



SOLICITATION, OFFER, AND AWARD			1. Caption Investment Fee and Expense Verification and Reporting Services				Page of Pages		
							1	54	
2. Contract Number		3. Solicitation Number DCRB-2022-RFP-0001		4. Type of Solicitation <input type="checkbox"/> Sealed Bid (IFB) <input checked="" type="checkbox"/> Sealed Proposals (RFP) <input type="checkbox"/> Sole Source <input type="checkbox"/> Emergency		5. Date Issued 04/05/2022		6. Type of Market <input checked="" type="checkbox"/> Open <input type="checkbox"/> Set Aside <input type="checkbox"/> Open Market with Set-Aside CBE Designated Category	
7. Issued By: Procurement Office District of Columbia Retirement Board 900 7th Street, NW, 2nd Floor Washington, DC 20001				8. Address Offer to: Procurement Office District of Columbia Retirement Board 900 7th Street, NW, 2nd Floor Washington, DC 20001					
NOTE: In sealed proposal solicitations "offer" or "offeror" means "bid or "bidder"									
SOLICITATION									
9. Sealed offers in original and _____ copies for furnishing the supplies or services in the Schedule via <u>electronic format via</u> https://dcgov.app.box.com/f/5fb27b59d3b04b448ae61afeeac79feb by <u>2:00 p.m.</u> local time <u>April 25, 2022</u> (Hour) (Date)									
CAUTION: Late submission, Modifications and Withdrawals: See 7 DCMR chapters 15 & 16 as applicable. All offers are subject to all terms & conditions contained in solicitation.									
10. For Information Contact	A. Name			B. Telephone			C. E-mail Address		
	Albert Walker			(Area Code) 202	(Number) 343-3218		(Ext)	dcrb.procurement@dc.gov	
11. Table of Contents									
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12. In conjunction with the above, the undersigned agrees, if this offer is accepted within <u>120</u> calendar days from the receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified herein.									
13. Discount for Prompt Payment			10 Calendar days %	20 Calendar days %	30 Calendar days %	____ Calendar days %			
14. Acknowledgement of Amendments (The offeror acknowledges receipt of amendments to the SOLICITATION):			Amendment Number		Date		Amendment Number		Date
15A. Name and Address of Offeror			16. Name and Title of Person Authorized to Sign Offer/Contract						
15B. Telephone (Area Code) (Number) (Ext)			<input type="checkbox"/> 15 C. Check if remittance address is different from above – Refer to section G			17. Signature		18. Award Date	
AWARD (TO BE COMPLETED BY GOVERNMENT)									
19. Accepted as to Items Numbered			20. Amount		21. Accounting and Appropriation				
22. Name of Contracting Officer (Type or Print) Gianpiero JP Balestrieri			23. Signature of Contracting Officer (District of Columbia Retirement Board)				24. Award Date		
 Government of the District of Columbia			 District of Columbia Retirement Board						

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

B.1 The District of Columbia Retirement Board (DCRB) is seeks a Contractor to provide investment fees and expenses validation and tracking services.

B.2 The DCRB contemplates award of requirements contract with fixed unit prices.

B.3 PRICE SCHEDULE

B.3.1 BASE PERIOD (Two years from date of award)

BASE PERIOD		
Contract Line-Item No. (CLIN)	Description of Services	Total Cost
0001	Recalculation, review, analysis, and benchmarking of fees FY 2020 – FY 2022	\$
0002	Recalculation, review, analysis, and benchmarking of fees FY 2023	\$
0003	Recalculation, review, and analysis of expenses FY 2023	\$
0004	Final Report, Tracking System Recommendation and Presentation	\$
Total Base Period Fixed Price Amount		\$

B.3.2 OPTION PERIOD ONE (1)

Option Year 1		
Contract Line-Item No. (CLIN)	Description of Services	Total Cost
1001	Recalculation, review, analysis, and benchmarking of fees FY 2024	\$
1002	Recalculation, review, and analysis of expenses FY 2024	\$
Total Option Period 1 Fixed Price Amount		\$

B.3.2 OPTION PERIOD TWO (2)

Option Year 2		
Contract Line-Item No. (CLIN)	Description of Services	Total Cost
2001	Recalculation, review, analysis, and benchmarking of fees FY 2025	\$
2002	Recalculation, review, and analysis of expenses FY 2025	\$
Total Option Period 2 Fixed Price Amount		\$

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SECTION C: SPECIFICATIONS/WORK STATEMENT

C.1 SCOPE: The Board seeks to retain a qualified Contractor with experience in providing investment manager fee validation, reporting, and monitoring services to recalculate and analyze Fees and determine whether these were billed in accordance with the terms set forth in the signed agreements of the Board’s public and private investment accounts. A retroactive recalculation and analysis of fees (but not expenses) will be performed for fiscal years 2020 – 2022. A recalculation of the Fees will be performed for FY23, the upcoming fiscal year. And options will be in place for a recalculation, verification, and review of the Fees for fiscal years 2024 and 2025. Moreover, the Contractor is required to create and implement a verification and reporting system to monitor and report the Fees for fiscal years 2023 through 2025. This system will track and itemize the Fees (per above) on a quarterly basis for each relevant public and private investment manager and/or general partners (the “Tracking System”). The Tracking System is expected to be implemented by Contractor in collaboration with the Board’s IT department for the Board’s exclusive ongoing internal use to satisfy its future Fees reporting requirements.

C.2 APPLICABLE DOCUMENTS

Item No.	Document Type	Title	Date
1	Attachment A	DCRB Key Personnel	04-05-2022
2	Excel Spreadsheet (Attachment B)	Fund Listing	FY 2020 - 2022

C.3 DEFINITIONS

Not Applicable

C.4 BACKGROUND

C.4.1 Due to the lack of comprehensive and standardized fee and expense reporting requirements and guidance, there has been significant inconsistency in the fee and expense reporting from investment managers. Given the importance of fee transparency to the Board, and to ensure there is appropriate and enhanced reporting and tracking, there is a need to recalculate and report fees and expenses charged in prior periods and to closely monitor the same going forward. This will ensure that all fees and expenses have been charged pursuant to the terms and conditions in each of investment management or limited partnership agreements, and that such fees can be fully reported to internal and external stakeholders.

The objective of the overall requirement is to: 1) retroactively verify fee (but not expenses) payments made by the Board in fiscal years 2020-22, 2) verify Fees for fiscal year 2023, and 3) to implement the Tracking System for the Board’s exclusive ongoing internal use to satisfy its future financial operations and investments Fees reporting requirements.

The expected work product during the base period is an annual fee and expense verification report for fiscal years 2020-22 and a quarterly Fees verification report for

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fiscal year 2023, as well as the Tracking System for fees incurred starting in fiscal year 2023.

C.5 REQUIREMENTS

The Contractor shall perform the following services:

C.5.1 TASK 1: Recalculate, review, and analyze fees for the period FY 2020 - 2022

C.5.1.1 The Contractor shall recalculate, and review fees (but not expenses) billed and charged to all public and private investment accounts for the three fiscal years 2020 – 2022 and determine whether these were charged in accordance with the terms and conditions set forth in the signed fund documents.

C.5.1.2 The Contractor shall prepare a schedule of the Fees billed and charged, by quarter, by each manager to each account and a determination of whether the Fees were correctly billed by each applicable investment manager and/or general partner.

C.5.1.3 The Contractor shall determine and benchmark where DCRB stands in comparison to similar-sized U.S. public pension funds in relation to the Fees.

C.5.1.4 The Contractor shall prepare a written final report that includes a summary of the work performed and results.

C.5.1.5 Deliverables:

- i. Fee Schedule – schedule of the fees billed and charged, by quarter, by each manager to each account and a determination of whether the Fees were correctly billed by each applicable investment manager and/or general partner.
- ii. Benchmark Assessment Report – report that identifies and determines where DCRB stands in comparison to similar-sized U.S. public pension funds in relation to the Fees.
- iii. Final Report – a written report that includes a summary of the work performed and results.

C.5.2 TASK 2: Recalculate, review, and analyze the Fees for FY 2023

C.5.2.1 The Contractor shall recalculate, and review fees billed and charged to all public and private investment accounts for the fiscal year 2023 and determine whether these were charged to the Board in accordance with the Fees schedule or terms set forth in each of the investment managers' applicable signed fund documents.

C.5.2.2 The Contractor shall prepare a schedule of the Fees billed and charged, by quarter, by each manager to each account and a determination of whether the Fees were correctly billed by each applicable investment manager and/or general partner.

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C.5.2.3 The Contractor shall determine and benchmark where DCRB stands in comparison to similar-sized U.S. public pension funds in relation to the Fees.

C.5.2.4 The Contractor shall prepare a written draft report that includes a summary of the work performed and results.

C.5.2.5 Deliverables:

- i. Fee Schedule – schedule of the fees billed and charged, by quarter, by each manager to each account and a determination of whether the Fees were correctly billed by each applicable investment manager and/or general partner.
- ii. Benchmark Assessment Report – report that identifies and determines where DCRB stands in comparison to similar-sized U.S. public pension funds in relation to the Fees.
- iii. Final Report – a written report that includes a summary of the work performed and results.

C.5.3 TASK 3: Implement a fee validation and tracking system

C.5.3.1 The Contractor shall deliver a Fee Validation and Tracking System to support the requirements in Tasks 1 and 2, and to serve as a repository of the fees. The system shall be implemented and hosted in collaboration with the Board's Information Technology (IT) Department, using Commercial off the Shelf (COTS), preferably as a Software as a Service (SaaS) Cloud solution. The end user interface shall be a web-based solution

C.5.3.2 The Contractor shall work and collaborate with the DCRB IT division to:

- a) Develop the system architecture,
- b) Assist DCRB IT procure software subscriptions/licenses as needed such as Microsoft Power BI or Tableau for data visualization, and
- c) Implement the data design, and periodically load the repository with incoming Fees over the period commencing in FY 2023 and through FY 2025 (assuming the exercise of the Option Years).

C.5.3.3 The Contractor shall implement Dashboards that present aggregate information on the Fees for all funds and the ability to drill down to the details. The dashboards shall serve as a management tool to track relevant Key Performance Indicators (KPIs) for effective Fees management, and performance against set targets.

C.5.3.4 The Contractor shall develop the procedures to operate the system post implementation including Dashboard management and data collections. The Contractor shall train DCRB dedicated personnel on the developed procedures and Fee Validation and Tracking System operation.

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C.5.3.5 Deliverables:

- i. Fee Validation and Tracking System (FVTS)
- ii. FVTS Procedures and Operation Manual

C.5.4 TASK 4 Conference Calls, Meetings, Final Report and Presentation

C.5.4.1 The Contractor shall participate in a Kick-Off (KO) meeting with DCRB and prepare minutes of the meeting. The KO meeting minutes will be submitted to the Contract Administrator (CA) for review and comment prior to submission of the final meeting minutes to the CA.

C.5.4.2 The Contractor shall submit all findings, observations, and recommendations for Tasks 1, 2, and 3 in both an oral presentation and a comprehensive written report.

C.5.4.3 The Contractor shall participate in debriefing meetings to report summary of findings upon request.

C.5.4.4 The Contractor shall participate in meetings of the Board's Audit/Investment Committee(s) and/or the Board of Trustees meeting(s) to present findings and results as needed. DCRB will provide at least 30 days' prior notice of the requested meeting date(s).

C.5.4.5 Deliverables:

- i. Findings and Results PowerPoint Presentation
- ii. Written Findings and Results Final Report

C.5.7 KEY PERSONNEL

The Contract shall identify key personnel that shall be assigned to the contract.

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SECTION D: PACKAGING AND MARKING

- D.1** The packaging and marking requirements for this contract shall be governed by DCRB's Standard and Special Provisions for use with Supplies and Services Contracts (Attachment J.1).

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SECTION E: INSPECTION AND ACCEPTANCE

- E.1** The inspection and acceptance requirements for this contract shall be governed by DCRB's Standard and Special Provisions for use with Supplies and Services Contracts. (Attachment J1).

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SECTION F: PERIOD OF PERFORMANCE AND DELIVERABLES

F.1 TERM OF CONTRACT

The term of the contract shall be for a two-year base period from the date of award specified on the cover page of this contract.

F.2 OPTION TO EXTEND THE TERM OF THE CONTRACT

F.2.1 DCRB may extend the term of this contract for a period of two (1) one year option periods, or successive fractions thereof, by written notice to the Contractor before the expiration of the contract; provided that DCRB will give the Contractor preliminary written notice of its intent to extend at least thirty (30) days before the contract expires. The preliminary notice does not commit DCRB to an extension. The exercise of this option is subject to the availability of funds at the time of the exercise of this option. The Contractor may waive the thirty (30) day preliminary notice requirement by providing a written waiver to the Contracting Officer prior to expiration of the contract.

F.2.2 If DCRB exercises this option, the extended contract shall be considered to include this option provision.

F.2.3 The price for the option period shall be as specified in the Section B of the contract.

F.2.4 The total duration of this contract, including the exercise of any options under this clause, shall not exceed four (4) years.

F.3 DELIVERABLES

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

Item	Section	Deliverable	Quantity	Format / Method	Due Date
1	C.5.4.1	Kick-Off Meeting Minutes.	1	In person / Online for interviews	15 days after award
2	C.5.1.4	Investment Process Review Report	1	Electronic	15 days after award
3	C.5.1.2, C.5.1.3, C.5.2.5 i, ii	FY 2020 – FY 2022 Fee Schedule and Benchmarking Reports - Schedule of fees by quarter and determination of whether they were correctly charged, - Benchmarking results.	1	Electronic	120-days after award.

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4	C.5.1.4, C.5.1.5 iii	Final Report to include a summary of the work performed and results of the FY 2020 – FY 2022 analysis.	1	Electronic	150-days after award
5	C.5.2.2, C.5.5.3, C.5.2.5 i, ii	FY 2023 Fee Schedule and Benchmarking Reports <ul style="list-style-type: none"> - Schedule of fees by quarter and determination of whether they were correctly charged, - Schedule of expenses and determination of whether they were appropriately charged, - Benchmarking results. 	1 each	Electronic	TBD post award
6	C.5.2.4, C.5.2.5 iii	Final Work Detail and Results Report - a summary of the work performed and results of the FY 2023 analysis.	1	Electronic	TBD Post Award
7	C.5.4.2, C.5.4.3, C.5.4.5 i, ii	Findings and Observations PowerPoint Presentation and Written Report - Comprehensive report of all findings and observations in a verbal presentation and written report.	1 (each)	Electronic	TBD Post Award
8	C.5.3 C.5.3.5 i, ii	Fee Validation and Tracking System and FVTS Procedures and Operation Manual	1	Electronic	TBD Post Award

SECTION G: CONTRACT ADMINISTRATION

G.1 INVOICE PAYMENT

- G.1.1** DCRB will make payments to the Contractor, upon the submission of proper invoices, at the prices stipulated in this contract, for supplies delivered and accepted or services performed and accepted, less any discounts, allowances or adjustments provided for in this contract.
- G.1.2** DCRB will pay the Contractor on or before the 30th day after receiving a proper invoice from the Contractor.

G.2 INVOICE SUBMITTAL

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

Chief Financial Officer
District of Columbia Retirement Board
900 7th Street, N.W., Suite 200
Washington, D. C. 20001
Phone: (202) 343-3200
Email: derb.accountspayable@dc.gov

- G.2.2** To constitute a proper invoice, the Contractor shall submit the following information on the invoice:
 - G.2.2.1** Contractor's name, federal tax ID and invoice date (date invoices as of the date of mailing or transmittal);
 - G.2.2.2** Contract number and invoice number;
 - G.2.2.3** Description, price, quantity and the date(s) that the supplies or services were delivered or performed;
 - G.2.2.4** Other supporting documentation or information, as required by the Contracting Officer;
 - G.2.2.5** Name, title, telephone number and complete mailing address of the responsible official to whom payment is to be sent;
 - G.2.2.6** Name, title, phone number of person preparing the invoice;
 - G.2.2.7** Name, title, phone number and mailing address of person (if different from the person identified in G.2.2.6 above) to be notified in the event of a defective invoice; and
 - G.2.2.8** Authorized signature.

G.3 RESERVED

G.4 PAYMENT

G.4.1 PARTIAL PAYMENTS

Unless otherwise specified in the contract, payment will be made on partial deliveries of services accepted by DCRB based upon sections B.3 (Price Schedule) and F.3 (Deliverables) if:

- a) The amount due on the deliverable warrants it; or
- b) The Contractor requests it and the amount due on the deliverable is in accordance with the following:
 - Payment will be made on completion and acceptance of each item (Section F.3) for which the price is stated in the schedule in Sections B.3 and F.3
- c) Presentation of a properly executed invoice

G.5 RESERVED

G.6 RESERVED

G.7 CONTRACTING OFFICER (CO)

Contracts will be entered into and signed on behalf of DCRB only by contracting officers. The contact information for the Contracting Officer is:

Gianpiero JP Balestrieri
Executive Director
District of Columbia Retirement Board
900 7th Street, NW, Suite 200
Washington, DC 20001
Email: jp.balestrieri@dc.gov

G.8 AUTHORIZED CHANGES BY THE CONTRACTING OFFICER

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

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

G.8.3 In the event the Contractor effects any change at the instruction or request of any person other than the CO, the change will be considered to have been made without authority and no adjustment will be made in the contract price to cover any cost increase incurred as a result thereof.

G.9 CONTRACT ADMINISTRATOR (CA)

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

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

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

G.9.1.3 Reviewing invoices for completed work and recommending approval by the CO if the Contractor's costs are consistent with the negotiated amounts and progress is satisfactory and commensurate with the rate of expenditure;

G.9.1.4 Reviewing and approving invoices for deliverables to ensure receipt of goods and services. This includes the timely processing of invoices and vouchers in accordance with DCRB's payment provisions; and

G.9.1.5 Maintaining a file that includes all contract correspondence, modifications, records of inspections (site, data, equipment) and invoice or vouchers.

G.9.2 The address and telephone number of the CA is:

TBD
DC Retirement Board
District of Columbia Government
900 7th Street, N.W., Suite 200
Washington, DC 20001

G.9.3 The CA shall NOT have the authority to:

1. Award, agree to, or sign any contract, delivery order or task order. Only the CO shall make contractual agreements, commitments or modifications;
2. Grant deviations from or waive any of the terms and conditions of the contract;
3. Increase the dollar limit of the contract or authorize work beyond the dollar limit of the contract,
4. Authorize the expenditure of funds by the Contractor;
5. Change the period of performance; or
6. Authorize the use of DCRB property, except as specified under the contract.

G.9.4 The Contractor will be fully responsible for any changes not authorized in advance, in writing, by the CO; may be denied compensation or other relief for any additional work performed that is not so authorized; and may also be required, at no additional cost to the DCRB, to take all corrective action necessitated by reason of the unauthorized changes.

G.10 KEY PERSONNEL

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- G.10.1** In performing services under this Contract, the Key Personnel assigned to DCRB and determined to be essential to the satisfactory performance of the Contract shall be:
- G.10.2** If one or more of the Key Personnel identified becomes, or is expected to become, unavailable to perform services under for a continuous period exceeding thirty (30) business days, or is expected to devote substantially less effort to the work than indicated in the proposal or initially anticipated, Contractor shall immediately notify the CA and shall, subject to the concurrence of the CA, promptly replace such personnel with personnel of at least substantially equal ability and qualifications.
- G.10.3** All requests for approval of substitutions hereunder must be in writing and provide a detailed explanation of the circumstances necessitating the proposed substitutions. They must contain a complete resume for the proposed substitute, and any other information requested by the CA or needed to approve or disapprove the proposed substitution. The CA shall evaluate such requests and promptly notify the contractor of his approval or disapproval thereof in writing.
- G.10.4** If the CA determines that suitable and timely replacement of Key Personnel is not reasonably forthcoming or that the proposed substitution or alternative would impair the successful completion of the Contract or services hereunder, the Contract may be terminated by the CA for cause or for convenience, as appropriate.

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SECTION H: SPECIAL CONTRACT REQUIREMENTS

H.1 HIRING OF DISTRICT RESIDENTS AS APPRENTICES AND TRAINEES

H.1.1 RESERVED

H.2 DEPARTMENT OF LABOR WAGE DETERMINATIONS

The Contractor shall be bound by the Wage Determination No. 2015-4281 Revision No. 18, dated, April 7, 2021, issued by the U.S. Department of Labor in accordance with the Service Contract Act, 41 U.S.C. § 351 *et seq.*, and incorporated herein as Section J.2. The Contractor shall be bound by the wage rates for the term of the contract subject to revision as stated herein and in accordance with **clause 24 of the SCP**. If an option is exercised, the Contractor shall be bound by the applicable wage rates at the time of the exercise of the option. If the option is exercised and the CO obtains a revised wage determination, the revised wage determination is applicable for the option periods and the Contractor may be entitled to an equitable adjustment.

H.3 PREGNANT WORKERS FAIRNESS

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

H.3.2 The Contractor shall not:

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

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

(1) Pay;

(2) Accumulated seniority and retirement;

(3) Benefits; and

(4) Other applicable service credits.

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

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

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

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

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

(a) New employees at the commencement of employment;

(b) Existing employees; and

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

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

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

H.4 UNEMPLOYED ANTI-DISCRIMINATION

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

H.4.2 The Contractor shall not:

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

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

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

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

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

H.5 **RESERVED**

H.6 **RESERVED**

H.7 **RESERVED**

H.8 **RESERVED**

H.9 **RESERVED**

H.10 FAIR CRIMINAL RECORD SCREENING

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

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

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

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

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

- (a) Where a federal or District law or regulation requires the consideration of an applicant’s criminal history for the purposes of employment;
- (b) To a position designated by the employer as part of a federal or District government program or obligation that is designed to encourage the employment of those with criminal histories;
- (c) To any facility or employer that provides programs, services, or direct care to, children, youth, or vulnerable adults; and/or
- (d) To employers that employ less than 11 employees.

H.10.6 A person claiming to be aggrieved by a violation of the Act may file an administrative complaint with DCRB.

H.11 DCRB RESPONSIBILITIES

H.11.1 DCRB will provide the Contractor the information requested in a timely manner and to make available to Contractor any personnel, systems, premises, records, or other information as reasonably requested by Contractor to perform the Services. DCRB agrees Contractor will have no responsibility for any delays related to a delay in providing such information to Contractor. Such information will be accurate and complete, and DCRB will inform Contractor of all significant tax, accounting, and financial reporting matters of which DCRB is aware.

H.11.2 DCRB subject matter experts will perform User Acceptance Testing (UAT) after Test Environment install/upgrade and Technical System Testing is completed.

H.12 CONTRACTOR RESPONSIBILITIES

The Contractor's responsibilities shall be in accordance with the requirements in section C.5 of this document.

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SECTION I: CONTRACT CLAUSES

I.1 APPLICABILITY OF STANDARD CONTRACT PROVISIONS

The DCRB's Standard and Special Provisions for use with Supplies and Services Contracts are incorporated as part of the contract.

I.2 CONTRACTS THAT CROSS FISCAL YEARS

Continuation of this contract beyond the current fiscal year is contingent upon future fiscal appropriations.

I.3 RESERVED

I.4 TIME

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

I.5 RIGHTS IN DATA

A. Definitions

1. "Products" - A deliverable under any contract that may include commodities, services and/or technology furnished by or through Contractor, including existing and custom Products, such as, but not limited to: a) recorded information, regardless of form or the media on which it may be recorded; b) document research; c) experimental, developmental, or engineering work; d) licensed software; e) components of the hardware environment; f) printed materials (including but not limited to training manuals, system and user documentation, reports, drawings); g) third party software; h) modifications, customizations, custom programs, program listings, programming tools, data, modules, components; and i) any intellectual property embodied therein, whether in tangible or intangible form, including but not limited to utilities, interfaces, templates, subroutines, algorithms, formulas, source code, and object code.
2. "Existing Products" - Tangible Products and intangible licensed Products that exist prior to the commencement of work under the contract. Existing Products must be identified on the Product prior to commencement of work or else will be presumed to be Custom Products.
3. "Custom Products" - Products, preliminary, final or otherwise, which are created or developed by Contractor, its subcontractors, partners, employees, resellers or agents for DCRB under the contract.
4. "DCRB" – The District of Columbia Retirement Board.

B. Title to Project Deliverables

The Contractor acknowledges that it is commissioned by DCRB to perform services detailed in the contract. DCRB shall have ownership and rights for the duration set forth in the contract to use, copy, modify, distribute, or adapt Products as follows:

1. Existing Products: Title to all Existing Licensed Product(s), whether or not embedded in, delivered or operating in conjunction with hardware or Custom Products, shall remain with Contractor or third-party proprietary owner, who retains all rights, title and interest (including patent, trademark or copyrights). Effective upon payment, DCRB shall be granted an irrevocable, non-exclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, adapt (unless Contractor advises DCRB as part of Contractor's bid that adaptation will violate existing agreements or statutes and Contractor demonstrates such to DCRB's satisfaction), and distribute Existing Product to DCRB users up to the license capacity stated in the contract with all license rights necessary to fully effect the general business purpose of the project or work plan or contract. Licenses shall be granted in the name of DCRB. DCRB agrees to reproduce the copyright notice and any other legend of ownership on any copies authorized under this paragraph.
2. Custom Products: Effective upon Product creation, Contractor hereby conveys, assigns, and transfers to DCRB the sole and exclusive rights, title and interest in Custom Product(s), whether preliminary, final or otherwise, including all patent, trademark and copyrights. Contractor hereby agrees to take all necessary and appropriate steps to ensure that the Custom Products are protected against unauthorized copying, reproduction and marketing by or through Contractor.

C. Transfers or Assignments of Existing or Custom Products by DCRB

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

D. Subcontractor Rights

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

E. Source Code Escrow

1. For all computer software furnished to DCRB with the rights specified in section B.2, the Contractor shall furnish to DCRB, a copy of the source code with such rights of the scope as specified in section B.2 of this clause. For all computer software furnished to DCRB with the restricted rights specified in section B.1 of this clause, DCRB, if the

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

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

F. Indemnification and Limitation of Liability

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

I.6 OTHER CONTRACTORS

The Contractor shall not commit or permit any act that will interfere with the performance of work by another DCRB contractor or by any DCRB employee.

I.7 SUBCONTRACTS

The Contractor hereunder shall not subcontract any of the Contractor's work or services to any subcontractor without the prior written consent of the CO. Any work or service so subcontracted shall be performed pursuant to a subcontract agreement, which DCRB will have the right to review and approve prior to its execution by the Contractor. Any such subcontract shall specify that the Contractor and the subcontractor shall be subject to every provision of this contract. Notwithstanding any such subcontract approved by DCRB, the Contractor shall remain liable to DCRB for all Contractor's work and services required hereunder.

I.8 INSURANCE

- A. **GENERAL REQUIREMENTS.** The Contractor at its sole expense shall procure and maintain, during the entire period of performance under this contract, the types of insurance specified below. The Contractor shall have its insurance broker or insurance company submit a Certificate of Insurance to the CO giving evidence of the required coverage prior to commencing performance under this contract. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by, the CO. All insurance shall be written with financially responsible companies authorized to do business in the District of Columbia or in the jurisdiction where the work is to be performed and have an A.M. Best Company rating of A- / VII or higher.

All required policies shall contain a waiver of subrogation provision in favor of the Government of the District of Columbia.

The Government of the District of Columbia shall be included in all policies required hereunder to be maintained by the Contractor and its subcontractors (except for workers' compensation and professional liability insurance) as an additional insureds for claims against The Government of the District of Columbia relating to this contract, with the understanding that any affirmative obligation imposed upon the insured Contractor or its subcontractors (including without limitation the liability to pay premiums) shall be the sole obligation of the Contractor or its subcontractors, and not the additional insured. The additional insured status under the Contractor's and its subcontractors' Commercial General Liability insurance policies shall be effected using the ISO Additional Insured Endorsement form CG 20 10 11 85 (or CG 20 10 07 04 **and** CG 20 37 07 04) or such other endorsement or combination of endorsements providing coverage at least as broad and approved by the CO in writing. All of the Contractor's and its subcontractors' liability policies (except for workers' compensation and professional liability insurance) shall be endorsed using ISO form CG 20 01 04 13 or its equivalent so as to indicate that such policies provide primary coverage (without any right of contribution by any other insurance, reinsurance or self-insurance, including any deductible or retention, maintained by an Additional Insured) for all claims against the additional insured arising out of the performance of this Statement of Work by the Contractor or its subcontractors, or anyone for whom the Contractor or its subcontractors may be liable. These policies shall include a separation of insureds clause applicable to the additional insured.

If the Contractor and/or its subcontractors maintain broader coverage and/or higher limits than the minimums shown below, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor and subcontractors.

1. Commercial General Liability Insurance ("CGL") - The Contractor shall provide evidence satisfactory to the CO with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services

Office, Inc. ("ISO") form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by the CO in writing), covering liability for all ongoing and completed operations of the Contractor, including ongoing and completed operations under all subcontracts, and covering claims for bodily injury, including

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without limitation sickness, disease or death of any persons, injury to or destruction of property, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an Insured Contract (including the tort liability of another assumed in a contract) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than \$1,000,000 each occurrence, a \$2,000,000 general aggregate (including a per location or per project aggregate limit endorsement, if applicable) limit, a \$1,000,000 personal and advertising injury limit, and a \$2,000,000 products-completed operations aggregate limit.

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

Employer's Liability Insurance - The Contractor shall provide evidence satisfactory to the CO of employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.

All insurance required by this paragraph 3 shall include a waiver of subrogation endorsement for the benefit of Government of the District of Columbia.

4. Cyber Liability Insurance - The Contractor shall provide evidence satisfactory to the Contracting Officer of Cyber Liability Insurance, with limits not less than \$5,000,000 per occurrence or claim, \$5,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

Limits may not be shared with other lines of coverage. A copy of the cyber liability policy must be submitted to the Office of Risk Management (ORM) for compliance review.

5. Professional Liability Insurance (Errors & Omissions) - The Contractor shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Contract. The policy shall provide limits of \$1,000,000 per claim or per occurrence for each wrongful act and \$2,000,000 annual aggregate. The Contractor warrants that any

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applicable retroactive date precedes the date the Contractor first performed any professional services for the Government of the District of Columbia and that continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least ten years after the completion of the professional services. Limits may not be shared with other lines of coverage.

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

B. PRIMARY AND NONCONTRIBUTORY INSURANCE

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

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

- D. **LIABILITY.** These are the required minimum insurance requirements established by the District of Columbia. However, the required minimum insurance requirements provided above will not in any way limit the contractor's liability under this contract.

- E. **CONTRACTOR'S PROPERTY.** Contractor and subcontractors are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment. A waiver of subrogation shall apply in favor of the District of Columbia.

- F. **MEASURE OF PAYMENT.** The District shall not make any separate measure or payment for the cost of insurance and bonds. The Contractor shall include all of the costs of insurance and bonds in the contract price.

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

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- H. **CERTIFICATES OF INSURANCE.** The Contractor shall submit certificates of insurance giving evidence of the required coverage as specified in this section prior to commencing work.

Certificates of insurance must reference the corresponding contract number. Evidence of insurance shall be submitted to:

Attn: Rashelle Anderson
Supervisory Contract Specialist
District of Columbia Retirement Board
900 7th Street NW, 2nd Floor
Washington, DC 20001

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

I.9 EQUAL EMPLOYMENT OPPORTUNITY

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

I.10 ORDER OF PRECEDENCE

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

ORDER OF PRECEDENCE

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

- (1) An applicable Court Order, if any
- (2) Contract document
- (3) DCRB's Standard and Special Provisions for use with Supplies and Services Contracts
- (4) Contract attachments other than the Standard and Special Provisions
- (5) RFP, as amended
- (6) BAFOs (in order of most recent to earliest)
- (7) Proposal (technical and price)

I.11 DISPUTES

14. Disputes

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

- (a) **Claims by the Contractor against DCRB:** Any protest and disputes between the Board and Consultant shall be resolved in accordance with the Board's dispute provisions at 7 DCMR 1615, which are incorporated herein by reference.
- (b) **Claims by DCRB against the Contractor:** Claim as used in paragraph (b) of this clause, means a written demand or written assertion by DCRB seeking, as a matter of right, the payment of money in a sum certain, the adjustment of contract terms, or other relief arising under or relating to the contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant.
 - (1) The CO shall decide all claims by DCRB against a contractor arising under or relating to a contract.
 - (2) The CO shall send written notice of the claim to the contractor. The CO's written decision shall do the following:
 - (i) Provide a description of the claim or dispute;
 - (ii) Refer to the pertinent contract terms;
 - (iii) State the factual areas of agreement and disagreement;
 - (iv) State the reasons for the decision, including any specific findings of fact, although specific findings of fact are not required and, if made, shall not be binding in any subsequent proceeding;
 - (v) If all or any part of the claim is determined to be valid, determine the amount of monetary settlement, the contract adjustment to be made, or other relief to be granted;
 - (vi) Indicate that the written document is the CO's final decision; and
 - (vii) Inform the Contractor of the right to seek further redress by appealing the decision to the Contract Appeals Board.
 - (3) The CO shall support the decision by reasons and shall inform the Contractor of its rights as provided herein.
 - (4) Before or after issuing the decision, the CO may meet with the Contractor to attempt to resolve the claim by agreement.
 - (5) The authority contained in this paragraph (b) shall not apply to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another District agency is specifically authorized to administer, settle or determine.
 - (6) This paragraph shall not authorize the CO to settle, compromise, pay, or otherwise adjust any claim involving fraud.

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- (c) Decisions of the CO shall be final and not subject to.
- (d) Pending final decision of an appeal, action, or final settlement, the Contractor shall proceed diligently with performance of the contract in accordance with the decision of the CO.

I.12 CHANGES

- (a) The CO may, at any time, by written order, and without notice to the surety, if any, make changes in the contract within the general scope hereof. If such change causes an increase or decrease in the cost of performance of the contract, or in the time required for performance, an equitable adjustment shall be made. Any claim for adjustment for a change within the general scope must be asserted within ten (10) days from the date the change is ordered; provided, however, that the CO, if he or she determines that the facts justify such action, may receive, consider, and adjust any such claim asserted at any time prior to the date of final settlement of the contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in **clause 14 Disputes**.
- (b) DCRB shall not require the Contractor, and the Contractor shall not require a subcontractor, to undertake any work that is beyond the original scope of the contract or subcontract, including work under a DCRB-issued change order, when the additional work increases the contract price beyond the not-to-exceed price or negotiated maximum price of the contract, unless the CO:
 - (1) Agrees with the Contractor, and if applicable the subcontractor, on a price for the additional work;
 - (2) Obtains a certification of funding to pay for the additional work;
 - (3) Makes a written, binding commitment with the Contractor to pay for the additional work within thirty (30) days after the Contractor submits a proper invoice; and
 - (4) Provides the Contractor with written notice of the funding certification.
- (c) The Contractor shall include in its subcontracts a clause that requires the Contractor to:
 - (1) Within five (5) business days of its receipt of notice of the approved additional funding, provide the subcontractor with notice of the amount to be paid to the subcontractor for the additional work to be performed by the subcontractor;
 - (2) Pay the subcontractor any undisputed amount to which the subcontractor is entitled for the additional work within ten (10) days of receipt of payment from DCRB; and
 - (3) Notify the subcontractor and CO in writing of the reason(s) the Contractor withholds any payment from a subcontractor for the additional work.

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- (e) Neither DCRB, Contractor, nor any subcontractor may declare another party to be in default, or assess, claim, or pursue damages for delays until the parties agree on a price for the additional work.

I.13 NON-DISCRIMINATION CLAUSE

Non-Discrimination Clause:

- (a) The Contractor shall not discriminate in any manner against any employee or applicant for employment that would constitute a violation of the District of Columbia Human Rights Act, effective December 13, 1977, as amended (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq.*) (“Act”, as used in this clause). The Contractor shall include a similar clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials. In addition, the Contractor agrees, and any subcontractor shall agree, to post in conspicuous places, available to employees and applicants for employment, a notice setting forth the provisions of this non-discrimination clause as provided in section 251 of the Act.

Pursuant to Mayor’s Order 85-85, (6/10/85), Mayor’s Order 2002-175 (10/23/02), Mayor’s Order 2011-155 (9/9/11) and the rules of the Office of Human Rights, Chapter 11 of Title 4 of the D.C. Municipal Regulations, the following clauses apply to the contract:

- (1) The Contractor shall not discriminate against any employee or applicant for employment because of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, political affiliation, or credit information. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act.
- (2) The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, genetic information, disability, matriculation, political affiliation, or credit information. The affirmative action shall include, but not be limited to the following:
 - (a) employment, upgrading or transfer;
 - (b) recruitment, or recruitment advertising;
 - (c) demotion, layoff or termination;
 - (d) rates of pay, or other forms of compensation; and
 - (e) selection for training and apprenticeship.
- (3) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency, setting forth the provisions in paragraphs 19(b)(1) and (b)(2) concerning non-discrimination and affirmative action.
- (4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment pursuant to the non-discrimination requirements set forth in paragraph 19(b)(2).

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- (5) The Contractor agrees to send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the contracting agency, advising the said labor union or workers' representative of that contractor's commitments under this nondiscrimination clause and the Act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (6) The Contractor agrees to permit access to its books, records, and accounts pertaining to its employment practices, by the Chief Procurement Officer or designee, or the Director of the Office of Human Rights or designee, for purposes of investigation to ascertain compliance with the Act, and to require under terms of any subcontractor agreement each subcontractor to permit access of such subcontractors' books, records, and accounts for such purposes.
- (7) The Contractor agrees to comply with the provisions of the Act and with all guidelines for equal employment opportunity applicable in the DCRB adopted by the Director of the Office of Human Rights, or any authorized official.
- (8) The Contractor shall include in every subcontract the equal opportunity clauses, i.e., paragraphs 19(b)(1) through (b)(9) of this clause, so that such provisions shall be binding upon each subcontractor.
- (9) The Contractor shall take such action with respect to any subcontract as the CO may direct as a means of enforcing these provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request DCRB to enter into such litigation to protect the interest of DCRB.

SECTION J: ATTACHMENTS

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

Attachment Number	Document
J.1	DCRB’s Standard and Special Provisions for use with Supplies and Services Contracts
J.2	U.S. Department of Labor Wage Determination Wage Determination No. 2015-4281 Revision No. 22, dated, March 15, 2022
J.3	Equal Employment Opportunity Employer Information Report and Mayor’s Order 85-85 available at available at http://ocp.dc.gov , under Quick Links click on “Required Solicitation Documents”
J.4	Way to Work Amendment Act of 2006 - Living Wage Notice available at http://ocp.dc.gov , under Quick Links click on “Required Solicitation Documents”
J.5	Way to Work Amendment Act of 2006 - Living Wage Fact Sheet available at http://ocp.dc.gov , under Quick Links click on “Required Solicitation Documents”
J.6	Tax Certification Affidavit available at http://ocp.dc.gov , under Quick Links click on “Required Solicitation Documents”
J.7	Past Performance Evaluation Form

SECTION K: REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS

Bidder/Offeror Certification Form

available at <http://ocp.dc.gov>,
under Quick Links click on “Required Solicitation Documents”

SECTION L: INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

L.1 CONTRACT AWARD

L.1.1 Most Advantageous to DCRB

L.1.1.1 DCRB intends to award a single contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Board, cost or price, technical and other factors, specified elsewhere in this solicitation considered.

L.1.2 SELECTION OF NEGOTIATION PROCESS

After evaluation of the proposals using only the criteria stated in the RFP and in accordance with weightings provided in the RFP, the CO may elect to proceed with any method of negotiations, discussions or award of the contract without negotiations. If the CO elects to proceed with negotiations, the CO may limit, for purposes of efficiency, the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

L.2 PROPOSAL ORGANIZATION, CONTENT AND SUBMISSION

L.2.1 This solicitation will be conducted electronically using DCRB's drop-box system via link at <https://dcdgov.app.box.com/f/5fb27b59d3b04b448ae61afeeac79feb>. To be considered, an offeror must submit the required attachments before the closing date and time. Paper, telephonic, telegraphic, and facsimile proposals may not be accepted.

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

L.2.3 The offeror shall submit two (2) attachments in its electronic submittal: (1) a technical proposal, and (2) a price proposal. **Please note that each attachment is limited to a maximum size of 25 MB.**

L.2.4 The offeror shall label each attachment, i.e., "Technical Proposal", "Price Proposal." All information related to the technical proposal shall be in an attachment separate from the price proposal. Each will be evaluated separately.

L.2.5 Offerors are directed to the specific proposal evaluation criteria found in Section M of this solicitation, Evaluation Factors. The offeror shall respond to each factor in a way that will allow the DCRB to evaluate the offeror's response. The offeror shall submit information in a clear, concise, factual, and logical manner providing a comprehensive description of program supplies and services and delivery thereof. The information requested for the technical proposal shall facilitate

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evaluation for all proposals. The technical proposal must contain sufficient detail to provide a clear and concise response fully reflecting the manner in which the offeror proposes to fully meet the requirements in Section C.5.

L.2.6 Offerors shall complete, sign, and submit all Representations, Certifications and Acknowledgments as appropriate.

L.2.7 PROPOSAL SUBMISSION REQUIREMENTS

L.2.7.1 TECHNICAL PROPOSAL GUIDELINES

L.2.7.1.1 The Offeror shall provide a written narrative that is comprehensive, complete and demonstrates its approach to providing the services. The technical approach must demonstrate the Offeror's understanding of the requirements and describe the methodology by which the Offeror shall successfully accomplish the requirements stated in the Scope of Work in Section C.5. Also, the Technical Proposal shall contain the following:

L.2.7.1.2 The proposal shall contain the offeror's detailed approach and methodology for providing the services in Section C.5. The approach shall provide sufficient information to enable the DCRB to understand and evaluate the Offerors plan to meet the requirements of the services requested.

L.2.7.1.3 The purpose of the Technical Proposal is to demonstrate the qualifications, competence, and capacity of the Offeror/Firm and of the proposed staff to be assigned to this engagement. It should fully address Sections L.2.7.2 through L.2.7.3 below.

L.2.7.2 Firm Qualifications

L.2.7.2.1 Provide a brief profile of the Firm, including the year of formation, types of services offered, size by number of clients and assets under advisement, office locations, the size of the fee and expense verification and reporting team (if this a distinct group within your Firm), and the history of the Firm's experience providing fee and expense verification and reporting services.

L.2.7.2.2 Demonstrate that the Firm possesses strong knowledge of recalculation, verification, and validation of Public and Private Market Fees in all relevant legal structures (i.e., limited partnerships, investments trusts, commingled funds, etc.) as demonstrated by prior experience, particularly with pension/retirement systems, endowments, or foundations.

L.2.7.2.3 Describe your Firm's competitive advantage. Provide examples if possible.

L.2.7.2.4 List institutional clients served by your Firm relating to fee and expense validation services including:

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1. Name and type of organization (i.e., public fund, corporate plan, endowment)
2. Total assets under management
3. Strategic asset allocation
4. Dates of service
5. Description of scope of work
6. Role of client in project (such as degree of involvement of accounting and investment teams on client side)

L.2.7.2.5 List and describe the Firm's relationships, if any, involving current DCRB employees or Board members listed as DCRB Key Personnel in **Attachment A** with a statement explaining why such relationships do not constitute a conflict of interest relative to performing the proposed engagements.

L.2.7.2.6 Affirm that it maintains--or asserts it will obtain if the selected, insurance coverage, as specified Section I-8.

L.2.7.3 Business References

L.2.7.3.1 The Firm should list three clients for which the Firm performed similar services in the last three years. Each business reference should include the following:

1. Client's name and address
2. Principal client contact name, title, email, and phone number
3. A brief statement on scope of work
4. Assets under management
5. Client type (e.g., public pension, endowment, private pension)

By submitting a proposal, the Firm authorizes DCRB to contact the clients listed for comments regarding the services.

L.2.7.4 Team Qualifications and Experience

L.2.7.4.1 The Firm shall identify proposed team members by name and title, and describe their competency, knowledge, and qualifications with particular emphasis on experience related to recalculating, verifying, and validating Fees and Expenses for public and private investment funds of the structures previously mentioned.

L.2.7.4.2 For each team member, provide their tenure with Offeror's Firm and in the industry. Provide information on the Firm's turnover over the past five years. Please note that Team members mentioned in response to this RFP can only be changed with the express prior written permission of DCRB, which retains the right to approve or reject replacements.

L.2.7.5 Specific Recalculation and Verification Approach

L.2.7.5.1 The proposal should set forth a work plan to perform the services required, including an explanation of the methodology to be followed. Respondents to the RFP are required to provide the following information on their approach:

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L.2.7.5.2 Method for selecting the sample funds from the public and private investment funds to recalculate and verify Fees and Expenses.

L.2.7.5.3 Method for obtaining the information and data needed to perform the engagement.

L.2.7.5.4 Process for recalculating and verifying Fees and Expenses.

L.2.7.5.5 Description of methods for documenting and demonstrating recalculations and verifications.

L.2.7.5.6 Assumptions on availability of client staff, client's role, and estimates on client time needed to conduct the engagements.

L.2.7.5.7 Identify and describe any anticipated potential issues (including those due to difficulty accessing fund manager supporting data), the Firm's approach for resolving these problems, and any special assistance requested from DCRB.

L.2.7.6 Sample Reports and Deliverables.

L.2.7.6.1 Provide two sample reports resulting from similar services performed by your Firm. Redactions to protect sensitive and confidential information are permitted.

L.2.7.7 SECURITY REQUIREMENTS

L.2.7.7.1 This section shall identify any unique security requirements associated with contract performance (when applicable). These requirements may include, but are not limited to, such items as: Special pass or identification requirements; Special security clearance requirements; or Special escort requirements.

L.2.8 PRICE PROPOSAL GUIDELINES

- i. The fixed fee proposal shall contain all direct and indirect costs, including out-of-pocket expenses, relative to performing tasks related to:
- ii. Fiscal Years 2020 - 2022: All public and private investment funds as described in Attachment C.
- iii. Fiscal Year 2023: All public and private investment funds as described in Attachment C and cost for each additional public or private fund thereafter.
- iv. Two Option Years (FY 2024 and FY 2025): All public and private investment funds as described in Attachment C and cost for each additional public or private fund thereafter.

Offeror's are required to submit a copy of their price proposal in both PDF and MS Excel formats.

L.2.9 REQUIREMENT FOR AN ELECTRONIC COPY OF PROPOSALS TO BE MADE AVAILABLE TO THE PUBLIC

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L.2.9.1 In addition to the proposal submission requirements in Section L.2 above, the offeror must submit an electronic copy of its proposal, redacted in accordance with any applicable exemptions from disclosure under D.C. Official Code § 2-534. Redacted copies of the offeror's proposal must be submitted by e-mail attachment to the contact person designated in Section #10 of the solicitation cover page. D.C. Official Code § 2-536(b) requires the District to make available electronically copies of records that must be made public. The District's policy is to release documents relating to District proposals following award of the contract, subject to applicable Freedom of Information Act (FOIA) exemption under § 2-534(a)(1). Successful proposals will be published on the DCRB website in accordance with D.C. Official Code § 2-361.04, subject to applicable FOIA exemptions.

L.2.10 PROPOSAL SUBMISSION DATE AND TIME, AND LATE SUBMISSIONS, LATE MODIFICATIONS, WITHDRAWAL OR MODIFICATION OF PROPOSALS AND LATE PROPOSALS

L.2.10.1 Proposal Submission

L.2.10.1.1 Proposals must be fully uploaded into the DCRB's drop-box system <https://dcbgov.app.box.com/f/5fb27b59d3b04b448ae61afeeac79feb> on or **before 2:00 p.m., April 25, 2022**, the closing time and date. The system will not allow late proposals, modifications to proposals, or requests for withdrawals after the exact closing date and time.

L.2.10.1.2 Paper, telephonic, telegraphic, and facsimile proposals may not be accepted or considered for award.

L.2.10.1.3 It is solely the offeror's responsibility to ensure that it begins the upload process in sufficient time to get PDF attachments uploaded into the DCRB's drop box at <https://dcbgov.app.box.com/f/5fb27b59d3b04b448ae61afeeac79feb> prior to closing.

L.2.10.2 Withdrawal or Modification of Proposals

L.2.10.2.1 An offeror may modify or withdraw its proposal at any time before the closing date and time for receipt of proposals.

L.2.10.3 Late Proposals

L.2.10.3.1 DCRB will not accept late proposals or modifications to proposals after the closing date and time for receipt of proposals.

L.2.10.4 Late Modifications

L.2.10.4.1 A late modification of a successful proposal, which makes its terms more favorable to DCRB, will be considered at any time it is received and may be accepted.

L.2.11 EXPLANATION TO PROSPECTIVE OFFERORS

L.2.11.1 If a prospective offeror has any questions relating to this solicitation, the prospective offeror shall submit the question electronically. The prospective offeror should submit questions no later than **4:30 p.m., April 15, 2022**. DCRB will furnish responses via the **DCRB Procurement email address dcrb.procurement@dc.gov**. An amendment to the solicitation will be issued if the CO decides that information is necessary in submitting offers, or if the lack of it would be prejudicial to any prospective offeror. Oral explanations or instructions given by DCRB's officials before the award of the contract will not be binding.

L.2.12 RESTRICTION ON DISCLOSURE AND USE OF DATA

L.2.12.1 Offerors who include in their proposal data that they do not want disclosed to the public or used by DCRB except for use in the procurement process shall mark the title page with the following legend:

L.2.12.2 *"This proposal includes data that shall not be disclosed outside DCRB and shall not be duplicated, used or disclosed in whole or in part for any purpose except for use in the procurement process.*

If, however, a contract is awarded to this offeror as a result of or in connection with the submission of this data, the DCRB will have the right to duplicate, use, or disclose the data to the extent consistent with the DCRB's needs in the procurement process. This restriction does not limit the DCRB's rights to use, without restriction, information contained in this proposal if it is obtained from another source. The data subject to this restriction are contained in sheets (insert page numbers or other identification of sheets)."

L.2.12.3 Mark each sheet of data it wishes to restrict with the following legend:

L.2.12.4 *Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal."*

L.2.13 PROPOSALS WITH OPTION YEARS

L.2.13.1 The offeror shall include option year prices in its price/cost proposal. An offer may be determined to be unacceptable if it fails to include pricing for the option period year(s).

L.3 PROPOSAL PROTESTS

L.3.1 Any actual or prospective 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 ten (10) business days after the basis of protest is known or should have been known, whichever is earlier. A protest based on alleged improprieties in a solicitation which are apparent at the time set for receipt of initial proposals shall be filed with the Board prior to 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 the 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, 441 4th Street, N.W., Suite 350N, Washington, D.C. 20001. The aggrieved person shall also mail a copy of the protest to the CO for the solicitation.

L.4 UNNECESSARILY ELABORATE PROPOSALS

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 visual and other presentation aids are neither necessary nor desired.

L.5 RETENTION OF PROPOSALS

All proposal documents will be the property of the DCRB and retained by DCRB, and therefore will not be returned to the offerors.

L.6 PROPOSAL COSTS

L.6.1 DCRB is not liable for any costs incurred by the offerors in submitting proposals in response to this solicitation.

L.7 CERTIFICATES OF INSURANCE

L.7.1 Prior to commencing work, the Contractor shall have its insurance broker or insurance company submit certificates of insurance giving evidence of the required coverages as specified in Section I.8 by email and mail to:

Attn: Rashelle Anderson
Supervisory Contract Specialist
District of Columbia Retirement Board
900 7th Street NW, 2nd Floor
Washington, DC 20001
rashelle.anderson2@dc.gov

L.8 ACKNOWLEDGMENT OF AMENDMENTS

L.8.1 The offeror shall acknowledge receipt of any amendment to this solicitation electronically via the DCRB drop-box at:
<https://dcgov.app.box.com/f/5fb27b59d3b04b448ae61afeeac79feb>.

DCRB must receive the acknowledgment by the date and time specified for receipt of proposals. An offeror's failure to acknowledge an amendment may result in rejection of its offer.

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L.9 BEST AND FINAL OFFERS

- L.9.1** 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 a designated date and time. Best and final offers will be subject to the Late Submissions, Late Modifications and Late Withdrawals of Proposals provisions of the solicitation. After evaluation of best and final offers, the CO may award the contract to the highest-ranked offeror or negotiate with the highest ranked offeror.

L.10 LEGAL STATUS OF OFFEROR

Each proposal must provide the following information:

- L.10.1** Name, address, telephone number and federal tax identification number of offeror;
- L.10.2** A copy of each District of Columbia license, registration or certification that the offeror is required by law to obtain. 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.10.3** If the offeror is a partnership or joint venture, the names and addresses of the general partners or individual members of the joint venture, and copies of any joint venture or teaming agreements.

L.11 FAMILIARIZATION WITH CONDITIONS

- L.11.1** Offerors shall thoroughly familiarize themselves with the terms and conditions of this solicitation, acquainting themselves with all available information regarding difficulties which may be encountered, and the conditions under which the work is to be accomplished. Contractors will not be relieved from assuming all responsibility for properly estimating the difficulties and the cost of performing the services required herein due to their failure to investigate the conditions or to become acquainted with all information, schedules and liability concerning the services to be performed.

L.12 GENERAL STANDARDS OF RESPONSIBILITY

- L.12.1** The prospective contractor must demonstrate to the satisfaction of DCRB its capability in all respects to perform fully the contract requirements; therefore, the prospective contractor must submit relevant documentation within five (5) days of the request by DCRB.
- L.12.2** To be determined responsible, a prospective contractor must demonstrate that it:

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- (a) Has adequate financial resources, or the ability to obtain such resources, required to perform the contract.
- (b) Is able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and government contract commitments.
- (c) Has a satisfactory performance record.
- (d) Has a satisfactory record of integrity and business ethics.
- (e) Has a satisfactory record of compliance with the applicable District licensing and tax laws and regulations.
- (f) Has, or has the ability to obtain, the necessary organization, experience, accounting, and operational control, and technical skills.
- (g) Has, or has the ability to obtain, the necessary production, construction, technical equipment, and facilities.
- (h) Has not exhibited a pattern of overcharging the District.
- (i) Does not have an outstanding debt with the District or the federal government in a delinquent status; and
- (j) Is otherwise qualified and is eligible to receive an award under applicable laws and regulations.

L.12.3 If the prospective contractor fails to supply the information requested, the CO shall make the determination of responsibility or non-responsibility based upon available information. If the available information is insufficient to decide of responsibility, the CO shall determine the prospective contractor to be non-responsible.

L.13 **RESERVED**

L.14 **RESERVED**

L.15 **RESERVED**

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SECTION M - EVALUATION FACTORS

M.1 EVALUATION FOR AWARD

The contract will be awarded to the responsible offeror whose offer is most advantageous to the Board, 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 DCRB in making an intelligent award decision based upon the evaluation criteria.

M.2 TECHNICAL RATING

M.2.1 The Technical Rating Scale is as follows:

<u>Numeric Rating</u>	<u>Adjective</u>	<u>Description</u>
0	Unacceptable	Fails to meet minimum requirements; e.g., no demonstrated capacity, major deficiencies which are not correctable; offeror did not address the factor.
1	Poor	Marginally meets minimum requirements; major deficiencies which may be correctable.
2	Minimally Acceptable	Marginally meets minimum requirements; minor deficiencies which may be correctable.
3	Acceptable	Meets requirements; no deficiencies.
4	Good	Meets requirements and exceeds some requirements; no deficiencies.
5	Excellent	Exceeds most, if not all requirements; no deficiencies.

M.2.2 The technical rating is a weighting mechanism that will be applied to the point value for each evaluation factor to determine the offeror’s score for each factor. The offeror’s total technical score will be determined by adding the offeror’s score in each evaluation factor. For example, if an evaluation factor has a point value range of zero (0) to forty (40) points, using the Technical Rating Scale above, if DCRB evaluates the offeror’s response as “Good,” then the score for that evaluation factor is 4/5 of 40 or 32.

If subfactors are applied, the offeror’s total technical score will be determined by adding the offeror’s score for each subfactor. For example, if an evaluation factor has a point value range of zero (0) to forty (40) points, with two subfactors of twenty (20) points each, using the Technical Rating Scale above, if DCRB evaluates the

offeror’s response as “Good” for the first subfactor and “Poor” for the second subfactor, then the total score for that evaluation factor is 4/5 of 20 or 16 for the first subfactor plus 1/5 of 20 or 4 for the second subfactor, for a total of 20 for the entire factor.

M.3 EVALUATION CRITERIA

Proposals will be evaluated based on the following evaluation factors and subfactors in the manner described below:

M.3.1 TECHNICAL CRITERIA (80 Points Maximum)

M.3.1.1 Factor 1 Firm Qualifications (0- 10 Points)

M.3.1.2 Factor 2 Business References (0-10 Points)

M.3.1.3 Factor 3 Team Qualifications and Experience (0-20 Points)

M.3.1.4 Factor 4 Specific Recalculation and Verification Approach (0-30 Points)

M.3.1.5 Factor 5 Sample Reports and Deliverables (0-10 Points)

M.4 PRICE CRITERION (20) Points Maximum)

The price evaluation will be objective. The offeror with the lowest price will receive the maximum price points. All other proposals will receive a proportionately lower total score. The following formula will be used to determine each offeror's evaluated price score:

$$\frac{\text{Lowest price proposal}}{\text{Price of proposal being evaluated}} \times 20 \text{ weight} = \text{Evaluated price score}$$

M.5 EVALUATION OF PROMPT PAYMENT DISCOUNT

M.5.1 Prompt payment discounts shall not be considered in the evaluation of offers. However, any discount offered will form a part of the award and will be taken by DCRB if payment is made within the discount period specified by the offeror.

M.5.2 In connection with any discount offered, time will be computed from the date of delivery of the supplies to carrier when delivery and acceptance are at point of origin, or from date of delivery at destination when delivery, installation and acceptance are at that, or from the date correct invoice or voucher is received in the office specified by DCRB, if the latter date is later than date of delivery.

Payment is deemed to be made for the purpose of earning the discount on the date of mailing of the DCRB check.

ATTACHMENT A

DCRB Key Personnel

Board of Trustees

Joseph M. Bress, Chairman
Lyle M. Blanchard
Joseph W. Clark
Mary A. Collins
Christopher Finelli
Geoffrey P. Grambo
Danny C. Gregg
Tracy S. Harris
Greggory Pemberton
Carmen Pigler
Nathan A. Saunders
Adam Weers

Executive Staff

Gianpiero “JP” Balestrieri, Executive Director
Ram Murphy, Director of Information Technology
Munetsi Musara, Chief Financial Officer
Patrick Sahn, Chief Investment Officer

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ATTACHMENT B

Public and private investment accounts by fiscal year FY 2020 - 2022

EXCEL FILE INCLUDED AS AN ATTACHMENT WITH THE SOLICITATION

ATTACHMENT J 1

DCRB's Standard and Special Provisions for use with Supplies and Services Contracts

1. Disclosure of Litigation

Contractor shall provide complete disclosure of any material civil or criminal litigation or indictment either threatened or pending involving Contractor. Contractor shall also disclose any material litigation threatened or pending for Subcontractors, Contractors, and/or lobbyists. For purposes of this section, "material" refers to any action or pending action that a reasonable person knowledgeable in the industry would consider relevant or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the industry and its operations. This is a continuing disclosure requirement; any litigation commencing after submission of a Proposal or execution of a Contract shall be disclosed in a written statement within fifteen (15) days of its occurrence. Contractor shall be required to file with DCRB comprehensive monthly reports regarding all threatened or pending litigation involving Contractor's operations and all threatened or pending litigation that may be considered material to the overall operations of Contractor.

2. Continuity of Services

Contractor recognizes that the services provided under this Contract are vital to DCRB and must be continued without interruption and that, upon Contract expiration or termination, a successor, another Contractor, at DCRB's option, may continue to provide these services. If another Contractor is awarded a future Contract for performance of the required services, the original Contractor shall cooperate fully with DCRB and the new Contractor in any transition activities that the Contracting Officer, in conjunction with the CA, deems necessary during the term of the Contract. To that end, Contractor agrees to exercise its best efforts and cooperation to affect an orderly and efficient transition to a successor.

3. Background Investigations and Other Integrity Requirements

3.1 DCRB may initiate investigations into the backgrounds of any of Contractor's officers, principals, investors, owners, employees, vendors, Subcontractors, or Subcontractors' officers, principals, owners, employees or vendors, or any other associates of Contractor(s) it deems appropriate. Such background investigations may include the completion of certain documents, and fingerprint identification by appropriate law enforcement agencies. Contractor agrees that, during the term of the Contract and any renewal thereof, it shall be obligated to provide such information about its officers, directors, employees and owners, as well as all information about its Subcontractors' officers, directors, employees and owners, as DCRB may prescribe. Contractor also agrees that DCRB may conduct background investigations of such persons.

- 3.2 DCRB may also require that Contractors: (1) fully cooperate with official inquiries by responding to questions truthfully and under oath when required, whether orally or in writing; and (2) provide documents and other information of official interest as requested by DCRB.

4. **Laws & Regulations Incorporated by Reference**

The procurement rules promulgated under 7 DCMR 1600 *et seq.* shall govern this Contract. The services solicited are exempt from: (i) District of Columbia Procurement Practices Reform Act of 2010, (D.C. Law 18-371; D.C. Official Code §§ 2-351.01, *et seq.* ("PPRA")); (ii) D.C. Council Contract review provisions of Section 451 of the Home Rule Act ("D.C. Official Code § 1-204.51); and (iii) Small and Certified Business Enterprise Development and Assistance Amendment Act of 2014 (the "CBE Act").

5. **Publicity**

- 5.1 The award of this Contract to Contractor is not in any way an endorsement of Contractor or Contractor's products or services by DCRB and shall not be so construed by Contractor in any advertising or other publicity materials.

- 5.2 Contractor agrees to submit to DCRB, all advertising, sales promotion, and other publicity materials relating to this Contract or any product or service furnished by Contractor wherein DCRB's name is mentioned, language is used, or Internet links are provided from which the connection of DCRB's name therewith may, in DCRB's judgment, be inferred or implied. Contractor further agrees not to publish or use such advertising, sales promotion materials, publicity or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of DCRB prior to such use.

6. **Confidentiality**

"Confidential Information" is any and all information which is proprietary, confidential, secret or otherwise, not generally known to the public, including personal and identifying information concerning participants in the Retirement Funds. Confidential Information shall not include information which, as established by credible evidence: (a) is or becomes public knowledge without any action by, or involvement of, the party receiving the Confidential Information hereunder; (b) is independently developed by the receiving party without the use of the other party's Confidential Information; (c) is already known to the receiving party at the time of disclosure under this Contract without restriction of confidentiality; (d) is disclosed to the receiving party by a third party who is entitled to disclose it without restriction of confidentiality; or (e) the disclosing party subsequently approves for disclosure without restrictions.

Each party, on behalf of itself and its employees and agents, agrees that it and its employees and agents: (a) shall not use any Confidential Information of the other party for any purpose other than to perform its obligations under this Contract; and (b) shall keep and maintain all Confidential Information as strictly

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confidential and shall not directly or indirectly transfer or otherwise disclose any such Confidential Information to any third party other than those of its employees with a need to have access thereto. Each party shall cause those of its employees and agents receiving Confidential Information of the other party to observe the terms of this Paragraph. Each party shall be responsible for any breach of this Paragraph by any of its employees or agents.

A party shall not be liable for the disclosure of any Confidential Information if the disclosure is: (a) required by law, regulation or legal process and uses reasonable efforts to obtain assurances that, if possible, confidential treatment will be accorded such Confidential Information or (b) inadvertent despite the exercise of the same degree of care as that party takes to preserve and safeguard its own Confidential Information, provided that upon discovery thereof that party takes all reasonable steps to retrieve the inadvertently disclosed Confidential Information and that such inadvertent disclosure will not relieve that party from its continued adherence to the terms and conditions of this Paragraph.

7. Non-Disclosure Agreement

7.1 The Parties shall maintain as confidential, and shall not disclose to third parties without prior written consent, any of the Parties' proprietary information including, but not limited to, the Parties' business activities, practices, systems, conditions, products, services, plans, methodologies and other related materials other than the Parties' information that is: (a) known to the Parties prior to disclosure to one another; (b) as of the time of its disclosure, or thereafter becomes, part of the public domain through source other than the Parties in violation hereof; (c) made known to the Parties by a third person who is not subject to any confidentiality obligation known to the parties and such third-party does not impose any confidentiality obligation on the Parties with respect to such information; or (d) independently developed by the Parties without use of any confidential information disclosed by the Parties hereunder.

7.2 Contractor shall at all times obtain the prior written approval of the Contracting Officer before it or any of its officers, agents, employees or subcontractors, either during or after expiration or termination of the Contract, make any statement or issue any material for publication through any medium of communication, bearing on the work performed or the data collected under this Contract. DCRB shall obtain prior written approval of Contractor before it or any of its officers, agents, or employees, 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 Contractor's plans, methodologies, systems, processes or related materials, utilized during the performance of work under this Contract.

7.3 Except as required by applicable legal or regulatory authority with competent jurisdiction, no information regarding the Parties' performance under the Contract shall be disclosed by the Parties unless written approval is obtained in advance from DCRB's General Contractor.

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7.4 DCRB shall ensure that its personnel do not disclose to any non-DCRB person or organization information concerning Contractor's plans, methodologies, systems, processes or related materials, utilized to provide services under the Contract.

7.5 Trade secrets or similar proprietary data which Contractor does not wish disclosed to personnel other than those involved in contract administration or execution will be kept confidential to the extent permitted. The Contract shall identify and mark all proprietary materials.

8. **Indemnification**

8.1 Contractor hereby agrees to hold harmless DCRB, its members, officers, employees, agents and representatives and the District of Columbia Government, and to indemnify, defend and exonerate same against and in respect of any and all claims, demands, damages, actions, costs, charges, losses, liabilities, and deficiencies, including legal fees and expenses, resulting from, arising out of, or in any way related to: (a) any untrue warranty or representation or material omission of Contractor in this Contract; and/or (b) any liens, claims, encumbrances, or infringement of any patent, trademark, copyrights, or other proprietary or intellectual property right; and/or (c) Contractor's willful misfeasance, bad faith, negligence or reckless disregard of its obligations in providing services under the terms of the Contract.

8.2 Contractor assumes all risks for direct or indirect damage or injury to the property or persons used or employed in the performance of the Contract. Contractor shall also repair or replace any DCRB property that is damaged by Contractor, Contractor's officers, employees, agents, subcontractors, or any other person acting for or by permission of Contractor while performing the work hereunder.

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

9. **Sole Property**

All deliverables, reports, and documents produced in the performance of this Contract shall be the sole property of DCRB. Contractor shall make no distribution of deliverables, reports, or documents specifically produced for DCRB under this Contract to others without the express written consent of DCRB. Contractor agrees not to assert any rights at common law or in equity or establish any claim to statutory copyright in such deliverables, reports, or documents.

10. Contractual Requirements

Contractors are each responsible for complying with all statutory provisions applicable to doing business in the District of Columbia and with DCRB; however, such compliance does not limit DCRB to any rights or remedies available to DCRB under other general, state or local laws.

11. Complete Contract

This Contract including all amendments and modifications, Contractor's technical and price proposals (including proposal revisions), represents the entire and integrated Contract between DCRB and Contractor and supersedes all prior negotiations, proposals, communications, understandings, representations, or Contracts, either written or oral, express or implied. All amendments or modifications of this Contract shall be in writing and executed by DCRB and Contractor.

12. Prohibition Against Contingent Fees

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for it, any fee, commission, percentage, gift, or any other compensation contingent upon or resulting from the award or making of this Contract; except where: (a) Contractor has disclosed, in writing to DCRB, that it has engaged such a company or person other than a bona fide employee to secure this engagement; and (b) the cost of such engagement is not charged to DCRB under the terms of compensation under this or any other current or subsequent Contract. For breach or violation of this warranty, DCRB shall, at its discretion, void this contract without liability, entitling DCRB to recover all monies paid hereunder and Contractor shall not make a claim for, or be entitled to recover, any sum or sums due under this Contract. This remedy, if affected, shall not constitute the sole remedy of DCRB for the falsity or breach, nor shall it constitute a waiver of DCRB's right(s) to claim damages or refuse payment or take any other action provided for by law pursuant to this Contract.

13. Assignment

13.1 Neither Party will, directly or indirectly, assign or transfer any claim arising out of this Contract without the prior written consent of the other Party whose consent shall not be unreasonably withheld or delayed. Contractor may assign to a bank, trust company, or other financing institution funds due or to become due as a result of the performance of this Contract.

13.2 Any assignment shall cover all unpaid amounts payable under this Contract, and shall not be made to more than one party.

13.3 Notwithstanding an assignment of contract payments, Contractor, not the assignee, is required to prepare invoices. Where such an assignment has been made, the original copy of the invoice must refer to the assignment and must show that payment of the invoice is to be made directly to the assignee as follows:

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“Pursuant to the instrument of assignment dated _____, make payment of this invoice to (name and address of assignee).”

14. Severability

14.1 If any court of competent jurisdiction finds that any provision of these terms and conditions or Contract is invalid, illegal or unenforceable, that provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of these terms and conditions shall not be affected.

14.2 If any invalid, illegal or unenforceable provision of these terms and conditions or Contract would be valid, legal and enforceable if some part of it were modified or amended, the Parties shall negotiate in good faith to amend such provision such that, as amended, it is valid, legal and enforceable, and, to the greatest extent possible, achieves the Parties’ original intention.

15. Notices

Any notice or consent required to be given in accordance with this Contract shall be in writing and shall be either: (i) delivered by hand to the other Party; (ii) mailed, with first class postage prepaid, to the address of the other Party, by certified mail, return receipt requested; or (iii) sent electronically with a receipt detailing the transmitted message. Notices and requests for consent shall be addressed to the Contracting Officer and the Contracting Officer Representative as outlined in Section F.

16. Examination and Maintenance of Books and Records

Contractor shall maintain all books and records related to this Contract for a period of at least six (6) years from the date of final payment under this Contract and shall be made available for inspection upon reasonable request by DCRB or its representatives.

17. Termination for Cause or Convenience

17.1 The Contract may be terminated by DCRB in whole or in part for cause at any time.

17.2 If DCRB proposes terminating the Contract for cause, DCRB shall first give ten (10) calendar days prior written notice to Contractor stating the reason for termination and providing Contractor an opportunity to cure the issues leading to termination. Contractor must submit a corrective action plan which outlines the methodology and timeline of each corrective action. The corrective action plan shall be provided to the CA or the CA’s designee within ten (10) calendar days of receipt of the notice to cure. Failure to submit a corrective action plan acceptable to DCRB in response to the notice to cure shall result in DCRB terminating the contract for cause.

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17.3 Contractor shall not be entitled to receive payment for labor or expenses incurred prior to termination unless accepted by DCRB.

17.4 The Contract may be terminated in whole or in part by DCRB for convenience at any time by giving Contractor written notice. In such event Contractor shall: (a) immediately cease performing the terminated work unless directed otherwise; (b) be reimbursed for agreed upon fees and expenses incurred in performing or preparing to perform agreed upon work under the Contract; and (c) not be compensated for anticipated future profit for performance of work terminated by DCRB.

18. Successor Contract

In the event DCRB awards a successor Contract to another entity covering the same matters as those assigned to Contractor under this Contract, then Contractor shall cooperate with DCRB to affect an orderly transition to the successor entity.

19. Taxes

19.1 DCRB, an independent agency of the Government of the District of Columbia, is exempt from and will not pay Federal Excise Tax, Transportation Tax, and the District of Columbia Sales and Use Taxes.

19.2 Tax exemption certificates are no longer issued by the District for Federal Excise Tax.

19.3 The following statement or statements may be used by the supplier when claiming tax deductions for Federal Excise Tax exempt items sold to DCRB: “The District of Columbia Government is Exempt from Federal Excise Tax – Registration No. 52-73-0206-K, Internal Revenue Service, Baltimore, Maryland. The District of Columbia Government is Exempt from Maryland Sales Tax, Registered with The Comptroller of The Treasury – Exemption No. 09339. The District of Columbia Government is Exempt from Sales and Use Tax – Registration No. 53-600, The District of Columbia Office of Tax and Revenue.”

20. Dispute Resolution

Any protest and disputes between the Board and Consultant shall be resolved in accordance with the Board’s dispute provisions at 7 DCMR 1615, which are incorporated herein by reference.

21. Governing Laws

This Contract shall be governed by and construed in accordance with the laws of the United States and the District of Columbia.

22. Freedom of Information Act

Contractor understands and acknowledges that DCRB is subject to the District of Columbia Freedom of Information Act (“Act”) and consents to the disclosure of

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its proposal, this Contract, and any information, recommendations, or advice received by DCRB from Contractor under this Contract, or such information, recommendations, or advice if subject to disclosure under the Act. DCRB shall use reasonable efforts to give notice of any demand for disclosure to Contractor as soon as reasonably practicable after demand for disclosure is made upon DCRB.

23. Force Majeure

Neither Party shall be liable to the other for any loss, injury, delay, damages or other casualties suffered due to strikes, riots, fires, acts or omissions or the failure to cooperate by any third party, force majeure, acts of government, or any cause whether similar or dissimilar to the foregoing, beyond the reasonable control of such Party.

24. Modification of Contract

Any modification of this Contract or additional obligation assumed by either Party in connection with this Contract shall be binding only if in writing and signed by Contractor and Contracting Officer. Administrative aspects of the Contract can be modified unilaterally by DCRB and shall be enforceable upon submission to Contractor.

25. Waiver

The waiver of any breach of any provision of this contract shall not constitute a waiver of any subsequent breach thereof, or a waiver of the contract.

26. Appropriation of Funds

26.1 DCRB is subject to the annual appropriations process of the District of Columbia government that culminates in an appropriation act passed by the U.S. Congress and signed by the President of the United States. Funds for the base period and any additional option period(s) or extensions are subject to the availability of funds. DCRB's liability under this contract is contingent upon and subject to the availability of appropriated funds. The legal liability on the part of DCRB for the payment of any money shall not arise unless and until such appropriations shall have been provided.

26.2 If funds are not available for the continued performance in a subsequent year of a multiyear Contract, the Contract for the subsequent year shall be terminated, either automatically or in accordance with the termination clause of this Contract. Unless otherwise provided for in this Contract, the effect of termination is to discharge both DCRB and Contractor from future performance of the Contract, but not from their existing obligations. Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred, but not amortized in the price of the supplies or services delivered under the Contract.

27. Officials Not to Benefit

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

27.2 Contractor represents and covenants that is 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 herein. Contractor further covenants not to employ any person having such known interests in the performance of this Contract.

28 **Agreement of the Parties.**

Contractor agrees to furnish and deliver all items and perform all the services set forth or otherwise identified in this Contract. The rights and obligations of the Parties to this Contract shall be subject to and governed by: (a) this Contract; (b) the solicitation, if any; and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein.