METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS

REQUEST FOR PROPOSALS
#01-10
July 2, 2009

EVALUATE AND UPDATE THE CONCEPT OF OPERATIONS PLAN FOR PANDEMIC INFLUENZA PREPAREDNESS IN THE DISTRICT OF COLUMBIA.

I. Metropolitan Washington Council of Governments

The Metropolitan Washington Council of Governments (COG) is the regional organization of the Washington area's twenty one major local governments and their governing officials, plus area members of the Maryland and Virginia legislatures and the U.S. Senate and House of Representatives.

COG provides a focus for action on issues of regional concern such as comprehensive transportation planning, air and water quality management, environmental monitoring, tracking economic development and population growth and their effects on the region, coordinating public safety programs, and promoting child care and housing for the region. COG is supported by financial contributions from its participating local governments, federal and state government grants and contracts, and through grants and contracts from foundations and the private sector.

II. Background

The Government of the District of Columbia, Homeland Security and Emergency Management Agency (DC HSEMA) is the lead agency for coordinating emergency preparedness and response in the District of Columbia. Part of HSEMA's role is to coordinate with other District agencies to develop effective emergency preparedness and response plans. The continued relevance of Pandemic Influenza, including the introduction of novel strains such as H1N1, requires the development of a comprehensive Concept of Operations plan, encompassing District agency responsibilities as well as best practices developed by the Centers for Disease Control and the World Health Organization.

III. Project

DC HSEMA is seeking a contractor to develop, evaluate and update the Concept of Operations Plan for Pandemic Influenza Preparedness in the District of Columbia. This work will include review of documents, information gathering, and updating documents.

1 The contractor will:

- Review existing District Pandemic Influenza plans, as well as relevant documents from Federal and International agencies.
- Draft the specific plan components that are HSEMA's responsibility.
- Review and edit the various component plans as submitted by other DC agencies.
- Integrate the final overall DC plan into a final District Operating Plan for Pandemic Influenza.

2 All written documents will be provided to HSEMA in MS Office format. All written documents require approval from HSEMA.

IV TASKS

1. **Develop draft plans for each of the HSEMA-owned components of the overall District PI Operating Plan.** The components include:
   a. Sustain Operations of District Agencies and Support and Protect Government Workers. HSEMA will develop the overall concept for this requirement and then solicit specific plans from each District agency.
   b. Ensure Communications Capability During Each Phase of a Pandemic. The Office of the Chief Technology Officer (OCTO) has lead responsibility for this component, but DC HSEMA will play a supporting role in the development of the Plan.
   c. Mitigate the Impact of an Influenza Pandemic on Workers in the District. HSEMA is responsible for developing a plan for its own personnel.
   d. Define Critical Infrastructure Protection, Planning, and Preparedness Roles and Responsibilities.
   e. Build Public-Private-Partnerships and Support Networks.
   f. Implement the NIPP Risk Management Framework for CIKR Protection, Planning, and Preparedness.
   g. Integrate Federal and State CIKR Protection, Planning, and Preparedness Activities.
   h. Allocate Scarce Resources.

   DELIVERABLES: Draft plans for each of these components by August 14, 2009.

2. **Review and Edit Component Plans.** The experience of the Inauguration planning effort demonstrates that HSEMA must be prepared to devote substantial effort to the review

and editing of plans submitted by the various District agencies. In some cases, this review is a simple evaluation of the submitted plan's correspondence to the initial CONOPS and objectives. In others, HSEMA may be required to edit the documents substantially.

DELIVERABLE: HSEMA-led reviews and proposed edits on each of the component plans by September 11, 2009.

3. **Integrate Component Plans into a Coherent, District-wide Operating Plan.** Upon the approval by HSEMA and DOH of each of the component plans, the Contractor will integrate the CONOPS, planning assumptions, and component plans into a single, unified District-wide Operating Plan.

   DELIVERABLE: Draft District-wide Operating Plan by September 25, 2009.

4. **Support Roll-Out of the District-wide Operating Plan.** Upon approval of the District-wide Operating Plan for Pandemic Influenza, the Contractor will support HSEMA with draft planning materials for the public roll-out of the plan.

   DELIVERABLE: Draft roll-out planning materials by September 30, 2009.

V. DEFINITIONS USED IN THIS DOCUMENT

CIKR	Critical Infrastructure and Key Resources
COG	The Metropolitan Washington Council of Governments
CONOPS	Concept of Operations Plans
Consultant/ Contractor	The term used throughout this document to describe the individual or organization awarded the prime contract based on this solicitation.
Contracting Officer	The Executive Director of the Metropolitan Washington Council of Governments
DOH	District of Columbia Department of Health

DRP	District Response Plan
HSMA	District of Columbia, Homeland Security and Emergency Management Agency
NIPP	National Infrastructure Protection Plan
OCTO	District of Columbia Office of the Chief Technology Officer
Other Subcontractor	Any additional subcontractor hired by either the contractor or a subcontractor.
Selection Committee	The Committee established to review the proposals received under this solicitation and recommend selection of contractors to the COG Contracting Officers.
Subcontractor	Any subcontractor hired by the contractor.

VI. APPLICABLE DOCUMENTS

The Contractor will help develop these documents by referring to but will not be limited to:

1 District Response Plan (DRP), the state-level all hazards emergency response plan

2 Section 210 of An Act To authorize the District of Columbia government to establish an Office of Civil Defense, and for other purposes (Act), effective August 16, 2008 (D.C. Law 17-219; 55 DCR 7602), and Mayor's Order 2008-135, effective October 10, 2008

3 Homeland Security Presidential Directive (HSPD) 5, Management of Domestic Incidents

4 Homeland Security Presidential Directive (HSPD) 8, National Preparedness

5 United States Center for Disease Control Pandemic Influenza Operations Plan

6 District of Columbia Department of Health Pandemic Influenza Preparedness Plan

VII. CONDITIONS

The following conditions are expected of the firm selected:

1. In case of the failure by the selected firm to perform the duties and obligations imposed by the resulting contract, COG may, upon verbal notice, to be confirmed in writing, procure the necessary services from other sources and hold the firm responsible for any and all additional expenses occasioned thereby;

2. Any work to be subcontracted by an "other subcontractor" shall be clearly identified and such "other subcontractor" shall be approved by COG prior to contract issuance;

3. Payment for Federal, state, or foreign taxes is not allowable;

4. Payment for legal fees of any type is not allowable without prior written approval of COG;

5. The resulting contract is subject to financial assistance agreements between the District of Columbia and the Metropolitan Washington Council of Governments. All covenants and provisions of that agreement are expressly made a part of the resulting contract.

6. No information may be released to any party not identified herein without the expressed written authorization of the COG Contracting Officer.

7. It is understood that funding for the ensuing contract is dependant on COG receiving funding from its sponsoring agency. Should funding from the sponsoring agency be delayed, for any reason, COG shall make a concomitant delay in funding to the contractor.

8. CONTRACTOR must submit monthly invoices. All invoices must be accompanied by a brief progress report which supports the invoice.

9. See Attachment A, Standard Terms and Conditions

VIII. PERIOD OF PERFORMANCE AND TYPE OF CONTRACT

a. The period of performance shall be from contract execution through six months.

b. The contract will be issued on a time and materials basis.

IX. CONTENT OF PROPOSAL

Firms interested in providing the services described above, shall submit a proposal following the prescribed format. Adherence to the proposal format by all respondents will ensure a fair evaluation with regard to the needs of COG. Respondents not following the prescribed format may be deemed non-responsive. The letter transmitting the

proposal must be signed by an officer of the firm, authorized to bind the respondent as required by this solicitation. The Respondents are discouraged from including company brochures or other non-relevant pre-printed material in their proposals. The proposal should include the following:

The proposal shall be in the following format:

Section 1. Qualifications of the firm and key personnel

This section shall provide the professional credentials and expertise of the firm(s) and key personnel assigned to this project.

Although standard personnel resumes may be included as attachments to the proposal, amplification specific to the requirement stipulated in Section IV to this solicitation is required in this section. The absence of such project specific information shall cause the proposal to be deemed non-responsive.

Section 2. Proposed method to accomplish the work.

In this section of the proposal, respondents must provide a detailed description of their approach for accomplishing the tasks specified herein. This section shall include a work plan and schedule and a project management plan that will detail the lines of authority and communication and will support all of the project requirements and logically lead to the deliverables required in this RFP. A matrix shall be provided which will identify, by task, key personnel assignments and the number of anticipated hours for those personnel by task.

Timely completion of the tasks outlined for this project is of critical importance. Respondents are to provide a brief description of their current projects and the availability of key personnel proposed in this project.

Section 3. Cost proposals for the contractor and any subcontractor(s).

This section shall provide the total costs, including all expenses, profits and fees to be charged to COG for providing the services described above. The contractor shall complete Attachment B, Cost and Price Analysis Form and include it in this section.

Section 4. References of the contractor and any subcontractor(s).

The proposed contractor and any subcontractor shall provide at least three (3) references who COG may contact regarding similar work performed. Respondents may provide letters of reference from previous relevant clients.

Names, titles, addresses and telephone numbers shall be included for each reference. All three of these references shall include work in which the key personnel proposed to COG have been assigned.

X. QUESTIONS

A pre-proposal conference will be held on July 9, 2009 at 1:30 p.m. in COG's lobby level rooms #4&5 to answer technical questions concerning this project. Notice of intent to participate in the pre-proposal conference and procedural or administrative questions should be directed to ckalish@mwcog.org.

XI. SUBMISSION DATE AND CONTACT

All respondents shall submit six (6) copies of their proposal to:

Carl R. Kalish
Director, Purchasing and Facilities
Metropolitan Washington Council of Governments
777 North Capitol Street, NE, Suite 300
Washington, DC 20002

Proposals shall be submitted by no later than 2:00 p.m., July 17, 2009. Please place the RFP number on the outside of your submission. Proposals may not be submitted through fax or other electronic methods.

XII. METHOD OF PROPOSAL EVALUATION AND SELECTION

The proposals will be evaluated by a contractor selection committee. The selection committee may hold, at COG's option, a pre-selection meeting with the top ranked respondents. The final recommendation for selection to the COG Contracting Officer may be made based upon interviews and/or a best and final offer submitted by the respondents, if required by the selection committee. In evaluating the proposals, the following factors will be considered, with points awarded up to the maximum shown:

Factor	Points
Understanding of the Project	15
Methodology Used for the Project	20
Management Plan for the Project and Demonstrated Ability to Complete the Project within the Established Time Frame	10
Experience, Qualifications and Availability of the Key Personnel	30
Contract Cost	10

DBE Participation	15
Total Points	100

Disadvantaged Business Enterprise Participation

Disadvantaged Business Enterprise (DBE) participation shall be an integral component of the consultant selection procedure for this RFP. COG has established a DBE goal of 10% for this project. COG's DBE Policy may be viewed on its website www.mwcog.org.
Responding firms shall submit with their proposals a DBE Participation Plan to meet this goal. The plan shall identify any DBE (defined in 49 CFR Part 26) that shall be participating in the project. The plan shall include the name and address of the firm, a copy of the firm's current DBE Certification from any federal, state or local government agency that certifies DBE ownership (please note only **DBE** certifications will be accepted by COG for this purpose).

SAMPLE DBE PARTCIPATION PLAN

DBE SUBCONTRACTOR		**PERCENTAGE OF CONTRACT**
Subcontractor:		
Address:		
Certifying State:	DBE Certification #	
Subcontractor:		
Address:		
Certifying State:	DBE Certification #	
Subcontractor:		
Address:		
Certifying State:	DBE Certification #	

Firms must submit at a minimum a good faith effort statement (defined in 49 CFR Part 26) for review by COG. Without the good faith effort statement the proposal may be declared non-responsive and may not be reviewed by the technical selection committee.

Firms that meet the goal established for the proposal will receive 15 selection points (out

of a possible 15). Firms that meet less than the DBE participation goal established will be evaluated on the percentage of the goal met, and the extent of their efforts to meet the entire DBE participation goal, but will receive less that the maximum DBE participation evaluation points.

All proposers shall provide a copy of the certification of *DBE* ownership for those firms claiming such status. The certification must have been obtained from a Federal, state or local governmental agency that regularly issues such certification. It must have been issued within the past year or must clearly state the effective dates of the certification. Only *DBE* Certifications will be accepted.

XIII. LATE PROPOSALS

Any proposal received at the office designated in this RFP after the exact time specified for receipt, will not be considered, and will be returned, unopened, to the sender, unless it is the only proposal received. Any modifications to a proposal will be subject to these same conditions. Proposals may be withdrawn by written or telegraphic notice received at any time prior to award.

ATTACHMENT A

STANDARD TERMS AND CONDITIONS

I. Energy Conservation – 42 U.S.C. 6321 et seq.
The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

II. Clean Water Requirements – 33 U.S.C. 1251 et seq.

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended. The Contractor agrees to report each violation to COG and understands and agrees that COG will, in turn, report each violation as required to assure notification to appropriate federal agencies including the appropriate EPA Regional Office.
2. The Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance.

III. Lobbying – 31 U.S.C. 1352 et seq.
(*To be submitted with each bid or offer exceeding $100,000)*
The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal Loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant, loan, or cooperative agreement.
2. If any funds or than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein as been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et.seq.*)]
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and

contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more that $100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq*., apply to this certification and disclosure, if any.

_____Signature of Contractor's Authorized Official

_____Name and Title of Contractor's Authorized Official

_____Date

IV. Access to Records and Reports – 49 U.S.C. 5325

1. The Contractor agrees to provide COG, and if applicable the state or federal funding agency, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transactions.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until COG, the applicable state or federal funding agency, the Comptroller General, or any of the their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

V. Funding Agency Changes

Contractor shall at all times comply with all applicable state and federal agency regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the funding agreement between such agency and COG, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to comply shall constitute a material breach of this contract.

VI. Clean Air – 42 U.S.C. 7401 et seq

The Clean Air requirements apply to all contracts exceeding $100,000, including indefinite quantities where the amount is expected to exceed $100,000 in any year.

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to COG and understands and agrees that COG will, in turn, report each violation as required to assure notification to the funding federal agency, if any, and the appropriate EPA regional office.
2. The Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance.

VII. Recycled Products – 42 U.S.C. 6962

The Recycled Products requirements apply to all contracts for items designated by the EPA, when COG or the contractor procures $10,000 or more of one of these items during the fiscal year, or has procured $10,000 or more of such items in the previous fiscal year, using federal funds.

The Contractor agrees to comply with all requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

VIII. No Government Obligation to Third Parties

1. The Contractor acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities of COG, the Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
2. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

IX. Program Fraud and False or Fraudulent Statements and Related Acts – 31 U.S.C. 3801 et seq.

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et. seq. and all appropriate federal agency regulations apply to its actions pertaining to this Project. Upon

execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract of the Federally assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or caused to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor or to the extent the Federal Government deems appropriate.

2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
3. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to the provisions.

X. Termination – 49 U.S.C. Part 18

Applicable to all contracts in excess of $10,000

a. **Termination for Convenience** – COG, by written notice, may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in COG's best interest. If this contract is terminated, COG shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
b. **Termination for Default [Breach or Cause]** – If the Contractor fails to perform in the manner called for in this contract, or if the Contractor fails to comply with any other provisions of the contract, COG may terminate this contract for default. Termination stall be effected by serving a notice of termination on the Contractor setting forth the manner in which the Contract is in default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in the contract. If it is later determined by COG that the Contractor had an excusable reason for not performing, such as strike, fire, or flood, events which are beyond the control of the Contractor, COG, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.
c. COG in its sole discretion may, in the case of termination for breach or default, allow the Contractor ten (10) working days in which to cure the

defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If the Contractor fails to remedy to COG's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within the 10 working days after receipt by Contractor of written notice from COG setting forth the nature of said breach or default, COG shall have the right to terminate the Contract without further obligation to Contractor. Any such termination for default shall not in any way operate to preclude COG from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. In the event COG elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by COG shall not limit COG's remedies for any succeeding breach of that or any other term, covenant, or condition of this Contract.

XI. Civil Rights Requirements – 29 U.S.C. § 62, 42 U.S.C. § 2000, 42 U.S.C. § 602, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49 U.S.C. § 5332

1. **Nondiscrimination** – In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations.
2. **Equal Employment Opportunity** – The following equal employment opportunity requirements apply to the underlying contract:
   a. **Race, Color, Creed, National Origin, Sex** – In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal Statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of this Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor

agrees to comply with any implementing requirements the funding federal agency may issue.

b. **Age** – In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and other applicable law, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements the funding federal agency may issue.

c. **Disabilities** – In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements the funding federal agency my issue.

3. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal Assistance, modified only if necessary to identify the affected parties.

XII. Breaches and Dispute Resolution

Disputes – Disputes arising in the performance of this Contract which are no resolved by agreement of the parties shall be decided in writing by the COG Executive Director or his/her designee. This decision shall be final and conclusive unless within ten (10) working days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Executive Director or his/her designee. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Executive Director or his/her designee shall be binding upon the Contractor and the Contractor shall abide the decision.

Performance During Dispute – Unless otherwise directed by COG, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claim for Damages – Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies – Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between COG and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the District of Columbia.

Rights and Remedies – The duties and obligations imposed by the Contract and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action o failure to act by COG or the Contractor shall constitute a waiver or any right or duty afforded to them under the Contract, not shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

XIII. Patent and Rights in Data

A. **Rights in Data -** The following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance.

(c) For FTA Assisted Contracts - When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c) , however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless the federal funding agency determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education,

individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through the federal funding agency, those rights in that invention due the Federal Government as described in

U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. **Patent Rights** - The following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until the Federal funding agency is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through the Federal funding agency, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

XIV. Interest of Members of Congress

No member of or delegates to the Congress of the United States shall be admitted to a share or part of this Contract or to any benefit arising there from.

XV. Interest of Employees of COG

No employee of COG who exercises any functions or responsibilities in review or approval of the undertaking or carrying out the Project during his or her tenure or one year thereafter, shall have any personal interest, direct or indirect, apart from his or her official duties, in this Contract or the proceeds thereof.

XVI. Interest of the Contractor

The Contractor covenants that it has presently no financial interest, shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this CONTRACT. The Contractor further covenants that, in the performance of this Contract, no person having any such interest shall be employed.

XVII. Allowable Costs

Only those costs which are consistent with Title 48 Part 31 of the Code of Federal Regulations shall be reimbursed under this Contract.

XVIII. Covenant Against Contingent Fees

The Contractor warrants that it has not employed any person to solicit or secure this Contract upon any agreement for a commission, percentage, brokerage or contingent fee. Breach of warranty shall give the Contracts Officer the right to terminate this Contract or, in his discretion, to deduct from the Contract price or consideration the amount of such commission, percentage, brokerage or contingent fees. This warranty shall not apply to commissions payable by the Contractor upon contracts or sales secured or made through a bona fide established commercial or selling agency maintained by the Contractor for the purpose of securing business.

XIX. Indemnification

The Contractor, acting as an independent contractor, shall hold COG harmless from and shall be solely responsible, where found liable, for the payment of any and all claims for loss, personal injury, death, property damage, or otherwise, arising out of any act of omission or negligence of its employees or agents in connection with the performance of this work.

XX. Severability

It is understood and agreed by the parties that if any of these provisions shall contravene, or be invalid under, the laws of the particular state, county or jurisdiction where used, such contravention or invalidity shall not invalidate the whole agreement, but the Contract shall be construed as if not containing the particular provision or provisions held to be invalid in the said particular state, county or jurisdiction and the rights and obligations of the parties shall be construed and enforced accordingly.

XXI. Assignments

This Contract shall not be assigned, sublet or transferred in whole or in part by the Contractor, except with the previous written consent of the COG Contracting Officer or his designee.

XXII. Entire Agreement

This Contract sets forth the entire understanding of the parties and supersedes all previous agreements, whether oral or in writing, relating to the subject matter hereof. This Contract may only be altered, amended or modified in accordance with Changes Clause of this Contract.

ATTACHMENT B

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

The prospective vendor certifies to the best of its knowledge and belief that it and its principals:

- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any department or agency of the District of Columbia, State of Maryland or the Commonwealth of Virginia or any of the 22 jurisdictions comprising the membership of the Metropolitan Washington Council of Governments (COG);
- Have not within a three year period preceding this date been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated above of this certification; and
- Have not within a three-year period preceding this date had one or more public transactions (Federal, State or local) terminated for cause or default.

Vendor understands that a false statement on this certification may be grounds for rejection of any submitted proposal or quotation or termination of any award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to $10,000 or imprisonment for up to 5 years, or both if federal funds are being used to support the procurement.

_____
Typed Name of Vendor

_____
Typed Name & Title of Authorized Representative

_____
Signature of Authorized Representative Date

ATTACHMENT C - COST AND PRICE ANALYSIS

NAME OF FIRM:

ADDRESS OF OFFEROR:

CATEGORY			**AMOUNT**
I. DIRECT LABOR	ESTIMATED HOURS	RATE/ HOUR	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	
_____	_____	_____	_____
II. LABOR OVERHEAD	RATE	BASE	
	_____	_____	_____
III. EQUIPMENT (Identify)			_____
IV. SUPPLIES			_____
V. TRAVEL			_____
VI. CONSULTANTS		AMOUNT	
_____			
_____			
_____			
_____			_____
VII. PRINTING/REPRODUCTION			_____
VIII.OTHER DIRECT COSTS (Identify)_____			_____
IX. INDIRECT COST	RATE	BASE	
	_____	_____	_____
	ESTIMATED COST		_____
X. FEE			_____
	TOTAL COST		═══════

TYPED NAME: **SIGNATURE:**

TITLE: **DATE:**