

***Request for Quotations (“RFQ”) for Chapter 13 Trustee Audit Services  
for Fiscal Year 2012  
in the Western District of North Carolina***

RFQ Number: *FY 2012 – WDNC*

Deadline for Questions: 12:00PM Local Time, Wednesday, September 19, 2012

Submission Method: Questions shall be submitted electronically, via e-mail, to the Level 3 Contracting Officer, identified as David Shepherd, at the following e-mail address: David\_Shepherd@ncwba.uscourts.gov. Questions will not be accepted via alternative delivery methods, such as phone calls or faxes. Offerors should take this opportunity to address questions so that the Offeror’s quotation does not include any assumptions. The Government anticipates providing answers to Offeror questions by Monday, September 24. The Government will make its best efforts to respond to any questions submitted after the deadline; however responses to late questions will be made at the discretion of the Government.

Deadline for Quotations: 12:00PM Local Time, Monday, October 1, 2012

Submission Method: Quotations shall be submitted electronically, via e-mail, to the Level 3 Contracting Officer, identified as David Shepherd, at the following e-mail address: David\_Shepherd@ncwba.uscourts.gov. Quotation information submitted shall be presented in software applications which are readable by this office; generally Microsoft Office, such as Word and Excel, and Portable Document Format (“PDF”) files are acceptable.

If your firm is unable to submit its quotation electronically, you shall notify the Level 3 Contracting Officer identified in this solicitation in order to coordinate an alternative delivery method. However, coordination of an alternative delivery method will not relieve offerors of their responsibility to submit timely quotations. Offerors are entirely responsible for ensuring quotations are received by the Government by the deadline and no exceptions will be made.

**TO: ALL OFFERORS**

The Government is issuing this RFQ for audit services to be performed on the Chapter 13 Trustee, identified as David G. Gray, who is located in the Western District of North Carolina. The awarded Purchase Order will require that audit services be performed on the Chapter 13 Trustee identified in this solicitation.

The period of performance for these services will be limited to a period of three (3) months, starting on October 29, 2012 and ending on January 31, 2013.

The *Office of the Bankruptcy Administrator, Western District of North Carolina* is seeking quotations in order to competitively award a single Purchase Order, based on Open Market Pricing, for Chapter 13 Trustee Audit Services. The awarded Purchase Order will establish contractual obligations between the Government and the Awardee Auditor. The Awardee Auditor shall perform Chapter 13 Trustee Audit services work on behalf of the district's Bankruptcy Administrator, however services will be invoiced to, and paid by, the Trustee specified in this solicitation. The awarded Purchase Order will not obligate any government funding so the "award amount", which reflects the government obligation of funding, will reflect zero dollars. However, the Purchase Order will specify the firm-fixed-price dollar value to perform the audit services work, as proposed by the Awardee Auditor and accepted by the Government.

The Awardee Auditor shall provide all necessary personnel (including any subcontractors) and services to perform the audit related tasks as described in the attached Statement of Work.

It is anticipated that work shall be performed at the Chapter 13 Trustee office. For any work that does not require performance at the Chapter 13 Trustee office, work shall be performed at the Auditor's office.

#### Chapter 13 Trustee Audit Information

Name of Trustee: David G. Gray

Trustee Office Address: 81 Central Avenue, Asheville, NC 28801

Trustee Debtor Receipts (FY 2012): \$10,300,000 (estimated)

Trustee Number of Employees (FY 2012): 6

The Western District of North Carolina falls under the Judiciary Bankruptcy Administrator Program, not the Department of Justice United States Trustee Program.

For more information on the Bankruptcy Administrator Program, please refer to the link below:

<http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyAdministrators.aspx#nc>

The attached Statement of Work details the requirements to accomplish Chapter 13 Trustee audit services. The Statement of Work is the description of all audit services work to be performed under the resulting Purchase Order.

**The single firm-fixed-price Purchase Order award resulting from this RFQ will be made based on the lowest priced, technically acceptable offer. A quotation will be determined as technically acceptable based on compliance with the Quotation Submission Instructions as specified below.**

**The Government will not consider any terms or conditions proposed by, or assumptions made by, the Offeror. Any proposed terms or conditions or assumptions made will render the Offeror's quotation as technically unacceptable and ineligible for award.**

**The Offeror shall not submit any marketing or promotional materials with its Quotation; the Government will not consider or evaluate any such materials.**

#### Quotation Submission Instructions

- 1) Submit proposed pricing on the attached Pricing Sheet. (The Pricing Sheet is a template document, so the Offeror can tailor it, as needed.) The Pricing Sheet shall identify a total

proposed price to complete the single Chapter 13 Trustee Audit only, as identified in this solicitation. The total proposed price for the single Chapter 13 Trustee Audit shall be based on all known and foreseeable costs to accomplish the work as described in the Statement of Work, including all travel-related costs.

Beyond this minimum requirement to identify a total proposed price for the single Chapter 13 Trustee Audit, it is acceptable for the Offeror to provide additional detail on the Pricing Sheet, such as breaking out its total proposed price into subtotals, so it is clear how the Offeror calculates the total proposed price. The Government is not seeking the Offeror's actual costs or profit information; only "bottom line" pricing information. (Example: Total Proposed Price = \$X / Subtotal Price for Labor = \$X / Subtotal Price for Travel = \$X)

A Pricing Sheet that fails to identify a total proposed price for the single Chapter 13 Trustee Audit identified in the solicitation will render the Offeror's quotation as technically unacceptable and ineligible for award. A Pricing Sheet that proposes pricing on additional Chapter 13 Trustee Audits, beyond the single Audit identified in this solicitation, will render the Offeror's quotation as technically unacceptable and ineligible for award. The Government will not consider an offer that takes exception to the solicitation's requirements.

- 2) Submit a signed Certification, stipulating to all specified requirements. Any implied or explicit exceptions taken to the requirements will render the Offeror's quotation as technically unacceptable and ineligible for award. Further, the Government will not consider any terms or conditions proposed by, or assumptions made by, the Offeror. Any proposed terms or conditions or assumptions made will render the Offeror's quotation as technically unacceptable and ineligible for award.
- 3) Identify all proposed Key Personnel necessary to perform the audit services work, and submit resumes for all proposed Key Personnel. Key Personnel may include any subcontractors who will perform the work. A failure to submit resumes for all proposed Key Personnel will render the Offeror's quotation as technically unacceptable and ineligible for award. If any Key Personnel resume fails to reflect the requirements specified here in Item 3, this will render the Offeror's quotation as technically unacceptable and ineligible for award.

Key Personnel are considered those "core" individuals necessary to lead and coordinate the work effort, who possess specialized experience and knowledge, and who will be dedicated by the Offeror's firm to accomplish the Statement of Work requirements during the period of performance.

All Key Personnel resumes shall demonstrate that the proposed individuals –

- possess bankruptcy trustee audit experience similar to the tasks described in the Statement of Work (audit experience is not exclusive to or limited to Chapter 13 Trustee Audit work);
- possess knowledge of the Bankruptcy Administrator system; and
- possess active credentials as Certified Public Accountants.

At least one Key Personnel resume shall demonstrate that the proposed individual has led and coordinated similar work efforts in terms of logistics (e.g., managing a project's workload and personnel).

A resume is not required to address each and every Statement of Work requirement, like an itemized “checklist”. Rather resumes shall reflect the overall ability of proposed Key Personnel to successfully perform Chapter 13 Trustee Audit Services.

The Government does not require, and will not consider or evaluate, resumes for any non-Key Personnel which the Offeror anticipates dedicating to accomplish the Statement of Work requirements during the period of performance.

- 4) Submit completed information as required by the solicitation’s “Purchase Order Terms and Conditions” document, under Provision 3-5 (“Taxpayer Identification and Other Offeror Information”). As applicable to your firm, complete items 3(d), 3(e) and 3(f) of Provision 3-5 and submit these two completed pages with your quotation.

Sincerely,

David Shepherd  
Contracting Officer

Attachments –  
Statement of Work  
Pricing Sheet  
Certification  
Purchase Order Terms and Conditions

## STATEMENT OF WORK

### FISCAL YEAR 2012 CHAPTER 13 TRUSTEE AUDIT SERVICES IN THE WESTERN DISTRICT OF NORTH CAROLINA

**1. TITLE: Financial and Performance Audit of a Chapter 13 Trustee**

**2. BACKGROUND:**

Section 302(d)(3)(I) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, Pub. L. No. 99-554, 100 Stat. 3119, 3123, authorizes the Judicial Conference of the United States to establish the bankruptcy administrator program. In 1987, the Judicial Conference approved the *Regulations of the Judicial Conference of the United States Governing the Bankruptcy Administrator Program* ("JCUS Regulations"). Under those regulations, the Director of the Administrative Office of the United States Courts, with the Committee on the Administration of Bankruptcy System's oversight, prescribed the *Guidelines of the Director of the Administrative Office of the United States Courts Relating to the Administration of the Bankruptcy Administrator Program* ("Director's Guidelines").

Under the JCUS Regulations, one Bankruptcy Administrator (BA) is appointed for each judicial district in Alabama and North Carolina who, under Judicial Conference oversight, must (1) establish, maintain, and supervise a panel of private trustees to serve as trustees in cases under title 11 of the United States Code; and (2) supervise the administration of cases and trustees in cases under title 11. *See* Vol. 9, Ch. 2, Section 220.10 of the Guide to Judiciary Policy.

The Chief Bankruptcy Judge in a BA district appoints one or more standing Chapter 13 trustees. The BA responsibilities regarding Chapter 13 oversight include: (1) recommending candidates to serve as trustees in a case or cases under chapter 13; and (2) supervising Chapter 13 trustees, including requiring reasonable and appropriate reports from them as the BA determines. *See* Vol. 9, Ch. 2, Section 240.10(g) of the Guide to Judiciary Policy.

Debtors may file a Chapter 13 case where they enter into an adjustment of debts under the Bankruptcy Code. A petition under Chapter 13 is voluntary. A petitioner must be an individual with "regular income" (construed by the courts as salary, social security, disability, retirement benefits or unemployment). The definition of "individual" includes self-employed persons, but not corporations or partnerships. A great number of Chapter 13 debtors are individual wage earners. Chapter 13 debtors are subject to debt limitations referred to by 11 U.S.C. § 109(e) of the Bankruptcy Code.

Under a Chapter 13 plan, the debtors remit regular payments to the standing trustee as required by court approved plans. The plan may provide for substantially less than 100 percent of creditors' claims if aggregate payments are reasonably assured and exceed the estimated amount obtainable by a Chapter 7 liquidation of the debtor's assets.

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Standing Chapter 13 trustees are private individuals, not government employees, and are fiduciaries. Standing trustees' compensation and operating expenses are paid from chapter 13 funds received from debtors. Specifically, a percentage fee to be applied to trust fund receipts is requested by the standing trustee based upon an annual budget approved by the Court. The percentage fee is limited to a maximum of 10 percent of all payments received under plans, and may be adjusted throughout the year to avoid excess accumulations or shortages.

The Director of the Administrative Office of the United States Courts has delegated to the Chief of the Office of Audit, authority to administer a system of audits of the financial, administrative and procedural activities of the trustees in the Bankruptcy Administrator districts. The Chief, Office of Audit, or designee, will be responsible for ensuring that the Auditor performs the audit work in accordance with the terms of the contract.

### **3. AUDIT SERVICES REQUIREMENTS:**

#### **I. INDEPENDENT AUDITOR'S REPORT ON THE ACCOUNTS AND PROCEDURES OF THE CHAPTER 13 STANDING TRUSTEE REGARDING THE ANNUAL REPORT**

The Auditor shall perform audit services on the following Chapter 13 Trustee, identified as David G. Gray, located at 81 Central Avenue, Asheville NC 28801.

The Auditor shall conduct the audit in accordance with generally accepted government auditing standards ("GAGAS") and generally accepted accounting practices ("GAAP"). All audit requirements shall be performed from October 29, 2012 through January 31, 2013. The standing trustee has a fiduciary responsibility to the bankruptcy estate. The standing trustee receives payments from debtors to be distributed to creditors. As such, any irregularities could result in reduced funds to creditors. Consequently, all exceptions (e.g., discrepancies, irregularities, errors) shall be reported regardless of materiality.

The Auditor shall use professional judgment when selecting cases and transactions to be tested. None of the cases or transactions will be selected by the standing trustee. The Auditor shall use whatever methods available to understand the population of transactions and cases as a whole.<sup>1</sup> The Auditor shall not inform the standing trustee of what cases or transactions will be tested prior to the beginning of the field work.

The Auditor shall perform, but not be limited to, the following areas regarding the Annual Reports:

A. Examine and review evidence supporting the amounts and disclosures of the Annual Report;

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<sup>1</sup> When using a population list (e.g., a year-end trust fund ledger), the Auditor shall consider whether the list includes all cases or transactions during the period tested.

## **STATEMENT OF WORK**

B. Determine that the accounting principles used by the standing trustee, the overall Budget and Annual Report presentations, and the standing trustee's overall operation conform to JCUS Regulations, the Directors Guidelines, the BA Manuals or the Chapter 13 Financial Policies and Procedures Manual and other applicable generally accepted accounting principles; the BA will provide copies of BA Manuals upon written request by the Auditor;

C. Evaluate and document the standing trustee's system of internal controls to determine whether it provides reasonable assurance that assets are safeguarded against loss from unauthorized use or disposition;

D. Send confirmation letters to a sample of creditors requesting confirming information of the creditor's claim amount, mailing and/or payment address, date the proof of claim was filed, and copies of documents supporting the claim.

E. Obtain a signed Management Representation letter from the standing trustee;

F. Request and review disclosures of any lawsuits, contingent liabilities, liens and lease arrangements of the standing trustee or any related person or entities;

G. Review significant events and transactions subsequent to the period under audit;

H. Conduct other tests of the accounting records and internal control structure as deemed necessary under the circumstances in accordance with the JCUS Regulations, the Directors Guidelines, the BA Manuals or the Chapter 13 Financial Policies and Procedures Manual; and

I. Request and review any management letter and the plan by the BA for correction of any documentation regarding the last two previous fiscal years of audit findings and recommendations.

## **II. REPORT ON PRESCRIBED PROCEDURES**

This segment of the work requires the Auditor to test compliance with the JCUS Regulations, the Directors Guidelines, the BA Manuals or the Chapter 13 Financial Policies and Procedures Manual. Due to the fiduciary nature of the standing trustee's duties, the Auditor must report to the Administrative Office of the United States Courts ("AO") on the prescribed procedures set forth in Section II.D regardless of amount.

### **A. GENERAL APPROACH**

1. Contact the BA to arrange a mutually convenient date for field work.

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2. Confer with the BA prior to commencement of field work regarding any concerns or unusual items noted by the BA related to the standing trustee's operations.

3. Request any appropriate documentation from the BA, such as any local rules or standing orders that affect the Chapter 13 practice in the Western District of North Carolina, the standing trustee's annual report reviews and management letters, approved budgets, bonding or collateralization reports for the fiscal year being audited.

4. Perform prescribed procedures as required by the JCUS Regulations, the Directors Guidelines, the BA Manuals, the Chapter 13 Financial Policies and Procedures Manual and any applicable local rules or standing orders.

5. Conduct an exit conference in person with the BA, the standing trustee, a staff member from the Bankruptcy Judges Division or Office of Audit and a bankruptcy judge from the district, if requested by the judge. Video or teleconferencing shall be made available and used only by the Bankruptcy Judges Division or the Office of Audit staff. In person exit conferences are required for the Auditor, the BA and the standing trustee.

6. Describe and report whether the standing trustee, any entities related to the standing trustee, employees of the standing trustee, or any other parties used fiduciary trust or expense funds for any personal purposes or any unauthorized purposes.

7. Report all of the standing trustee's failures to comply with the JCUS Regulations, the Directors Guidelines, the BA Manuals, the Chapter 13 Financial Policies and Procedures Manual, applicable local rules or standing orders, or any federal, state or local law or regulation.

8. Prepare a Report on Prescribed Procedures and findings.

### **B. FORMAT FOR REPORTING ON PRESCRIBED PROCEDURES**

The Report on Prescribed Procedures shall contain each of the following for each procedure being reported on:

1. Restate the element of the prescribed procedure being performed;
2. Describe the work performed by the Auditor to identify the source of understanding and/or tasks performed to comply with the specific prescribed procedure;
3. Report the findings; and
4. Present recommendations to rectify any procedural deficiencies or substandard performance of prescribed procedures.

## STATEMENT OF WORK

### C. DEFINITIONS

In performing the work required in the Statement of Work for the prescribed procedures engagement, the following definitions shall apply:

1. Review - When the Statement of Work requires an Auditor to “review” a prescribed procedure, the Auditor shall perform the following steps:
  - a. Inquire of the standing trustee and trustee office staff about the procedure to obtain an understanding of the designed operation as well as the actual operation;
  - b. Read any formal or written policy relating to the procedure to ensure the procedure is functioning as designed;
  - c. Examine the process for any control weakness;
  - d. Verify that the procedure is in place and working as represented by the standing trustee or the standing trustee’s employees; and
  - e. Document all of the above previous steps in the work papers.
2. Report - The term “report” requires the Auditor to describe in written detail the specific procedures used and processes followed to complete each requirement of the Statement of Work.
3. Standing trustee – The term standing trustee is defined as David G. Gray.
4. Audit term or audit period – are interchangeably defined as October 29, 2012 through January 31, 2013.
5. Prescribed Procedures – is defined as the JCUS Regulations, the Directors Guidelines, the BA Manuals and the Chapter 13 Financial Policies and Procedures Manual.

### D. PRESCRIBED PROCEDURES TO BE REPORTED ON

1. Auditor’s Study and Evaluation of Standing Trustee’s Internal Controls.

The Auditor shall perform a study and evaluation of the standing trustee’s internal controls to identify and report weaknesses so that changes to prevent or detect fraud or the misapplication of trust funds may be implemented. In doing so:

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a. The Auditor shall review the segregation of duties employed by the standing trustee to determine whether incompatible duties are assigned to employees that would allow fraud to go undetected or prevent the timely correction of errors. The Auditor shall prepare some form of matrix to evaluate and document the study of job functions. The Auditor shall report and describe whether duties are adequately segregated and identify any mitigating factors. A copy of the completed matrix shall be attached to the Report on Prescribed Procedures.

b. The Auditor shall interview at least three (3) of the standing trustee's employees, of differing levels of computer access and job functions, to verify the accuracy of the matrix. In addition, the Auditor shall obtain copies of the user profiles for those employees and compare their computer access rights with the duties set forth in the matrix. The Auditor shall report any inconsistencies.

c. The Auditor shall report whether the standing trustee has an accounting procedures manual. The Auditor shall also compare the duties of at least two employees who deal with the accounting manual to verify the accuracy of the accounting procedures in the office.

d. The Auditor shall review the nature, timing, and extent of the standing trustee's procedures to monitor the accuracy and completeness of case information entered into the standing trustee's computer system to include electronic case files, proofs of claim, pleadings, notices, and any other documents filed with the court and received electronically. The standing trustee may use processes referred to as Bar Date reviews, confirmation work-up, six-month reviews, 24-month reviews, or case audits.

A total of ten (10) cases at various stages of the review process shall be considered by the Auditor. The Auditor shall ensure that each type of review completed by the standing trustee's office is included in the cases reviewed by the Auditor, and shall report whether the reviews are documented.

To the extent that the standing trustee's staff uses checklists to perform the reviews listed above, the Auditor shall collect copies of the checklists and include them in the audit work papers. The Auditor shall review and document the checklists for deficiencies or areas of risk that would allow errors to go undetected.

e. The Auditor shall review and report whether the standing trustee has a documented process for closing cases. Closed cases are cases that have converted to chapters 7 or 11 of the Bankruptcy Code, have been dismissed, or have completed plan payments. The Auditor's evaluation of the case closing process shall include a review of incompatible duties performed by the standing trustee's employee(s) performing the case closing tasks.

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The Auditor shall examine ten (10) closed cases and determine that all cases have a final account and that all checks issued in the case have cleared the bank. The Auditor shall report if the final account was filed within 30 days for a converted case and as required for all other cases. The Auditor shall ensure the selected cases include at least two (2) cases that converted post-confirmation, two (2) cases that dismissed post-confirmation, and two (2) completed cases.

The Auditor shall report any instance in which checks to creditors have been returned or not negotiated, or are subsequently voided and the case balances transferred to the standing trustee's suspense account. The Auditor shall include the number of cases and the amounts of undistributed funds that have been paid into the court as unclaimed funds.

f. The Auditor shall record all disbursements to the standing trustee, any related business entity, the standing trustee's law firm, the standing trustee's spouse or relative or any standing trustee employee. Such expenditures shall be matched to the standing trustee's approved budget for that particular year. The Auditor shall review any agreement and order between the above parties related in any manner to any funds, space, assets or employees. Any such agreement shall be made part of the report.

### 2. Internal Controls Over Computer Operations

a. The Auditor shall review and report whether any third party has access to the standing trustee's computer system. If so, the Auditor shall identify and report the controls in place. Examples of controls include whether standing trustee approval is required for issuance of a temporary password or enabling remote access.

b. The Auditor shall review and report whether the standing trustee has a system whereby third parties can access case information. The Auditor shall determine whether access is limited to parties in interest, and shall report whether the party in interest has access to the live database.

c. The Auditor shall review and report the standing trustee's policy for changing user passwords and perform tests to verify passwords are in place. A user password is defined as the initial password used to log onto the standing trustee's computer system. These passwords shall be changed at least every ninety (90) days or upon termination of an employee. The Auditor shall report the last date of change in passwords.

d. The Auditor shall inquire and report whether user profiles are tested periodically to ensure employees only have access to computer data that is necessary to perform their assigned duties.

e. The Auditor shall review and report the access controls which provide different levels of security that limit access of sensitive data fields (such as debtor receipts, creditor name, creditor address, creditor number, and disbursement amount), and computer

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hardware to authorized personnel. Access controls include policies and procedures to prevent or detect errors caused by improper use or manipulation of data files, unauthorized or incorrect use of a computer program, and other improper uses of computer resources. The Auditor shall report any exceptions, such as an employee who has access to programming, updating individual debtor records, and access to cash.

f. The Auditor shall review and report the controls over the physical security of the computer hardware. For example, the Auditor shall determine if the computer server is in a safe environment with controlled access, and shall report any lack of security.

g. The Auditor shall review and report the back-up procedures utilized by the standing trustee, including the use of media safe cabinets and off-site storage of computer back-up media. Documentation produced by the standing trustee in response to this inquiry should include procedures for periodic preventive maintenance and for contingency planning in the event of a computer hard disk failure. The Auditor shall report any lack of procedures, inadequate procedures or areas of risk.

h. The Auditor shall report whether the standing trustee allows employees to telecommute. If so, the Auditor shall report the steps the standing trustee has taken to ensure computer/network security and report the mechanisms for monitoring the quality and quantity of employee work.

### 3. Case Tracking

The Auditor shall report whether the standing trustee reconciles his or her caseload with the bankruptcy clerk's office, and shall report how often the reconciliations occur. If there are any cases that do not reconcile, the Auditor shall document the procedure used to complete the reconciliation process and attach a copy of the procedure to the audit report.

### 4. Banking and Bonding

a. The Auditor shall review and report the bank reconciliation/proof of cash process. The Auditor shall report whether the individual(s) performing the reconciliation(s) has recordkeeping, cash handling or other incompatible duties. In doing so:

i. The Auditor shall review all monthly trust bank reconciliations and report any unexplained reconciling items. Select September and three other monthly reconciliations for detail testing. Trace all items on the bank reconciliations to the supporting documentation. Document who is signing the reconciliations.

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- ii. Review the September and two other expense account bank reconciliation. Trace all items on the bank reconciliations to the supporting documentation.
  - iii. For monthly bank reconciliations noted as being out of balance, determine the reason, discuss with standing trustee, and disclose any difference in the report.
- b. The Auditor shall review and report whether the standing trustee has a “positive pay” agreement with its bank for disbursements from the trust account and the expense account.
- c. The Auditor shall select two months, other than the month of September, and determine whether the month-end trust and expense account balances from the general ledger agree with the monthly report submitted to the BA. The Auditor shall review the records of disbursement between the trust fund account and the expense and compensation account and report any discrepancies or errors **regardless of materiality**.
- d. The Auditor shall review all the standing trustee’s insurance policies, including corporate, individual and employee designations based on observation of the actual duties performed, segregation of duties matrix, and review of the employee job descriptions.
- e. The Auditor shall review and report whether all appropriate employees are covered by the employee bond or fidelity insurance and whether the amount of coverage meets minimum requirements.
- f. The Auditor shall review and report whether the standing trustee has procedures to reconcile the total debtor ledgers to the corresponding general ledger account and to the adjusted bank statement (all trust bank balances). The Auditor shall report any adjustments regardless of materiality.

### 5. Trust Account

#### **Receipts**

a. The Auditor shall review initial control of all incoming receipts, including lockbox rejects, payments received at court or off-site, and returned undeliverable trust disbursements. The Auditor shall report whether the standing trustee accepts currency and whether receipts are provided to debtors who come to the office of the standing trustee. In addition, the Auditor shall report any exceptions including the following:

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- i. Items are not received and recorded while under dual control.
  - ii. The record of the items does not include notation of the final disposition.
  - iii. Someone independent of the steps above does not review the record for completeness and test the disposition for accuracy.
  - iv. Currency is not adequately safeguarded.
- b. The Auditor shall review a minimum of ten (10) receipts and ten (10) items posted as a negative receipt over a twelve-month period that are representative of debtor receipts, creditor refunds, redeposited non-sufficient funds (“NSF”) checks, and undeliverable disbursement checks. The Auditor shall trace the sample items to any supporting documentation, debtor ledger accounts and any appropriate logs. The Auditor shall report all discrepancies, such as postings to the wrong debtor ledger accounts or the fact that the Standing Trustee has not documented all discrepancies.
- c. The Auditor shall review and report the standing trustee’s procedures for processing creditor refunds in closed cases.
- d. The Auditor shall review and report whether daily deposits are reconciled to daily debtor ledger postings.
- e. The Auditor shall review and report the standing trustee’s procedures for handling NSF transactions, and report any exceptions.
- f. The Auditor shall report whether electronic fund transfers (“EFT”) are used, evaluate the controls in place, and report internal control deficiencies, if any.
- g. The Auditor shall review and report whether pre-confirmation funds are deposited in an interest bearing account. If yes, the Auditor shall select five cases converted or dismissed before confirmation, assess the standing trustee’s calculation of interest paid, match to the Internal Revenue Service Form 1099 for agreement, and report exceptions.
- h. The Auditor shall report whether the standing trustee scans trust receipts and transmits them electronically to the standing trustee’s financial institution. The written procedure for receipts and transmittal shall be attached to the audit report or a notation that there is no written procedure.

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### Disbursements

a. The Auditor shall review and report the procedures used to process disbursements from the standing trustee's trust account. In doing so:

- i. The Auditor shall review and report whether the individuals who prepare trust disbursement checks are involved in inserting and mailing the checks or other incompatible duties.
- ii. The Auditor shall review whether persons involved in preparing, or inserting and mailing the checks are different from the persons preparing the bank reconciliations, and report incompatible duties.
- iii. The Auditor shall report all uses of signature stamps in signing trust or expense checks.

b. The Auditor shall obtain a report of all debtor refunds during the fiscal year. The Auditor shall review the standing trustee's refund process to test the accuracy and timeliness of debtor refunds, and to confirm that refunds are made only when appropriate (e.g., pursuant to court order, when a case is closed, converted or dismissed). The Auditor shall pull five (5) cases and trace the debtor refund to the debtor ledger and the canceled check.

c. The Auditor shall examine a minimum of twenty-five (25) disbursements over a twelve month period, including debtor refunds and automated clearing house ("ACH") payments, if any. The Auditor shall trace the disbursements to the corresponding debtor ledger accounts and verify that a proof of claim has been filed with the court. The Auditor shall determine that each creditor is a not related to the standing trustee or anyone in the standing trustee's office. The Auditor shall report all discrepancies, such as duplicate payments and postings to the wrong debtor ledger account and errors or corrections that have been made in the case management system.

d. The Auditor shall review and report the procedures for handling stale-dated checks. Report whether checks are imprinted with "void after 90 days." The Auditor shall report whether any checks have not been canceled 120 days after issuance.

e. The Auditor shall review and report the procedures for the processing of returned undeliverable disbursement checks. The Auditor shall report internal control weaknesses, areas of risk, or if the procedure is not being handled timely. For example, the person processing returned checks shall not be involved with the initial check authorization and preparation or any other related function.

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f. The Auditor shall report any individual(s) other than the standing trustee who is authorized to sign checks.

g. The Auditor shall review and report whether interest is transferred monthly from the trust account to the expense account and, if transferred, by whom. If the interest is being used to offset banking fees, the Auditor shall identify documents that support the calculation of the offset between interest and banking fees or credits and identify the person who authorizes the calculation and offset.

### **Monitoring**

a. The Auditor shall obtain the standing trustee's funds-on-hand report, and report all cases that had a negative balance at any point during the Fiscal Year.

b. The Auditor shall report the number of cases that have accumulated at least five months of payments and have been confirmed for at least five months. The Auditor shall list the fifteen (15) cases with the highest number of months' payments accumulated. The Auditor shall report any justification for the lack of disbursements in the 15 cases.

c. The Auditor shall review the detail of the standing trustee's suspense (or adjustment) account(s). The Auditor shall report the types of transactions for which the account(s) is used. The Auditor shall report whether the suspense account(s) is reconciled and reviewed monthly by the standing trustee. The standing trustee shall make a timely effort to identify the receipts. If the standing trustee is unable to identify the receipts, those funds shall be timely transferred to either the Clerk of Court pursuant to court order, or, with authorization from the BA, to the expense fund depending on local authority.

d. The Auditor shall review and report the standing trustee's procedures for monitoring delinquent cases. The Auditor shall confirm the procedures by reviewing delinquent case reports and standing trustee's actions. The Auditor shall report the number of cases in which no action is taken where cases are delinquent by more than 3 monthly payments.

e. The Auditor shall review and report on the type of exception or management reports utilized by the standing trustee, on a monthly basis, to identify mistakes, irregularities and potential fraud.

### 6. **Expense Account**

a. The Auditor shall review and report the procedures used to process receipts into the standing trustee's expense account. The Auditor shall determine and report how

## STATEMENT OF WORK

miscellaneous receipts such as: awards under section 503(b) of the Bankruptcy Code, reimbursements for expenses, and revenue related to the sale of the standing trustee's assets are processed. The Auditor shall examine one hundred percent (100%) of the miscellaneous receipts. The Auditor shall trace the sample items to the standing trustee's supporting documentation and general ledger, and identify and report any weaknesses in the standing trustee's expense account receipts internal control process.

b. The Auditor shall review and report the procedures used to process disbursements from the standing trustee's expense account. The Auditor shall report whether the individuals who prepare expense account checks are involved in inserting and mailing the checks or other incompatible duties. The Auditor shall examine 100% of the disbursements over the Fiscal Year, including ACH payments, if any; trace the items to the standing trustee's supporting documentation and to the general ledger; and report any areas of risk or weaknesses in the standing trustee's expense account disbursement internal control process.

c. The Auditor shall report whether a credit card is issued in the name of the standing trustee, the trust operation or any related entity. The Auditor shall review and report whether the credit card is used for personal expenditures.

7. Recordkeeping, Reporting, Compliance with Other Regulatory Guidelines

a. The Auditor shall report the standing trustee's employee leave policies concerning the carryover of unused leave. The Auditor shall report the number of hours and dollar amount of unpaid vacation and sick leave, or paid time off.

b. The Auditor shall review and report whether proper payroll tax returns were timely filed by the standing trustee. The Auditor shall disclose any delinquent taxes or penalties paid by the standing trustee.

c. The Auditor shall review and report whether federal and state unemployment tax returns were timely filed by the standing trustee.

d. The Auditor shall review and report whether all standing trustee and trustee employee training expenses, including but not limited to transportation costs, were documented with receipts. From examination of the documentation, the Auditor shall report whether there was any indication that standing trustee training funds were used for extended personal travel by the standing trustee or standing trustee staff or for the personal entertainment portion of seminars.

e. The Auditor shall review and report whether all of the standing trustee's fixed asset purchases were recorded on the standing trustee's required inventory listing,

## STATEMENT OF WORK

and whether the total purchases of fixed assets from the standing trustee's expense account for the year reconcile to the total amounts added to the standing trustee's inventory record for the fiscal year.

f. The Auditor shall review and report whether there is adequate insurance on the standing trustee's fixed assets and business environment, commercial crime insurance or employee fidelity bonds.

g. The Auditor shall review the appropriate level of insurance and report the kinds of insurance, the limits of liability on each policy and whether claims were made on any of the standing trustee's insurance policies. The Auditor shall also report any umbrella coverage and the limits of liability.

h. The Auditor shall review and report whether the standing trustee is in compliance with all leases, employee benefit plan agreements, and other long term commitments. A copy of the lease along with any sharing/participation agreement between the standing trustee and any other party regarding lease payments, employee benefit plans or other long term commitments shall be attached to the Auditor's report.

i. The Auditor shall send third party confirmations to attorneys who represent the standing trustee in pending litigation, if any, where the standing trustee or standing trustee operation is named as a party in order to determine the status of the litigation. The Auditor shall report on the status and amounts involved.

j. The Auditor shall review and report whether the standing trustee or the standing trustee's law firm participates in the employee benefit plans provided for the employees, and whether there were any amounts paid from the expense account for the standing trustee's personal benefit such as health insurance. The Auditor shall report whether these amounts were immediately reimbursed by the standing trustee or reduced from total cash compensation paid to the standing trustee.

k. The Auditor shall select a sample of one (1) case for each year of the audit term that has domestic support obligations. The Auditor shall ensure at least one case has received a discharge. The Auditor shall review the notices used by the standing trustee in compliance with sections 1302(b)(6) and (d) of the Bankruptcy Code. The Auditor shall verify that the first and second notices sent to the state child support enforcement agency contain the debtor's full social security number. If the standing trustee does not provide the full social security number to the state child support enforcement agency, the Auditor shall determine why and report the standing trustee's response.

## STATEMENT OF WORK

### 8. Exit Conference

The Auditor shall conduct an exit conference in person with the BA, the standing trustee, a staff member from the Bankruptcy Judges Division or Office of Audit and a bankruptcy judge from the district, if requested by the judge. Video or teleconferencing shall be made available and used only by the Bankruptcy Judges Division or the Office of Audit staff. In person exit conferences are required for the Auditor, the BA and the standing trustee.

### 9. Progress and Work Schedule Reporting

The Auditor shall furnish the BA, within five workdays after the close of each two week period, a progress report and work schedule. The report shall include the name of the Auditor, the date of the report, the period covered by the report, and the following information: 1) title of Audit; (2) date the audit was initiated; (3) the status of the audit; (4) receipt of any comments from the standing trustee or any employee of the standing trustee; (5) names of the Auditor's personnel assigned to conduct the audit; (6) progress made on the audit; (7) delays, complications or difficulties encountered; and (8) explanation of any missed milestones.

### 10. Audit Reports

The Audit Report is due to the BA and to the AO as soon as possible but in no circumstance later than January 31. This deadline may be adjusted during the progress and work scheduling reporting process by the Chief of the Office of Audit after consultation with the Chief of the Bankruptcy Judges Division.

### 11. Work Papers

The Auditor shall prepare work papers in accordance with GAGAS and GAAP and shall ensure that the work papers and the pertinent audit/guide/programs are cross-referenced and that work papers clearly support the conclusion, condition, criteria, cause, effect and source of information. Each support work paper shall include date, source, purpose, scope, conclusion, preparer, and reviewer. The Auditor shall prepare summary work papers to support audit conclusions and describe the scope of work and methodology used as the basis for reaching audit conclusions.

### 12. Audit Resolution and Assistance

The Auditor shall be available to the AO at no cost, to provide assistance in resolving audit findings when the Government or the standing trustee disagrees with the facts contained in the Auditor's reports or where clarification is needed. The Auditor also shall provide information or appear before any Judicial Conference Committee meeting at the request of the Chief of the Bankruptcy Judges Division or the Chief of the Audit Division.

## STATEMENT OF WORK

The Auditor is prohibited from providing individualized technical assistance to any BA, standing trustee, or others connected with the standing trustee's office unless specific written permission is given by the Chief of the Bankruptcy Judges Division after consultation with the Chief of the Audit Division.

The Auditor shall work collaboratively with the Government to resolve any issues effectively and in a timely manner. If task performance is unacceptable, the Auditor shall re-perform the work at no-cost. If deliverables are unacceptable, the Auditor shall revise and re-submit the deliverables at no-cost. If travel is conducted by the Auditor as a means to resolve any issues, associated travel costs incurred by the Auditor shall be borne by the Auditor.

### 13. References and Guides

The following guides and reference materials shall be used in conducting the audit. The Auditor is responsible for providing items A and B below. A copy of the items listed in C and D below will be provided to the Auditor by the BA.

A. The U.S. Government Accountability Office "Government Auditing Standards", latest revision.

B. The American Institute of Certified Public Accountants "Statements on Auditing Standards."

C. The JCUS Regulations, the Directors Guidelines, the BA Manuals or the Chapter 13 Financial Policies and Procedures Manual.

D. Any applicable local rules or standing orders affecting the operation of the Chapter 13 standing trustee's operations or procedures, including all compensation and budget orders.

### **4. PERIOD OF PERFORMANCE:**

Audit services shall be performed from October 29, 2012 through January 31, 2013. Work shall be completed and final deliverables shall be submitted to the Government by January 31, 2013.

### **5. PLACE OF PERFORMANCE:**

It is anticipated that work shall be performed at the Chapter 13 Trustee office. For any work that does not require performance at the Chapter 13 Trustee office, work shall be performed at the Auditor's office.

### **6. PERFORMANCE STANDARDS:**

The Government will evaluate the Auditor's performance under this Statement of Work based on

## STATEMENT OF WORK

the following performance standards.

	<b>Performance Standard</b>	<b>Acceptable Quality Level</b>	<b>Method of Surveillance</b>
1.	<u>Timely Performance of Audit Services.</u> The Auditor shall perform audit services in accordance with schedules.	Timely performance of audit services occurs 95% of the time. Any required re-performance or re-work occurs rarely. Problems that occur are minor, resolved efficiently and in a manner satisfactory to the Government.	Routine Inspection and Input by the Government and the Chapter 13 Trustee.
2.	<u>Timely Submittal of Deliverables.</u> The Auditor shall submit deliverables in accordance with schedules.	Timely submittal of deliverables occurs 100% of the time, with no required re-performance or re-work.	Routine Inspection and Input by the Government and the Chapter 13 Trustee.
3.	<u>Quality of Audit Services.</u> The Auditor shall perform audit services in a manner consistent with best practices, and where unnecessary disruption during the audit does not occur.	Quality of audit services consistent with best practices occurs 100% of the time, and the level of disruption does not exceed what is considered a normal level, or expected during performance.	Routine Inspection and Input by the Government and the Chapter 13 Trustee.
	<u>Quality of Deliverables.</u> The Auditor shall perform thorough quality reviews before submitting deliverables.	Quality reviews of deliverables occur 100% of the time. Any required re-performance or re-work occurs rarely. Problems that occur are minor and resolved in a manner satisfactory to the Government.	Routine Inspection and Input by the Government and the Chapter 13 Trustee.

Offeror Pricing Sheet

Description	Proposed Total Price
<p><b>Provide Chapter 13 Trustee audit services as described in the SOW for the single Chapter 13 Trustee, David G. Gray as identified in the solicitation.</b></p> <p><i>Payment will be made by the Trustee upon authorization by the Chief of the Audit Division of the Administrative Office of the U.S. Courts.</i></p>	\$

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**Vendor/Firm Name**

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**Vendor/Firm Address**

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**Vendor/Firm Phone Number**

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**Vendor/Firm E-mail Address**

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**Name of Individual Authorized to Submit Quote on Behalf of Vendor/Firm**

## OFFEROR CERTIFICATION

By signing this certification, the Offeror agrees to the following requirements during performance of Chapter 13 Trustee Audit Services for David G. Gray:

- 1) Audit services shall be completed as described in the Statement of Work by January 31, 2013 and shall ensure that all required deliverables are received by the Government by January 31, 2013.
- 2) Audit services work in support of the Chapter 13 Trustee Audit shall be performed in accordance with Generally Accepted Government Auditing Standards (“GAGAS”) and Generally Accepted Accounting Practices (“GAAP”).
- 3) The Offeror shall not request or require the Chapter 13 Trustee to perform any auditing services (e.g., the preparation of confirmation letters to debtors).
- 4) The Offeror shall independently select cases for audit, without input from the Chapter 13 Trustee.
- 5) If the Government determines that audit services are not performed in accordance with GAGAS and GAAP, the Government will require the Offeror to address and remedy any identified issues, which may include re-performance of work and/or revision and re-submittal of deliverables.
- 6) As a non-government entity seeking official action from, or doing business with the Judiciary, the Offeror shall avoid the appearance of breaching ethical standards as identified in the Code of Conduct for Judicial Employees (e.g., offering gifts, such as meals, to government employees).
- 7) The Offeror acknowledges and understands that, if selected as the Awardee Auditor, the Government will monitor and evaluate the Offeror’s performance under the resulting Purchase Order. The Offeror’s performance will be considered by the Government in future procurements (e.g., government evaluation of past performance information).

\_\_\_\_\_  
Authorized Signatory for Offeror

\_\_\_\_\_  
Date

**PURCHASE ORDER TERMS AND CONDITIONS**  
**Provisions and Clauses**

**Chapter 13 Trustee Audit for David G. Gray**

**1) Clause B-5, Clauses Incorporated by Reference (SEP 2010)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the contracting officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address: <http://www.uscourts.gov/procurement.aspx>

**2) The following clauses are included by reference:**

**Clause 3-3, Provisions, Clauses, Terms and Conditions - Small Purchases (JUN 2012)**

**3) Provision 3-5, Taxpayer Identification and Other Offeror Information (APR 2011)**

(a) *Definitions.* "Taxpayer Identification (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a social security number or an employer identification number.

(b) All offerors shall submit the information required in paragraphs (d) and (e) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the government to collect and report on any delinquent amounts arising out of the offeror's relationship with the government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to payment recording requirements, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) *Taxpayer Identification Number (TIN):* \_\_\_\_\_

TIN has been applied for.

TIN is not required, because:

Offeror is a nonresident alien, foreign corporation or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

Offeror is an agency or instrumentality of a foreign government;

Offeror is an agency or instrumentality of the federal government.

(e) *Type of organization:*

sole proprietorship;

partnership;

corporate entity (not tax-exempt);

corporate entity (tax-exempt);

government entity (federal, state or local);

foreign government;

international organization per 26 CFR 1.6049-4;

other \_\_\_\_\_.

(f) *Contractor representations.*

The offeror represents as part of its offer that it is  , is not,  51% owned and the management and daily operations are controlled by one or more members of the selected socio-economic group(s) below:

- Women Owned Business
- Minority Owned Business (if selected, then one sub-type is required)
  - Black American
  - Hispanic American
  - Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians)
  - Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru)
  - Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal)
  - Individual/concern, other than one of the preceding.