

GOVERNMENT OF THE DISTRICT OF COLUMBIA



REQUEST FOR PROPOSAL NO. GF-2010-R-0003

AGENCY: University of the District of Columbia

PROJECT: Design Build Renovation of Backus Campus

LOCATION: 5171 South Dakota Avenue, NE  
Washington, DC 20017

**PART I**

**SECTION B: SCHEDULE FOR CONSTRUCTION, ALTERATIONS, REPAIRS PRICE**

**B.1** The University of the District of Columbia (UDC), Capital Procurement Team, is seeking a Design Builder to provide Design Build Renovation of the Bertie Backcus to complete the construction of the Bertie Backcus Campus in accordance with the terms and conditions herein.

**B.2** This is an open market solicitation with a 35% CBE Set-Aside.

**B.3** **Preferences for Local Business, Disadvantaged Business, Resident-owned Businesses, Small Businesses, Longtime Resident Businesses, or Local Businesses with Principal Offices located in an Enterprise Zone**

Under the provisions of the “Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005”, as amended, D.C. Official Code § 2-218.01 *et seq.* (the Act), the District shall apply preferences in evaluating proposals from businesses that are small, local, disadvantaged, resident-owned, longtime resident, or local with a principal office located in an enterprise zone of the District of Columbia.

**B.4** UDC contemplates award of a guaranteed maximum price contract. At the end of the Pre-Construction Phase, the Design Builder will be required to develop a Guaranteed Maximum Price (GMP) proposal for the submission to UDC. Assuming this proposal is accepted, a GMP Amendment will be signed by UDC and the Design-Builder, and the Design-Builder will be required to complete the Project on schedule and for an amount that does not exceed the agreed upon **GMP**.

**B.5** The District contemplates award of a firm fixed-price contract. The estimated price range for this requirement is between \$1,000,000.00 - \$4,000,000.00.

**B.5 PRICE**

The Offeror shall submit its price proposal under a cover letter on its letterhead in the format illustrated in accordance with Attachment J.1.1 Contractors will be evaluated on Phase 1 pricing.

In general the price shall be broken down into two Phases:

**Phase 1 (Pre-Construction)**

Design Fee \$ \_\_\_\_\_

Design-Builder Fee (profit and overhead) \$ \_\_\_\_\_

Design-Builder General Conditions \$ \_\_\_\_\_

**Total** \$ \_\_\_\_\_

**Phase II Construction (Target GMP)**

Construction Cost \$ \_\_\_\_\_ to \$ \_\_\_\_\_

The high end of the each Offeror's Construction Cost range will become the Offeror's Target GMP. The Target GMP should be presented in the Standard 33 Division format and should include sufficient level of detail to understand the assumptions that were included within the Target GMP. UDC intends to use the Target GMP to manage the Project's budget, and as such, Offerors should submit a Target GMP that represents their best judgement as to the Project's actual cost. UDC expects that Offerors will prepare a reasonably detailed cost estimate to prepare the Target GMP. In order to ensure that the Target GMPs represent the Offeror's best judgement of the costs, an Offeror will be required to forfeit 10% of the Design-Build Fee in the event that the final GMP exceeds the Target GMP. Offerors are further advised that a Target GMP that lacks sufficient detail or which omits funding for obvious aspects of the necessary work will render the Offeror's proposal non-responsive.

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

### **C.1 PROJECT BACKGROUND**

In the Fall of 2009 the District City Council passed legislation transferring ownership of Bertie Backus Junior High School building (“Backus”; the “facility”), a former District of Columbia Public School property located at 5171 South Dakota Avenue, NE, Washington DC to the University of the District of Columbia (“UDC”; the “University”) for use in further developing the Community College of the District of Columbia (“CCDC”, the “College”). The University has developed a comprehensive phased implementation plan for utilizing the entire property to support the development of the College. Phase 1 is the first step in the comprehensive re-use of the entire 4.6 acre site and will include designing and constructing programming space for the Nursing, Workforce Development and General Studies programs of CCDC for the beginning of the Fall 2010 academic year. Additionally, the phase will include designing and constructing academic and administrative space for use by a Public Charter School (PCS) beginning Fall 2010 school year.

### **C.2 SCOPE**

The University is seeking a qualified Design-Builder (the “Contractor”) to perform design, permitting, site preparation, construction, construction management, commissioning services and other related services as necessary to complete Phase 1 of the planned utilization of “Backus”. The facility is a 130,000 Sq. Ft property built in the early 1960’s and operated as a District school until the 2007–2008 school year. The Design-Builder will renovate approximately 45,000 Sq. Ft of the property for occupancy / substantial completion no later than August 20, 2010. The University has developed a layout (Addendum J.1.3) to guide the Phase 1 work. The Design-Builder may make alterations to the layout as deemed necessary to achieve the requirements of the University. However, the end product must sufficiently satisfy the program requirements of the University listed in this RFP. In performing the requirements of this RFP, the Design-Builder shall, at all times, utilize superior construction standards of care required for quality classrooms, office and support spaces for the University.

### **C.3 PROGRAM REQUIREMENTS**

CCDC requires the completed Phase I effort to provide certain program elements in order to meet the educational and administrative needs of the Workforce Development, Nursing Certification and Public Charter School programs. The following program elements are to be considered mandatory for a successful completion of this project. The Design-Builder will not be allowed to make modifications to quantity of listed program elements; however the Contractor may make recommendations on changes to the location of program elements based on the ability of said modification to aid the project schedule and/or budget.

Base Program:

- 29 Instructional spaces to include traditional classrooms and laboratory spaces;
- 3 Office Suites made up of closed offices as well as bullpen configuration workstations clusters
- 2 Entry Lobbies
- Support Storage
- Restrooms

These elements are to be created using the existing layout of interior walls. In addition to the program elements listed above, the design is expected to provide any additional program elements required by governing regulatory laws.

#### **C.4 EXISTING FACILITY**

The existing facility is a three level, 130,000 GSF building built in 1960. A Facility Conditions Assessment has been completed and identified. There are no issues with the facility's structural integrity. A copy of the completed report is included in Addendum J.1.6. The following are key findings of the report:

- C.4.1 The assessment identified the existing windows as needing replacement due to their deteriorated condition;
- C.4.1 The interior walls are constructed of glazed concrete masonry units and considered in good condition. This effort is envisioned not to include altering any interior walls;
- C.4.1 The corridors are lined with metal student lockers. The Design-Builder shall permanently remove the lockers. The resulting void is to be repaired with painted gypsum wall board.
- C.4.1 The tiled corridor flooring is deteriorated and should be replaced with carpet tiles or vinyl composite tiles;
- C.4.1 The classroom floors are covered by damaged carpet and vinyl composite tiles. All flooring surfaces in the classrooms should be replaced with commercial grade carpet tiles or new vinyl composite tiles;
- C.4.1 The building has a primary and secondary entrance and both are to be secured and utilized as part of this requirement.

In addition to all interior and/or exterior renovations including in above recommendations that are required as part of this scope of work, the workload shall also include but not be limited to the following:

#### **C.5 WINDOW REPLACEMENT**

It is desired the windows of the building be replaced as part of this effort. However, the Design-Builder may propose alternate solutions which may positively affect the project schedule or budget.

#### **C.6 PRE-ENGINEERED ROOM-LESS ELEVATOR SOLUTION**

Design-Builder shall design and install a pre-engineered room-less elevator solution as part of the space renovation.

#### **C.7 HEATING VENTILATION & AIR CONDITIONING SYSTEM SOLUTION**

The developed space will also need a fully functional Heating Ventilation & Air Conditioning system as well as fully functional Mechanical, Electrical & Plumbing system. The Design-Builder shall propose and install an MEP solution to providing operational building systems that can adequately support the intended use of each space, while minimizing the initial capital investment.

## **C.8 SECURITY**

The Design-Builder shall ensure that all exterior doors and operating windows have new locking devices. In addition to the physical security measures, the Design-Builder shall conduct a physical security assessment of the facility sufficient to propose and install an adequate electronic intrusion alarm/monitoring system.

## **C.9 FIRE SUPPRESSION AND FIRE ALARM SYSTEM**

The Design-Builder shall propose and install a fire suppression system and a fire alarm monitoring system for the renovated portion of the building that adheres to all governing regulations and codes required for operating classroom and office spaces.

## **C.10 VOICE AND DATA INFRASTRUCTURE CABLE DESIGN AND INSTALLATION**

The Contractor shall provide the University as part of their proposal for the installation of voice and/or data cabling infrastructure. The requirements are outlined in the attached Blanket Statement of Work.

## **C.11 INSTRUCTIONAL & ADMINISTRATIVE SPACES**

The existing building has three levels. It is anticipated the two of these levels will be used by the College and the third level will be used by the PCS.

### **C.11.1 CCDC Instructional Spaces (*First Floor & Third Floor*)**

Design of the spaces for the CCDC will require providing a minimum of 20 classrooms. These spaces will be divided between the first and third floors. Each space should be newly painted and receive new commercial grade carpet tiles or vinyl composite tiles. The light fixture should be replaced as required to maximize light levels while minimizing utility consumption. Two of the existing classroom spaces in the facility are to be “Wet Labs” with gas, water, and electrical services to multiple locations within the space. The second floor of the facility has two existing Wet Labs. The equipment and utilities in these spaces may be used to convert spaces on the first or third floor into a functioning Wet Lab. The windows in all instructional space are to be replaced with new window units or a recommended repair effort. All existing classroom doors are to be inspected for reuse or replaced with wood doors, new hardware and hollow metal frames. It is anticipated two floors of the building will be required to satisfy the CCDC program. Access between the two floors should be provided via use of the new elevator or vertical circulation. *The facility entrance off of South Dakota Street should be converted into a lobby for the CCDC operation.*

### **C.11.2 CCDC Office Spaces (*First Floor*)**

Design of the office suite to be used by the College is to utilize as much of the existing “Principal’s Office Suite” layout as possible in an effort to avoid the relocation of existing or building of new interior walls. If required to successfully complete the effort, an existing classroom space may be converted to a bullpen for office workstations. This will require providing power to the modular furniture workstations to avoid the use of vertical power poles. The selected Team will determine the maximum number of office

spaces that can be developed within the existing floor plan. It is preferred that all flooring be covered using commercial grade carpet tiles. All existing interior walls are to be painted. All existing interior doors are to be inspected for reuse or replaced with wood doors, new hardware and hollow metal frames.

**C.11.3 PCS Instructional Spaces (Second Floor)**

The anticipated location of the PCS spaces is the second floor. The PCS spaces should include providing 9 classrooms with newly painted walls and new vinyl composite tile flooring. The light fixture should be replaced as required to maximize light levels while minimizing utility consumption. All windows in the PCS instructional spaces are to be replaced with new window units or a recommended repair solution. All existing interior door are to be inspected for reuse or replaced with wood doors, new hardware and hollow metal frames. *Note: The layout of all PCS spaces must be physically separated from the CCDC spaces. The facility entrance off of Hamilton Street should be converted into a foyer for the PCS operation.*

**C.11.4 PCS Office Spaces (Second Floor)**

Design of the office space to be used by the PCS program is to utilize an existing classroom. The room should be developed to support two enclosed offices and modular workstations for 6 staff members. The work stations are to be supplied with modular furniture units as to avoid the use of vertical power poles. The flooring in all PCS office spaces is to be covered using commercial grade carpet tiles. All existing interior walls are to be newly painted. All existing interior doors are to be inspected for reuse or replaced with wood doors, new hardware and hollow metal frames.

**C.12 Period of Performance**

The Design-Builder will be required to achieve substantial completion no later than August 20, 2010. It is anticipated that a contract will be executed by May 14, 2010. The resulting duration of this effort will be 98 calendar days. While substantial completion must be reached no later than the date indicated; the Contractor may be allowed to complete "Punchlist" no later than August 31, 2010. The following are project milestone dates considered critical to the successful completion of this effort:

- Projected Notice to Proceed                      May 14, 2010
- Substantial Completion                              August 20, 2010
- Punch List    August 31, 2010

**PART I**

**SECTION D: PACKAGING AND MARKING**

- D.1** The packing and marking requirement for this RFP shall be governed by the requirements specified in Section L.3.



**PART I**

**SECTION E: INSPECTION AND ACCEPTANCE**

- E.1** The inspection and acceptance requirements for the resultant contract shall be governed by the General Provisions Architect Engineering Contracts 1989 and Standard Contract Provision for Construction 2007 (Attachment J.1.1 and J.1.2)

## PART I

### SECTION F - DELIVERIES OR PERFORMANCE

#### F.1 CONTRACT TYPE:

The District contemplates award of an Agreement between University and Design/Builder.

**F.1.1 Negotiated Procurement:** This procurement is being awarded through a competitive negotiation type of procurement.

**F.1.2 Total Construction Fee:** This will be a guaranteed maximum price contract. Offerors will be required to offer a total Design Fee, Design-Builder Fee, General Conditions Budget and Construction Cost. Offerors should submit with their proposal an Offer Letter in substantially the form of Attachment J.2.1.

#### F.2. TERM OF CONTRACT

**F.2.1 Project Schedule:** UDC requires the Bertie Backcus Campus to be completed no later Than August 20, 2010. UDC envisions that construction should be able to begin in May 14, 2010. Early completion is strongly encouraged.

**F.2.2 Project Delivery Method:** UDC intends to implement Phase I of the Project through a Design Build method.

**PART I**

**SECTION G - CONTRACT ADMINISTRATION DATA**

**G.1 INVOICE PAYMENT**

G.1.1 The District will make payments to the Design-Builder, upon the submission of proper invoices or vouchers, at the prices stipulated in this contract, for supplies delivered and accepted and/or services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.

G.1.2 The District will pay the Design-Builder on or before the 30th day after receiving a proper invoice from the Design-Builder.

**G.2 INVOICE SUBMITTAL**

G.2.1 The Design-Builder shall submit proper invoices on a monthly basis or as otherwise specified in this contract. Invoices shall be prepared in triplicate and submitted to the agency Chief Financial Officer (CFO) with concurrent copies to the Contracting Officer (CO) the Contracting Officer's Technical Representative (COTR) specified in G.7 below. The address of the CFO is:

**Name:** Chief Financial Officer  
University of the District of Columbia  
**Address:** 4200 Connecticut Avenue, NW  
Washington, D.C. 20008  
**Telephone:** 202-274-5488

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

G.2.2.1 Design-Builder's name, Federal tax ID, DUNS number and invoice date (Design-Builders are encouraged to date invoices as close to the date of mailing or transmittal as possible.);

G.2.2.2 Contract number, block number two (2) and encumbrance number, block number twenty-one (21) of the Solicitation Cover Sheet. Assignment of an invoice number by the Design-Builder is also recommended, the assigned UDC Purchase Order Number is required;

G.2.2.3 Description, price, quantity and the date(s) that the supplies/services were actually delivered and/or performed. Contractor shall provide this information with a schedule of values or approved equal.

- G.2.2.4 All sub-contractor and sub-consultant invoices requested under subject payment application.;
- G.2.2.5 Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;
- G.2.2.6 Name, title, phone number of person preparing the invoice;
- G.2.2.7 Name, title, phone number and mailing address of person (if different from the person identified in (G.2.2.6) above to be notified in the event of a defective invoice); and
- G.2.2.8 Authorized signature

**G.3 METHOD OF PAYMENT**

- G.3.1 The District will pay the amount due the Design-Builder under this contract in accordance with the terms of the contract and upon presentation of a properly executed invoice.
- G.3.2 Ten percent (10%) of the Design-Build Fee will be withheld as retention. This amount will only be earned by the Design-Builder if the project is delivered before the August 20, 2010, deadline and on the agreed upon budget.

**G.4 ASSIGNMENTS**

- G.4.1 Unless otherwise prohibited by this contract, the Design-Builder may assign funds due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution
- G.4.2 Any assignment shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party.
- G.4.3 Notwithstanding an assignment of money claims pursuant to authority contained in the contract, the Design-Builder, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

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

**G.5 CONTRACTING OFFICER (CO)**

G.5.1 Contracts may be entered into and signed on behalf of the University of the District Government only by contracting officers. The address and telephone number of the Contracting Officer is:

Sherry Jones-Quashie  
Manager of Capital Procurement  
University of the District of Columbia  
4200 Connecticut Avenue, NW  
Washington, DC 20008  
(202) 274-5752

**G.6 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER**

G.6.1 The Contracting Officer is the only person authorized to approve changes in any of the requirements of this contract.

G.6.2 The Design-Builder shall not comply with any order, directive or request that changes or modifies the requirements of this contract, unless issued in writing and signed by the Contracting Officer.

G.6.3 In the event the Design-Builder effects any change at the instruction or request of any person other than the Contracting Officer, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

**G.7 CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)**

G.7.1 The COTR is responsible for general administration of the contract and advising the Contracting Officer as to the Design-Builder's compliance or noncompliance with the contract. In addition, the COTR is responsible for the day-to-day monitoring and supervision of the contract, of ensuring that the work conforms to the requirements of this contract and such other responsibilities and authorities as may be specified in the contract. The COTR for this contract is:

Erik Thompson  
Project Manager Facilities and Real Estate  
University of the District of Columbia  
4200 Connecticut Avenue, NW  
Washington, DC 20008

G.7.2 It is understood and agreed that the COTR shall not have authority to make any changes in the specifications/scope of work or terms and conditions of the contract.

**G.8 UNAUTHORIZED CHANGES**

G.8.1 Design-Builder 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 also be required, at no additional cost to the District, to take all corrective action necessitated by reason of the unauthorized changes.

**G.9 LIMITATION OF AUTHORITY**

G.9.1 Only a person with prior written authority from the CO shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clauses or conditions of the contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this RFP is not effective or binding unless made in writing and signed by the CO or its authorized representative.

**G.10 FIRST SOURCE AGREEMENT REQUEST FOR FINAL PAYMENT:**

**G.10.1** For contracts subject to the 51% District Residents New Hires Requirement and First Source Employment Agreement, final request for payment must be accompanied by the report or a waiver of compliance discussed in G.37.

**G.10.2** The CFO shall not make final payment to the Contractor until the CFO has received the CO's final determination or approval of waiver of the Contractor's compliance with 51% District Residents New Hires Requirement and First Source Employment Agreement

**G.11 STOPPAGE OF WORK:**

If the Contractor fails to abide by any, or all, of the provisions of the contract, the CO reserves the right, by written notification to the Contractor, to stop all the work, or any portion thereof, affected by the Contractor's failure to comply with the contract requirements. This stoppage will remain in effect until the Contractor has taken action to meet the contract requirements, or any separable part thereof, and the CO notifies the Contractor in writing that work may resume. Stoppage of all part of the work by the CO pursuant to this Section G.10 notwithstanding, the District may terminate the right of the Contractor to proceed as provided in Article 5 of the General Provisions, TERMINATION-DELAYS, of Standard Contract Provisions for Construction Projects, (January 2007).

**G.12 PATENTS:**

The Contractor shall hold and save the Government, its officers, agents, servants and employees, harmless for liability of, any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, article or appliance manufactured or used in the performance of this contract, including their use by the Government of the District of Columbia.

## **PART I**

### **SECTION H - SPECIAL CONTRACT REQUIREMENTS**

#### **H.1 DEPARTMENT OF LABOR WAGE DETERMINATIONS**

H.1.1 The Design-Builder shall be bound by General Decision Number DC20080004 dated 3/12/2010, issued by the U.S. Department of Labor for Building Construction Contracts and incorporated herein as Attachment J.1.4 of this solicitation. The Design-Builder shall be bound by the wage rates for the term of the Contract. If an option is exercised, the Design-Builder shall be bound by the applicable wage rate at the time of the option. If the option is exercised and the Contracting Officer for the option obtains a revised wage determination, that determination is applicable for the option periods; the Design-Builder may be entitled to an equitable adjustment.

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

H.2.1 At any time or times before final payment and three (3) years thereafter, the Contracting Officer may have the Design-Builder's invoices or vouchers and statements of cost audited. For cost reimbursement contracts, 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 Design-Builder by the University and an overpayment is found, the Design-Builder shall reimburse the University for said overpayment within thirty (30) days after written notification.

H.2.2 The Design-Builder shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds provided by the University under the contract that results from this solicitation.

H.2.3 The Design-Builder shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the contract for a period of five (5) years after termination of the contract, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of the contract.

H.2.4 The Design-Builder shall assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, District, or other personnel duly authorized by the Contracting Officer.



H.2.5 Persons duly authorized by the Contracting Officer shall have full access to and the right to examine any of the Design-Builder's contract and related records and documents, regardless of the form in which kept, at all reasonable times for as long as records are retained.

H.2.6 The Design-Builder shall include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.

### **H.3 PUBLICITY**

H.3.1 The Design-Builder shall at all times obtain the prior written approval from the Contracting Officer before it, any of its officers, agents, employees or subcontractor either during or after expiration or termination of the contract make any statement, or issue any material, for publication through any medium of communication, bearing on the work performed or data collected under this contract.

### **H.4 CONFLICT OF INTEREST**

H.4.1 No official or employee of the District or the Federal Government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this contract shall, prior to the completion of the project, voluntarily acquire any personal interest, direct or indirect, in the contract or proposed contract.

H.4.2 The Design-Builder represents and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Design-Builder further covenants not to employ any person having such known interests in the performance of the contract.

## **PART II**

### **SECTION I: CONTRACT CLAUSES**

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

- I.1.1 The University is utilizing the attached General Provisions Architect Engineering Contracts 1989 and Appendices A thru D and Standard Contract Provision for Construction 2007 (Attachment J.1.1 and J.1.2), the District of Columbia Procurement Practices Act of 1985, as amended, and Title 8 of the District of Columbia Municipal Regulations, as amended, are incorporated as part of the contract resulting from this solicitation.

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

- I.2.1 Continuation of this contract beyond the fiscal year is contingent upon future fiscal appropriations.

#### **I.3 CONFIDENTIALITY OF INFORMATION**

- I.3.1 All information obtained by the Design-Builder relating to any employee of the University or customer of the University shall be kept in absolute confidence and shall not be used by the Design-Builder in connection with any other matters, nor shall any such information be disclosed to any other person, firm, or corporation, in accordance with the District and Federal laws governing the confidentiality of records.

#### **I.4 TIME**

- I.4.1 Time, if stated in a number of days, will include Saturdays, Sundays, and holidays, unless otherwise stated herein.

#### **I.5 RESTRICTION ON DISCLOSURE AND USE OF DATA**

- I.5.1 Offerors who include in their proposal data that they do not want disclosed to the public or used by the University except for use in the procurement process shall:

- 1.5.1.1 Mark the title page with the following legend:

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

- I.5.1.2 If however, a contract is awarded to this Offeror as a result of or in connection with

the submission of this data, the University shall have the right to duplicate, use, or disclose the data to the extent consistent with the University's needs in the procurement process. This restriction does not limit the District's rights to use, without restriction, information contained in this data if it is obtained from another source. The data subject to

this restriction are contained in sheets (insert numbers or other identification of sheets).

I.5.1.3 Mark each sheet of data it wishes to restrict with the following legend:

*“Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.”*

## **I.6 RIGHTS IN DATA**

- I.6.1 “Data,” as used herein, means recorded information, regardless of form or the media on which it may be recorded. The term includes technical data and computer software. The term does not include information incidental to contract administration, such as financial, administrative, cost or pricing, or management information.
- I.6.2 The term “Technical Data”, as used herein, means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work, or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, text in specifications or related performance or design type documents or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information, and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.
- I.6.3 The term “Computer Software”, as used herein means computer programs and computer databases. “Computer Programs”, as used herein means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. "Computer Programs" include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort merge programs, and automated data processing equipment maintenance diagnostic programs, as well as applications programs such as payroll, inventory control and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.

- I.6.4 The term "computer databases", as used herein, means a collection of data in a form capable of being processed and operated on by a computer.
- I.6.5 All data first produced in the performance of this Contract shall be the sole property of the University. The Design-Builder hereby acknowledges that all data, including, without limitation, computer program codes, produced by Design-Builder for the University under this Contract, are works made for hire and are the sole property of the District; but, to the extent any such data may not, by operation of law, be works made for hire, Design-Builder hereby transfers and assigns to the University the ownership of copyright in such works, whether published or unpublished. The Design-Builder agrees to give the University all assistance reasonably necessary to perfect such rights including, but not limited to, the works and supporting documentation and the execution of any instrument required to register copyrights. The Design-Builder agrees not to assert any rights in common law or in equity in such data. The Design-Builder shall not publish or reproduce such data in whole or in part or in any manner or form, or authorize others to do so, without written consent of the University until such time as the University may have released such data to the public.
- I.6.6 The University shall have restricted rights in data, including computer software and all accompanying documentation, manuals and instructional materials, listed or described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, provided however, notwithstanding any contrary provision in any such license or agreement, such restricted rights shall include, as a minimum the right to:
  - I.6.6.1 Use the computer software and all accompanying documentation and manuals or instructional materials with the computer for which or with which it was acquired, including use at any University installation to which the computer may be transferred by the University;
  - I.6.6.2 Use the computer software and all accompanying documentation and manuals or instructional materials with a backup computer if the computer for which or with which it was acquired is inoperative;
  - I.6.6.3 Copy computer programs for safekeeping (archives) or backup purposes; and
  - I.6.6.4 Modify the computer software and all accompanying documentation and manuals or instructional materials, or combine it with other software, subject to the provision that the modified portions shall remain subject to these restrictions.

I.6.7 The restricted rights set forth in section I.6.6 are of no effect unless

(i) the data is marked by the Design-Builder with the following legend:

**RESTRICTED RIGHTS LEGEND**

Use, duplication, or disclosure is subject to restrictions stated in Contract No. \_\_\_\_\_

With \_\_\_\_\_ (Design-Builder's Name) and

(ii) If the data is computer software, the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Design-Builder may not place any legend on the computer software indicating restrictions on the District's rights in such software unless the restrictions are set forth in a license or agreement made a part of the contract prior to the delivery date of the software. Failure of the Design-Builder to apply a restricted rights legend to such computer software shall relieve the District of liability with respect to such unmarked software.

I.6.8 In addition to the rights granted in Section I.6.9 below, the Design-Builder hereby grants to the University a nonexclusive, paid-up license throughout the world, of the same scope as restricted rights set forth in Section I.6.9 below, under any copyright owned by the Design-Builder, in any work of authorship prepared for or acquired by the University under this contract. Unless written approval of the contracting Officer is obtained, the Design-Builder shall not include in technical data or computer software prepared for or acquired by the University under this contract any works of authorship in which copyright is not owned by the Design-Builder without acquiring for the University any rights necessary to perfect a copyright license of the scope specified in the first sentence of this paragraph.

I.6.9 Whenever any data, including computer software, are to be obtained from a subcontractor under this contract, the Design-Builder shall use Section I.6 in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the University's or the Design-Builder's rights in that subcontractor data or computer software which is required for the University.

I.6.10 For all computer software furnished to the University with the rights specified in Section I.6.5, the Design-Builder shall furnish to the University, a copy of the source code with such rights of the scope specified in Section I.6.5. For all computer software furnished to the University with the restricted rights specified in Section I.6.6, the University, if the Design-Builder, either directly or through a successor or

affiliate shall cease to provide the maintenance or warranty services provided the University under this contract or any paid-up maintenance agreement, or if Design-Builder should be declared bankrupt or insolvent by the court if competent jurisdiction, shall have the right to obtain, for its own and sole use only, a single copy of the then current version of the source code supplied under this contract, and a single copy of the documentation associated therewith, upon payment to the person in control of the source code the reasonable cost of making each copy.

- I.6.11 The Design-Builder shall indemnify and save and hold harmless the University, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this contract, or (ii) based upon any data furnished under this contract, or based upon libelous or other unlawful matter contained in such data.
- I.6.12 Nothing contained in this clause shall imply a license to the University under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the District under any patent.
- I.6.13 Paragraphs I.6.6, I.6.7, I.6.8, I.6.11 and I.6.13 above are not applicable to material furnished to the Design-Builder by the University and incorporated in the work furnished under contract, provided that such incorporated material is identified by the Design-Builder at the time of delivery of such work

## **I.7 OTHER CONTRACTORS**

- I.7.1 The Design-Builder shall not commit or permit any act that will interfere with the performance of work by another District Contractor or by any District employee.

## **I.8 FIRST SOURCE EMPLOYMENT AGREEMENT**

- I.8.1 The Design-Builder shall maintain compliance with the terms and conditions of the First Source Employment Agreement J.4.2 executed between the University and the Design-Builder throughout the entire duration of the contract, including option periods if any.
  - I.8.1.1 Residency Hiring Requirements for Contractors and Subcontractors  
At least fifty-one percent (51%) of the Offeror's Team and every subconsultant's employees hired after the Offeror enters into a contract with the University, or after such subconsultant enters into a contract with the Offeror, to work on this project, shall be residents of the District of Columbia.

Upon execution of the contract, the Offeror and all of its member firms, if any, and each of its subcontractors and sub consultants shall submit to the University a list of current employees that will be assigned to the project, the date that they were hired and whether or not they live in the University.

The Offeror shall comply with subchapter III of Chapter II of Title 1, and subchapter II of Chapter II of Title 1 of the D.C. Code, and all successor acts thereto and the rules and regulations promulgated thereunder. The Offeror and all member firms, subcontractors, tier subcontractors, sub consultants, and suppliers with contracts in the amount of \$100,000 or more shall be required to comply with the following: (i) enter into a First Source Employment Agreement with the D.C. Department of Employment Services (“DOES”) upon execution of the contract; (ii) submit an executed First Source Agreement to DOES prior to beginning work on the project; (iii) make best efforts to hire at least 51% District residents for all new jobs created by the project; (iv) list all employment vacancies with DOES; (v) submit monthly compliance reports to DOES by the 10th of each month; (vi) at least 51% apprentices and trainees employed must be residents of the District registered in program approved by the D.C. Apprenticeship Council; and (vii) trade contractors and subcontractors with contracts in the amount of \$500,000 or more must register an apprenticeship program with the D.C. Apprenticeship Council.

#### I.8.1.2 Apprenticeship Act

The D.C. Apprenticeship Act of D.C. Law 2-156, (“Act”) as amended shall apply to this project. All subcontractors selected to perform work on the project on a craft-by-craft basis shall be required to comply with this Act. All terms and conditions of the D.C. Apprenticeship Council Rules and Regulations shall be implemented. The Design-Builder shall be liable for any subcontractor non-compliance.

### **I.9 CONTINUITY OF SERVICES**

I.9.1 The Design-Builder recognizes that the services provided under this contract are vital to the University and must be continued without interruption and that, upon contract expiration or termination, a successor, either the District Government or another contractor, at the District’s option, may continue to provide these services. To that end, the Design-Builder agrees to:

I.9.1.1 Furnish phase-out, phase-in (transition) training; and

I.9.1.2 Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

## I.10 INSURANCE

I.10.1 The Design-Builder will be required to maintain the following types of insurance throughout the life of the contract.

I.10.1.1 Commercial General Liability insurance (“Liability Insurance”) against liability for bodily injury and death and property damage, such Liability Insurance to be in an amount not less than Five Million Dollars (\$5,000,000) for liability for bodily injury, death and property damage arising from any one occurrence and Five Million Dollars (\$5,000,000) from the aggregate of all occurrences within each policy year. The policy should include completed operations coverage.

I.10.1.1 Professional Liability Insurance (Architect & Engineers). The Contractor (including but not limited to architects, attorneys, engineers, environmental consultants, and healthcare professionals) shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission caused by the performance of professional services under this Contract.

The policy shall provide limits of \$1,000,000 per occurrence for each wrongful act and \$3,000,000 per aggregate for each wrongful act.

The Contractor shall maintain this insurance for five (5) years following the District’s final acceptance of the work. The policy shall cover the Contractor and its subcontractors of every tier, and shall identify the University as the Project Owner on the policy.

I.10.1.2 Workers’ Compensation and Employers Liability coverage providing statutory benefits for all persons employed by the Design-Builder, or its contractors and subcontractors at or in connection with the Work.

I.10.1.3 Automobile Liability, including Hired and Non-Owned Auto Liability in the amount of at least One Million Dollars (\$1,000,000) for each occurrence for bodily injury and property damage.

I.10.1.4 Excess Umbrella Liability Coverage (on at least a follow form basis) which when combined with the general liability policy shall have an aggregate limit of at least Fifteen million dollars (\$15,000,000.00).

I.10.1.5 Builder’s Risk Insurance written on an “all risk” basis and covering the value of the improvements being constructed. This coverage does not need to be maintained until such time as construction operations begin.

I.10.1.6 Additional Insured:

Each insurance policy shall be issued in the name of the Design-Builder and shall name as additional insured parties and the University, and shall not be cancelable or reduced without thirty (30) days prior written notice to UDC.



I.10.1.7 Waiver of Subrogation:

All such insurance shall contain a waiver of subrogation against the University and its agents.

**I.11 EQUAL EMPLOYMENT OPPORTUNITY**

I.11.1 In accordance with the District of Columbia Administrative Issuance System, Mayor's Order 85-85 dated June 10, 1985, the forms for completion of the Equal Employment Opportunity Information Report are incorporated herein as Attachment J.2.3. An award cannot be made to any Offeror who has not satisfied the equal employment requirements as set forth by the Department of Human Rights and Local Business Development.

**I.12 PAYMENT AND PERFORMANCE BONDS**

I.12.1 After the GMP has been negotiated, the Contractor will be required to submit payment bonds to be in an amount not less than 50% of the amount payable by the terms of the contract and performance bonds to be in an amount not less than 100% of the amount payable by the terms of the contract.

## SECTION J: LIST OF ATTACHMENTS

### J.1 LIST OF ATTACHMENTS

J.1.1 General Provisions Architect Engineering Contracts 1989

J.1.2 Standard Contract Provision for Construction 2007

J.1.3 Phase I Building Layout

J.1.4 General Decision Number DC20080004 dated 3/12/2010

J.1.5 DC Office of the Chief Technology Officer (OCTO) Statement of Work

J.1.6 Facility Condition Assessment

### J.2 The following forms must be completed by the Offeror and submitted with its proposal:

J.2.1 Offer Letter

*(Bidders shall complete and incorporate with their bid packages, the following forms located at [www.ocp.dc.gov](http://www.ocp.dc.gov) under solicitation attachments.)*

J.2.2 First Source Employment Agreement (Download OCP Website)

J.2.3 Equal Employment Opportunity (Download OCP Website)

J.2.4 Tax Affidavit (Download OCP Website)

J.2.5 Disclosure Statement

J.2.6 Summary Evaluation of Design-Builder/Provider Past Performance (OCP form 4001) –  
**Completed by at least two references**

J.2.7 Subcontracting Plan

J.2.8 Price Breakdown Form – Division 33

### J.3 ORDER OF PRECEDENCE

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

(a) The Specifications in Section C of the solicitation;

(b) Clauses as outlined in the solicitation;

(c) General Provisions Architect Engineering Contracts 1989 and Standard Contract Provision for Construction 2007;

(d) Other documents, exhibits, and attachments

## SECTION K: REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

### K.1 CERTIFICATION REGARDING A DRUG-FREE WORKPLACE (JULY 1990):

K.1.1 Definitions. As used in this provision:

- K.1.1.1 **Controlled substance:** means a controlled substance in schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.
  - K.1.1.2 **Conviction:** means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.
  - K.1.1.3 **Criminal drug statute:** means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession or use of any controlled substance.
  - K.1.1.4 **Drug-free workplace:** means the site(s) for the performance of work done by the Design-Builder in connection with a specific contract at which employees of the Design-Builder are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.
  - K.1.1.5 **Employee:** means an employee of a Design-Builder directly engaged in the performance of work under a Government contract. "Directly engaged" is defined to include all direct cost employees and any other Design-Builder employee who has other than a minimal impact or involvement in contract performance.
  - K.1.1.6 **Individual:** means an Offeror/Contractor that has no more than one employee including the Offeror/Design-Builder.
- K.1.2 By submission of its offer, the Offeror, if other than an individual, who is making an offer that equals or exceeds \$25,000, 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 contracts 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 Design-Builder'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 the following:
  - (i) The dangers of drug abuse in the workplace;
  - (ii) The Design-Builder's policy of maintaining a drug-free workplace;
  - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; 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.1.2.4 (ii) of this provision, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee; and
- K.1.2.6 Within 30 calendar days after receiving notice under subdivision K.1.2.4 (ii) of this provision of a conviction, takes 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 a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health, law enforcement, or other appropriate agency.

K.1.2.7 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 offer, the Offeror, if an individual who is making an offer 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 through K.1.3 of this provision renders the Offeror unqualified and ineligible for award.

K.1.5 In addition to other remedies available to the Government, the certification in paragraphs K.1.2 through 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**

\_\_\_\_\_  
Authorized Design-Builder Personnel (Print Name) Title

\_\_\_\_\_  
Signature of Authorized Design-Builder Personnel Date

**K.2 TAX CERTIFICATION**

K.2.1 Each Offeror must submit with its offer, a sworn Tax Certification Affidavit incorporated herein as Attachment J.2.4.

**K.3 AUTHORIZED NEGOTIATORS**

K.3.1 The Offeror represents that the following persons are authorized to negotiate on its behalf with the University in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**K.4 TYPE OF BUSINESS ORGANIZATION**

K.4.1 The Offeror, by checking the applicable box, represents that:

(a) It operates as:

- \_\_\_\_\_ a corporation incorporated under the laws of the State of \_\_\_\_\_
- \_\_\_\_\_ an individual,
- \_\_\_\_\_ a partnership
- \_\_\_\_\_ a nonprofit organization, or

\_\_\_\_\_ a joint venture; or

(b) If the Offeror is a foreign entity, it operates as:

\_\_\_\_\_ an individual

\_\_\_\_\_ a joint venture, or

\_\_\_\_\_ a corporation registered for business in \_\_\_\_\_

(Country)

**K.5 CERTIFICATION AS TO COMPLIANCE WITH EQUAL OPPORTUNITY OBLIGATIONS**

K.5.1 Contracts”, dated June 10, 1985 and the Office of Human Rights’ regulations, Chapter 11, “Compliance with Equal Employment Opportunity Requirements in Contracts”, promulgated August 15, 1986 (4 DCMR Chapter 11, 33 DCR 4952) are included as a part of this solicitation and require the following certification for contracts subject to the order. Failure to complete the certification may result in rejection of the Offeror for a contract subject to the order. I hereby certify that I am fully aware of the content of the Mayor’s Order 85-85 and the Office of Human Rights’ regulations, Chapter 11, and agree to comply with them in performance of this contract.

Offeror \_\_\_\_\_ Date \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_

K.5.2 Offeror \_\_\_\_has \_\_\_\_has not participated in a previous contract or subcontract subject to the Mayor’s Order 85-85. Offeror\_\_\_\_has \_\_\_\_has not filed all required compliance reports, and representations indicating submission of required reports signed by proposed subofferors. (The above representations need not be submitted in connection with contracts or subcontracts, which are exempt from the Mayor’s Order.)

**K.6 WALSH-HEALY ACT**

K.6.1 If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed \$10,000, and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35-45), the following terms and conditions apply:

(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).

K.6.2 If your offer is \$10,000, or more, the following information **MUST** be furnished:

(c) Regular Dealer

\_\_\_\_\_ The Offeror is a Regular Dealer.  
\_\_\_\_\_ The Offeror is not a Regular Dealer.

(d) Manufacturer

\_\_\_\_\_ The Offeror is a Manufacture  
\_\_\_\_\_ The Offeror is not a Manufacturer

### **K.7 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

K.7.1 Each signature of the Offeror is considered to be a certification by the signatory in accordance with D.C. Code 1183.16 that:

- 1) The prices in this Contract have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any Offeror or competitor relating to:
  - (i) those prices
  - (ii) the intention to submit a Contract, or
  - iii) the methods or factors used to calculate the prices in the Contract;
- 2) The prices in this Contract have not been and will not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before Contract opening unless otherwise required by law; and
- 3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit a Contract for the purpose of restricting competition.

K.7.2 Each signature on the offer is considered to be a certification by the signatory that the signatory;

- 1) Is the person in the Offeror's organization responsible for determining the prices being offered in this Contract, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above:

---

(insert full name of person(s) in the organization responsible for determining the prices offered in this Contract and the title of his or her position in the Offeror's organization);

- (ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(I) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and
- (iii) As an agent, has not participated, and will not participate, in any action contrary to subparagraphs (a) (1) through (a) (3) above.

K.7.3 If the Offeror deletes or modifies subparagraph (a) (2) above, the Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.



## **SECTION L - INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS**

### **L.1 PRE-PROPOSAL CONFERENCE**

L.1.1 A Pre-Proposal Conference will be held on March 25, 2010 beginning at 11:00 a.m. at the 5171 South Dakota Avenue, NE, Washington DC. The purpose of the conference is to provide a structured and formal opportunity for the University to accept questions from offerors on the SOLICITATION document as well as to clarify the contents of the SOLICITATION. This conference will be held directly after the site walk through listed below.

A project site walk through will be held same day beginning at 10:00 a.m.

L.1.2 Impromptu questions will be permitted and spontaneous answers will be provided at the District's discretion. Verbal answers given at the pre-proposal conference are only intended for general discussion and do not represent the University's final position. The prospective Offeror shall submit questions no later than March 31, 2010 in order to generate an answer. Official answers will be posted and are downloadable from the University's website at [www.udc.edu](http://www.udc.edu) and [www.ocp.dc.gov](http://www.ocp.dc.gov). The University will not mail any responses or other information including amendments to Offerors. Offerors are responsible for assuring that they obtain any and all information posted by the University relating to this solicitation.

### **L.2 CONTRACT AWARD**

#### **L.2.1 Most Advantageous to the District**

The University may award a single or multiple contract(s) resulting from this solicitation to the responsible Offeror(s) whose offer(s) conforming to the solicitation will be most advantageous to the University, cost or price, technical and other factors, specified elsewhere in this solicitation considered.

#### **L.2.2 Initial Offers**

The University may award contracts on the basis of initial offers received, without discussion. Therefore, each initial offer should contain the Offeror's best terms from a standpoint of cost or price, technical and other factors.

### **L.3 PROPOSAL FORM, ORGANIZATION AND CONTENT**

**L.3.1** This section outlines specific information necessary for the proper organization and manner in which Offerors' Proposals should be proffered. References are made to other sections in this RFP for further explanation.

#### **L.3.1.1 Submission Identification**

Submissions shall be proffered in an original and five (5) copies. The Offeror's submission shall be placed in a sealed envelope conspicuously

marked: "Proposal for Design-Build Renovation of the Bertie Backcus Campus"

#### **L.3.1.2 Delivery or Mailing of Submissions**

Submissions should be delivered or mailed to:

Sherry Jones-Quashie, Manager of Capital Procurements  
University of the District of Columbia  
4200 Connecticut Avenue, NW, Building 38, Room C01  
Washington, DC 20008  
Phone: (202) 274-5752

#### **L.3.1.3 Date and Time for Receiving Submissions**

Submissions shall be received no later than 2:00 pm E.D.T., on April 7, 2010. The Offeror assumes the sole responsibility for timely delivery of its Submission, regardless of the method of delivery.

#### **L.3.1.4 Submission Size, Organization and Offeror Qualifications**

All submissions shall be submitted on 8-1/2" x 11" bond paper and typewritten. Telephonic, telegraphic, and facsimile submissions shall not be accepted. The University is interested in a qualitative approach to presentation material. Brief, clear and concise material is more desirable than quantity.

#### **L.3.1.5 Offer Letter**

Each Offeror shall submit an offer letter substantially in the form of Attachment J.2.1. Material deviations, in the opinion of the University, from the offer form shall be sufficient to render the proposal non-responsive.

#### **L.3.1.6 Executive Summary**

Each Offer should provide a summary of no more than three pages of the information contained in the following sections.

#### **L.3.1.7 General Team Information and Firm(s) Data**

Each Offeror should provide the following information for the principal design build firm and each of its sub consultants:

A. Name(s), address (es), and role(s) of each firm (including all sub-consultants and subcontractors)

B. Firm profile(s), including:

i. Age

- ii. Firm history (ies)
  - iii. Firm size(s)
  - iv. Areas of specialty/concentration
  - v. Current firm workload(s) projected over the next two years
- C. Description of the team organization and personal qualifications of key staff, including:
- i. Identification of the single point of contact for the Design-Builder.
  - ii. Organizational chart illustrating reporting lines and names and titles for key participants proposed by the team.
  - iii. Resumes for each key participant on the team, including definition of that person's role, relevant project experience, and current workload over the next two years.

#### **L.3.1.8 Relevant Experience and Capabilities**

A. List all projects that the team members have worked on in the last 5 years that are similar to this project. For purposes of this paragraph, similar shall mean school, university or office building where the contract value is up to \$2 million dollars. For purposes of this requirement, "general construction services" means a project where the Offeror or a team member served as a construction manager, general contractor or construction manager at-risk or design-builder where the Offeror or team member held the trade subcontracts. For purposes of this requirement, "general construction services" does not include projects where the Offeror or team member acted as owner's representative, program manager or construction advisor. This information may be provided in an overview matrix format or brief list; however, it should include the name and location of the facility, the name of the owner, the time frame of the project, the original budget for the project, and whether the project was delivered on-time and on-budget. A brief explanation should be provided if a project was not delivered on-time or on budget.

B. Detailed descriptions of no more than five (5) projects that best illustrate the team's experience and capabilities relevant to this project. On each project description, please provide all of the following information in consistent order:

- i. Project name and location
- ii. Name, address, contact person and telephone number for owner reference
- iii. Brief project description including project cost, square footage, firm's scope of work, and key firm strengths exhibited

- iv. Identification of personnel involved in the selected project who are proposed to work on this project
- vi. Project process and schedule data including construction delivery method, and construction completion date (any unusual events or occurrences that affected the schedule should be explained).
- vii. Construction cost data including pre-construction budget, and actual construction cost (if actual construction cost exceeds original, please explain why).
- viii. Offeror should submit with its proposal Contractor Past Performance Evaluation form (Attachment J.2.6) from three references.

#### **L.3.1.10 Project Delivery Schedule**

Each Offeror should prepare a delivery schedule that shows how the Offeror intends to complete all tasks on the project in a timely manner and meet the August 20, 2010, substantial completion/occupancy timeframe. The schedule should be prepared using a critical path method and should show key logic ties and activity durations. The schedule should demonstrate that the Offeror understands the project and has a workable method to deliver the project within the stated timeframe. The schedule should be satisfactorily complete, practicable, comprehensive and achievable.

#### **L.3.1.11 Cost Information**

The Offeror should submit the Offer Letter in substantially the form of Attachment J.2.1.

#### **L.3.1.12 Subcontracting Plan**

Each Offeror must submit a proposed Local Business Subcontracting Plan that identifies the specific certified business enterprises that will participate in the contract and their anticipated roles. Offeror should complete and submit Subcontracting Plan - Attachment J.2.7.

#### **L.3.1.13 Tax Affidavit**

Each Offeror must submit a tax affidavit substantially in the form of Attachment J.2.4. In order to be eligible for this procurement, Offerors must be in full compliance with their tax obligations to the District of Columbia Government.

#### **L.4 PROPOSAL SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, AND LATE WITHDRAWALS**

##### **L.4.1 Proposal Submission**

Proposals must be submitted no later than 2:00 p.m. local time on April 7, 2010. Proposals, modifications to proposals, or requests for withdrawals that are received in the designated 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 proposal or modification was sent by registered or certified mail not later than April 7, 2010;
- b. The proposal 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 solely by mishandling by the District.
- c. The offer is the only offer received.

##### **L.4.2 Postmarks**

The only acceptable evidence to establish the date of a late proposal, 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 proposal, modification or request for withdrawal shall be deemed to have been mailed late. When the postmark shows the date but not the hour, the time is presumed to be the last minute of the date shown. If no date is shown on the postmark, the proposal shall be considered late unless the Offeror can furnish evidence (post mark) from the postal authorities of timely mailing.

##### **L.4.3 Late Proposals**

A late proposal, late modification or late request for withdrawal of an 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.5 EXPLANATION TO PROSPECTIVE OFFERORS**

- L.5.1 If a prospective Offeror has any questions relative to this solicitation, the prospective offeror shall submit the question in writing to the Contact Person, identified on page one, in writing. The prospective Offeror shall submit questions no later than March 30, 2010. The University will respond promptly to submitted questions. An amendment to the solicitation will be issued 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. Official answers will be posted and are downloadable from the University's website at [www.udc.edu](http://www.udc.edu) and [www.ocp.dc.gov](http://www.ocp.dc.gov). The University will not mail any responses or other information

including amendments to Offerors. Offerors are responsible for assuring that they obtain any and all information posted by the University relating to this solicitation

## **L.6 PROPOSAL PROTESTS**

L.6.1 Any actual or prospective bidder, Offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract, must file with the D.C. Contract Appeals Board (Board) a protest no later than 10 business days after the basis of protest is known or should have been known, whichever is earlier. A protest based on alleged improprieties in a solicitation which are apparent prior to the time set for receipt of initial proposals shall be filed with the Board prior to offer opening or the time set for receipt of initial proposals. In procurements in which proposals are requested, alleged improprieties which do not exist in the initial solicitation, but which are subsequently incorporated into this solicitation, must be protested no later than the next closing time for receipt of proposals following the incorporation. The protest shall be filed in writing, with the Contract Appeals Board, 717 14th Street, NW, Suite 430, Washington, D.C. 20004. The aggrieved person shall also mail a copy of the protest to the Contracting officer for the solicitation.

## **L.7 UNNECESSARILY ELABORATE PROPOSALS**

L.7.1 Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are **not** desired and may be construed as an indication of the Offeror's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor desired

## **L.8 RETENTION OF PROPOSALS**

L.8.1 All submissions shall be retained by the University and therefore shall not be returned to the Offerors. With the exception of proprietary financial information, the submissions shall become the property of the University and the University shall the right to distribute or use such information as it determines.

## **L.9 PROPOSAL COSTS**

L.9.1 The University is not liable for any costs incurred by the Offerors' in submitting proposals in response to this solicitation.

## **L.10 ACKNOWLEDGMENT OF AMENDMENTS**

L.10.1 The offeror shall acknowledge receipt of any amendment to this solicitation by (a) signing and returning the amendment to be included with the proposal at the time of submission; (b) by identifying the amendment number and date in the space provided for this purpose in Section K of the solicitation; or (c) by letter or telegram including mailgrams. The University must receive the acknowledgment by the date and time specified for receipt of offers. Offerors' failure to acknowledge an amendment may result in rejection of the offer.

**L.10.1.1 Examination of Submissions**

Offerors are expected to examine the requirements of all instructions (including all amendments, addenda, attachments and exhibits) in this RFP. Failure to do so shall be at the sole risk of the Offeror and may result in disqualification.

**L.11 ACCEPTANCE PERIOD**

L.11.1 The Offeror agrees that its offer remains valid for a period of 90 days from the solicitation's closing date.

**L.12 BEST AND FINAL OFFERS**

L.12.1 If, subsequent to receiving original proposals, negotiations are conducted, all Offerors within the competitive range will be so notified and will be provided an opportunity to submit written best and final offers at the designated date and time. Best and Final Offers will be subject to Late Submissions, Late Modifications and Late Withdrawals of Proposals provision of the solicitation. After receipt of best and final offers, no discussions will be reopened unless the Contracting Officer determines that it is clearly in the Government's best interest to do so, e.g., it is clear that information available at that time is inadequate to reasonably justify Design-Builder selection and award based on the best and final offers received. If discussions are reopened, the Contracting Officer shall issue an additional request for best and final offers to all Offerors still within the competitive range.

**L.13 LEGAL STATUS OF OFFEROR**

Each proposal must provide the following information:

L.13.1 Name, Address, Telephone Number, Federal tax identification number and DUNS Number of Offeror;

L.13.2 District of Columbia, if required by law to obtain such license, registration or certification. If the Offeror is a corporation or partnership and does not provide a copy of its license, registration or certification to transact business in the District of Columbia, the offer shall certify its intent to obtain the necessary license, registration or certification prior to contract award or its exemption from such requirements; and

L.13.3 If the Offeror is a partnership or joint venture, names of general partners or joint ventures, and copies of any joint venture or teaming agreements.

L.13.4 The District reserves the right to request additional information regarding the Offeror's organizational status.

**L.14 STANDARDS OF RESPONSIBILITY**

L.14.1 The prospective Design-Builder must demonstrate to the satisfaction of the District the capability in all respects to perform fully the contract requirements, therefore, the prospective Design-Builder must submit the documentation listed below, within five (5) days of the request by the University.

- L.14.1.1 Furnish evidence of adequate financial resources, credit or the ability to obtain such resources as required during the performance of the contract.
- L.14.2 Furnish evidence of the ability to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.
- L.14.3 Furnish evidence of the necessary organization, experience, accounting and operational control, technical skills or the ability to obtain them.
- L.14.4 Furnish evidence of compliance with the applicable District licensing, tax laws and regulations.
- L.14.5 Furnish evidence of a satisfactory performance record, record of integrity and business ethics.
- L.14.6 Furnish evidence of the necessary production, construction and technical equipment and facilities or the ability to obtain them.
- L.14.7 If the prospective Design-Builder fails to supply the information requested, the Contracting Officer shall make the determination of responsibility or non-responsibility based upon available information. If the available information is insufficient to make a determination of responsibility, the Contracting Officer shall determine the prospective Design-Builder to be non-responsible.



## **SECTION M - EVALUATION FACTORS**

### **M.1 EVALUATION FOR AWARD**

M.1.1 The contract will be awarded to the responsible offeror whose offer is most advantageous to the University, based upon the evaluation criteria specified below. Thus, while the points in the evaluation criteria indicate their relative importance, the total scores will not necessarily be determinative of the award. Rather, the total scores will guide the University in making an intelligent award decision based upon the evaluation criteria.

### **M. 2 EVALUATION CRITERIA**

M.2.1 The University shall evaluate the initial submissions and any subsequent best and final offers in accordance with the provisions of this **Section M** and the University's Procurement Regulations.

#### **M.2.1.1 Evaluation Committee**

Each submission shall be evaluated in accordance with this **Section M** by an Evaluation Committee. The Evaluation Committee shall prepare a written report summarizing its findings and submit the same to the CO. Based on the information submitted by the Offerors in response to this RFP and the report prepared by the Evaluation Committee, the CO shall select the Offeror whose submissions are determined by the CO to be the most advantageous to the University.

### **M.3 PROPOSAL EVALUATION**

M.3.1 Each proposal will be scored on a scale of 1 to 100 points based upon the criteria listed in the following parts of section M.3. In addition, Offerors will be eligible to receive up to 12 preference points as described in **Section M.4** of this RFP for participation by Local, Small or Disadvantaged Business Enterprises. Thus, the maximum number of points possible is 112. The total evaluation score will guide the CO in the determination of most advantageous to the University.

#### **M.3.1.1 Proposal Experience & References (35 points)**

The University desires to engage a Design-Builder with the experience necessary to perform the scope of work set forth in Section C of this RFP. Offerors will be evaluated based on their demonstrated experience (as required in section L.3.1.8. If the Offeror is a team or joint venture of multiple companies, the Evaluation Panel will consider the experience of each member of the team or joint venture in light of their role in the proposed team or joint venture. This element of the evaluation will be worth up to thirty-five (35) points.

**M.3.1.2 Cost (25 points)**

For the purpose of proposal evaluation, offerors will be required to offer a Phase 1 total design fee, profit and overhead, and general conditions. Phase I will be added to Phase II's Guaranteed Maximum Price for a grand total.

**M.3.1.4 Key Personnel (10 points)**

The University desires that personnel be assigned to these projects that have experience in completing construction projects on-time and on-budget. The availability and experience of the key individuals assigned to this project will be evaluated as part of this element. This element of the evaluation will be worth up to ten (10) points.

**M.3.1.5 Project Delivery Schedule (30 points)**

Each Offeror should prepare a delivery schedule that shows how the Offeror intends to complete all project tasks the project in a timely manner and meet the August 20, 2010 substantial completion/occupancy timeframe. The schedule should be prepared using a critical path method and should show key logic ties and activity durations. The schedule should demonstrate that the Offeror understands the project and has a workable method to deliver the project within the stated timeframe. The schedule should be reasonably and satisfactorily complete the project, practicable, comprehensive and achievable. The schedule should also show sufficient level of detail so as to demonstrate the Offeror is familiar with the key issues related to the Project. This element of the evaluation is worth thirty (30) points.

**M.4 Preferences for Certified Business Enterprises**

Under the provisions of the "Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005", as amended, D.C. Official Code § 2-218.01 *et seq.* (the Act), the District shall apply preferences in evaluating proposals from businesses that are small, local, disadvantaged, resident-owned, longtime resident, or local with a principal office located in an enterprise zone of the District of Columbia.

**M.4.1 Application of Preferences**

For evaluation purposes, the allowable preferences under the Act for this procurement are as follows:

- M.4.1.1 Any prime contractor that is a small business enterprise (SBE) certified by the Small and Local Business Opportunity Commission (SLBOC) or the Department of Small and Local Business Development (DSLBD), as applicable, will receive the addition of three points on a 100-point scale added to the overall score for proposals submitted by the SBE in response to this Request for Proposals (RFP).
- M.4.1.2 Any prime contractor that is a resident-owned business (ROB) certified by the SLBOC or the DSLBD, as applicable, will receive the addition of five points on a 100-point

scale added to the overall score for proposals submitted by the ROB in response to this RFP.

- M.4.1.3 Any prime contractor that is a longtime resident business (LRB) certified by the SLBOC or the DSLBD, as applicable, will receive the addition of ten points on a 100-point scale added to the overall score for proposals submitted by the LRB in response to this RFP.
- M.4.1.4 Any prime contractor that is a local business enterprise (LBE) certified by the SLBOC or the DSLBD, as applicable, will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the LBE in response to this RFP.
- M.4.1.5 Any prime contractor that is a local business enterprise with its principal offices located in an enterprise zone (DZE) certified by the SLBOC or the DSLBD, as applicable, will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the DZE in response to this RFP.
- M.4.1.6 Any prime contractor that is a disadvantaged business enterprise (DBE) certified by the SLBOC or the DSLBD, as applicable, will receive the addition of two points on a 100-point scale added to the overall score for proposals submitted by the DBE in response to this RFP.

#### M.4.2 Maximum Preference Awarded

Notwithstanding the availability of the preceding preferences, the maximum total preference to which a certified business enterprise is entitled under the Act for this procurement is the equivalent of twelve (12) points on a 100-point scale for proposals submitted in response to this RFP. There will be no preference awarded for subcontracting by the prime contractor with certified business enterprises.

#### M.4.3 Preferences for Certified Joint Ventures

When the SLBOC or the DSLBD, as applicable, certifies a joint venture, the certified joint venture will receive preferences as a prime contractor for categories in which the joint venture and the certified joint venture partner are certified, subject to the maximum preference limitation set forth in the preceding paragraph.

#### M.4.4 Vendor Submission for Preferences

- M.4.4.1 Any vendor seeking to receive preferences on this solicitation must submit at the time of, and as part of its proposal, the following documentation, as applicable to the preference being sought:
  - M.4.4.1.1 Evidence of the vendor's or joint venture's certification by the SLBOC as an SBE, LBE, DBE, DZE, LRB or ROB, to include a copy of all relevant letters of certification from the SLBOC; or

M.4.4.1.2 Evidence of the vendor's or joint venture's provisional certification by the DSLBD as an SBE, LBE, DBE, DZE, LRB or ROB, to include a copy of the provisional certification from the DSLBD.

M.4.4.2 Any vendor seeking certification or provisional certification in order to receive preferences under this solicitation should contact the:

Department of Small and Local Business Development  
ATTN: CBE Certification Program  
441 Fourth Street, NW, Suite 970N  
Washington DC 20001

M.4.4.3 All vendors are encouraged to contact the DSLBD at (202) 727-3900 if additional information is required on certification procedures and requirements.

#### M.4.5 Mandatory Subcontracting Requirement

M.4.5.1 For construction contracts in excess of \$250,000, at least 35% of the dollar volume of the construction contract shall be subcontracted to certified small business enterprises; provided, however, that the costs of materials, goods and supplies shall not be counted towards this 35% subcontracting requirement unless such materials, goods and supplies are purchased from SBEs.

M.4.5.2 If there are insufficient qualified SBEs to completely fulfill the subcontracting requirement of the preceding paragraph, then the subcontracting requirement may be satisfied by subcontracting 35% of the dollar volume to any certified business enterprises; provided, however, that all reasonable efforts shall be made to ensure that qualified SBEs are significant participants in the overall subcontracting work.

#### M.4.6 Certified Business Enterprises Prime Contractor Performance Requirements

M.4.6.1 If a certified business enterprise is selected as a prime contractor and is granted points pursuant to the Act or is selected through a set-aside program under the Act, that certified business enterprise prime contractor shall perform at least 35% of the contracting effort, excluding the cost of materials, goods and supplies, with its own organization and resources and, if it subcontracts, at least 35% of the subcontracted effort, excluding the cost of materials, goods and supplies, shall be with certified business enterprises.

M.4.6.2 If the total of the contracting effort, excluding the cost of materials, goods and supplies, proposed to be performed by the certified business enterprise is less than the amount required by the preceding paragraph, then the certified business enterprise shall not be eligible to receive preference points or a price reduction for a period of not less than two years.

#### M.4.7 Prime Contractor Performance Requirements Applicable to Joint Ventures

M.4.7.1 If a certified joint venture is selected as a prime contractor and is granted points pursuant to the Act or is selected through a set-aside program under the Act, the certified business enterprise partner of the joint venture shall perform at least 50% of the contracting effort,

excluding the cost of materials, goods and supplies, with its own organization and resources and, if the joint venture subcontracts, at least 35% of the subcontracted effort, excluding the cost of materials, goods and supplies, shall be with certified business enterprises.

M.4.7.2 If the total of the contracting effort, excluding the cost of materials, goods and supplies, proposed to be performed by the certified business enterprise is less than the amount required by the preceding paragraph, then the certified business enterprise shall not be eligible to receive preference points or a price reduction for a period of not less than two years.

M.4.8 Performance Requirement for Contracts of \$1 Million or Less

If this is a construction contract of \$1 million or less for which an certified business enterprise is selected as prime contractor and is granted points or price reduction pursuant to the Act or is selected through a set-aside program under the Act, the certified business enterprise prime contractor shall perform at least 50% of the on-site work with its own work force.

M.4.9 Subcontracting Plan

Any prime contractor responding to this solicitation shall submit with its proposal, a notarized statement detailing its subcontracting plan. Proposals responding to this RFP shall be deemed nonresponsive and shall be rejected if the offeror fails to submit a subcontracting plan that is required by this solicitation. Once the plan is approved by the contracting officer, changes will only occur with the prior written approval of the contracting officer and the Director of DSLBD. Each subcontracting plan shall include the following:

- M.4.9.1 A description of the goods and services to be provided by SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;
- M.4.9.2 A statement of the dollar value of the proposal that pertains to the subcontracts to be performed by the SBEs or, if insufficient qualified SBEs are available, by any certified business enterprises;
- M.4.9.3 The names and addresses of all proposed subcontractors who are SBEs or, if insufficient SBEs are available, who are certified business enterprises;
- M.4.9.4 The name of the individual employed by the prime contractor who will administer the subcontracting plan, and a description of the duties of the individual;
- M.4.9.5 A description of the efforts the prime contractor will make to ensure that SBEs, or, if insufficient SBEs are available, that certified business enterprises will have an equitable opportunity to compete for subcontracts;
- M.4.9.6 In all subcontracts that offer further subcontracting opportunities, assurances that the prime contractor will include a statement, approved by the contracting officer, that the subcontractor will adopt a subcontracting plan similar to the subcontracting plan required by the contract;

- M.4.9.7 Assurances that the prime contractor will cooperate in any studies or surveys that may be required by the contracting officer, and submit periodic reports, as requested by the contracting officer, to allow the District to determine the extent of compliance by the prime contractor with the subcontracting plan;
- M.4.9.8 A list of the type of records the prime contractor will maintain to demonstrate procedures adopted to comply with the requirements set forth in the subcontracting plan, and assurances that the prime contractor will make such records available for review upon the District's request; and
- M.4.9.9 A description of the prime contractor's recent effort to locate SBEs or, if insufficient SBEs are available, certified business enterprises and to award subcontracts to them.
- M.4.10 Compliance Reports
- By the 21<sup>st</sup> of every month following the execution of the contract, the prime contractor shall submit to the contracting officer and the Director of DSLBD a compliance report detailing the contractor's compliance, for the preceding month, with the subcontracting requirements of the contract. The monthly compliance report shall include the following information:
- M.4.10.1 The dollar amount of the contract or procurement;
- M.4.10.2 A brief description of the goods procured or the services contracted for;
- M.4.10.3 The name and address of the business enterprise from which the goods were procured or services contracted;
- M.4.10.4 Whether the subcontractors to the contract are currently certified business enterprises;
- M.4.10.5 The dollar percentage of the contract or procurement awarded to SBEs, or if insufficient SBEs, to other certified business enterprises;
- M.4.10.6 A description of the activities the contractor engaged in, in order to achieve the subcontracting requirements set forth in section M.1.5; and
- M.4.10.7 A description of any changes to the activities the contractor intends to make by the next month to achieve the requirements set forth in section M.1.5.
- M.4.11 Enforcement and Penalties for Breach of Subcontracting Plan
- M.4.11.1 If during the performance of this contract, the contractor fails to comply with the subcontracting plan submitted in accordance with the requirements of this contract, and as approved by the contracting officer and the Director of DSLBD, and the contracting officer determines the contractor's failure to be a material breach of the contract, the contracting officer shall have cause to terminate the contract under the default clause of the Standard Contract Provisions.

M.4.11.2 In addition, the willful breach by a contractor of a subcontracting plan for utilization of certified business enterprises in the performance of a contract, the failure to submit any required subcontracting plan monitoring or compliance report, or the deliberate submission of falsified data may be enforced by the DSLBD through the imposition of penalties, including monetary fines of \$15,000 or 5% of the total amount of the work that the contractor was to subcontract to certified business enterprises, whichever is greater, for each such breach, failure, or falsified submission.