

(ii) Work classification or classifications, rate or rates of wages and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(iii) Daily and weekly hours worked; and

(iv) Any deductions, rebates, or refunds from total daily or weekly compensation.

(B) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by ESA under the terms of paragraph (c) of this clause. A copy of the report required by subparagraph (c)(2)(B) of this clause will fulfill this requirement.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) Pay periods. The Contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(k) Withholding of payments and termination of contract. The Contracting Officer shall withhold from the prime Contractor under this or any other Court contract with the prime contractor any sums the Contracting Officer, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees of the Contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of

this clause may be grounds for termination for default. In such event, the Court may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) Subcontracts. The Contractor agrees to insert this clause in all subcontracts.

(m) Contractor's report.

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

(2) If wages to be paid or fringe benefits to be furnished any service employees under the contract are covered in a collective bargaining agreement effective at any time when the contract is being performed, the Contractor shall provide to the Contracting Officer a copy of the agreement and full information on the application and accrual of wages and benefits (including any prospective increases) to service employees working on the contract. The Contractor shall report when contract performance begins, in the case of agreements then in effect, and shall report subsequently effective agreements, provisions, or amendments promptly after they are negotiated.

(n) Contractor's Certification. By entering into this contract, the Contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Court contracts by virtue of the sanctions imposed under section 5 of the Act. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Court contract under section 5 of the Act. The penalty for making false statements is prescribed in the D.C. Code § 22-2405.

(o) Variations, tolerances, and exemptions involving employment. Notwithstanding any of the provisions in paragraphs (c) through (l) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions authorized by the Secretary of Labor.

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

(2) The Administrator will issue certificates under the Act for employing apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages, but without changing requirements concerning fringe benefits or supplementary cash payments in lieu of these benefits.

(3) The Administrator may also withdraw, annul, or cancel such certificates under 29 CFR parts 525 and 528.

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

28. WALSH-HEALEY PUBLIC CONTRACTS ACT:

(a) All representations and stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These representations and stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and handicapped workers may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (41 U.S.C. 40).

29. Governing Law.

This contract shall be governed by the laws of the District of Columbia both as to interpretation and performance.

30. Multiyear Contract.

If this contract is a multiyear contract, then the following provision is made part of this contract: If funds are not appropriated or otherwise made available for the continued performance in a subsequent year of a multiyear contract, the contract for the subsequent year shall be terminated, either automatically or in accordance with the termination clause of the contract. Unless otherwise provided for in the contract, the effect of termination is to discharge both the Contractor and the Contractor from future performance of the contract, but not from the existing obligations. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the contract.