

## **ARCHITECT-ENGINEER DESIGN SCOPE OF WORK CONSTRUCT BUILDING 7 SCI/D OUTPATIENT ADDITION SOUTH**

PROJECT NO: 614-325

PROJECT NAME: Construct Building 7 SCI/D Outpatient Addition South

ESTIMATED CONSTRUCTION COST: VAAR Magnitude between \$5 & \$10 Million

**\*\*The Certification and Accreditation (C&A) does not apply, a Security Accreditation Package is not required\*\***

### **1. GENERAL INTENT:**

The Contractor (herein referred to as "A/E") shall provide Architect/Engineer (A/E) services to design a construction project at the VA Medical Center Memphis TN in accordance with this design scope of work.

### **2. STATEMENT OF WORK:**

A/E Part One Services (also known as Design Phase) for this design project includes site visits, field investigation, studies, and user interviews to prepare drawings, specifications, and cost estimates for all facets of work and disciplines/trades to facilitate a construction project to Construct Building 7 SCI/D Outpatient Addition South. This project will construct an approximately 9,000 gross square feet addition to Building 7. The addition will be to the A wing south of the building on the 1<sup>st</sup> and 2<sup>nd</sup> floors. An additional 6,900 gross square feet of existing space of the A wing 1<sup>st</sup> and 2<sup>nd</sup> floors will be renovated. The new and renovated space relocates existing Outpatient functions to free up space that is needed to address future projects for SCI/D patient privacy.

A/E Part Two Services of this design project (also known as Construction Period Services) includes responding to construction contractor Requests For Information (RFIs) during the solicitation (solicitation support) and construction phases of the construction project, attendance at pre-bid, post-award and commissioning kick off construction project conferences, review of construction material submittals and shop drawings, approximately 2 site visit per month during construction (both scheduled and emergent) to ensure compliance with the design drawings and specifications, preparation of site visit reports, coordination with project commissioning requirements, review of any construction project modifications for cost and technical acceptability, attendance and participation during the final acceptance inspection, preparation of the punch list and preparation of record drawings of the completed construction project based on the construction contractor's as-built drawings. The A/E shall prepare a submittal log to be utilized by the VA during construction period services, maintain RFI log and provide meeting minutes for weekly construction meetings throughout the duration of construction. Additionally, the AE shall include commissioning services. The AE shall develop a commissioning plan and provide as part of the construction solicitation (See Section 14). All Part Two Services are optional line items and will not be exercised at the time of award.

The above paragraphs constitute a basic outline of the work to be accomplished and in no way comprises all the details for design of this project. The A/E shall initiate detailed inspection of the project site to determine the needs and conditions for the design of this project. Copies of VA Medical Center Memphis TN record drawings will be made available to the highest rated A/E firm; the A/E will verify the validity of the record drawings prior to the start of design work and conduct site investigations as necessary throughout the design. SOW Attachment 09 – Memphis Campus Map will give AE firm a basic understanding of the VA Medical Center Memphis campus.

The A/E shall be solely responsible for the management, including all associated labor, equipment, materials, mailing costs, and inspection, to meet the requirements of the design project. The A/E shall further provide meeting minutes for all meetings held under this design project.

The A/E firms' representatives performing site investigations on VA Medical Center Memphis campus must have the following additional requirements before starting site investigations on campus:

1. Negative TB Test, within the past calendar year
2. Face mask with no vent. Must be replaced when damaged or soiled
3. Annual influenza shot is required for all staff performing work on VA Medical Center Memphis campus
4. Contractor badge must be obtained and worn by contractor or representative at all times while on campus

If at any time an employee of the A/E firm becomes ill, they should not remain or report to work at VA Medical Center Memphis.

- Seasonal influenza with Vaccines (**SOW Attachment 05**)

### **3. DESIGN WITHIN FUNDING LIMITATIONS:**

The design shall be prepared by the A-E to permit the award of a construction contract, using Federal Acquisition Regulation procedures for the construction of the facilities, at a cost that does not exceed the project's estimated construction contract price that will be provided to the highest rated firm. This design shall incorporate 10% deductive alternates.

**4. DESIGN INDEPENDENCE, FURNITURE AND EQUIPMENT:** Designs for construction must produce a "complete and usable" facility or improvement when constructed. VA policy (VHA Office of Capital Assets Management, Engineering and Support memo *Updated Construction Guidance and Expectations* dated Sep 12, 2016) requires the A/E to certify that their design (including all bid alternates/bid deducts) is independent of any future construction project. In addition, the A/E must certify that it has produced a design that does not include furniture and equipment that will be procured separately. Equipment that can be part of the design includes those items to meet code requirements for building occupancy, items covered in the VA's Master Construction Specifications (PG-18-1) Divisions 1 through 10, 13 through 26 or 28 through 48, non-IT equipment items covered by Division 27 and items covered by Division Numbers 12 31 00, 12 32 00, 12 34 00 and 12 36 00.

The A/E shall submit as part of the Final Bid Documents submittal a signed letter on company letterhead stating the design's independence.

**5. DESIGN CRITERIA:** The VA Technical Information Library (TIL) available at <http://www.cfm.va.gov/til/index.asp> is managed by the VA Office of Construction and Facility

Management and is the master repository for all VA Numbered Standards for Construction to include design and construction specifications, procedures, standard details, BIM/CAD standards, equipment guides, space planning and design guides. The documents of the TIL shall be the minimum design criteria for all VA projects performed in the construction of new facilities and the modernization, alteration, addition, or improvement of its real property. All design documents shall be developed in accordance with the VA TIL, including (but not limited to) the following listed Department of Veterans Affairs References:

<a href="#">PG-18-1</a>	Master Construction Specifications
<a href="#">SOW Attachment 01</a>	<b>VHA Required Division 01 Specification Section List</b>
<a href="#">PG-18-3</a>	Design and Construction Procedures [ <i>Including but not limited to: Codes, Standards, and Executive Orders</i> ]
<a href="#">PG-18-4</a>	Standard Details and CAD Standards
<a href="#">PG-18-5</a>	Equipment Guide List
<a href="#">H-18-8</a>	Seismic Design Handbook
<a href="#">PG-18-9</a>	Space Planning Criteria
<a href="#">PG-18-10</a>	Design Manuals (by discipline) [ <i>Including but not limited to: Guiding Principles checklists as indicated for Minor Projects in Sustainable Design Manual, Life Cycle Cost Analysis</i> ]
<a href="#">PG-18-12</a>	Design Guides (graphical, by function)
<a href="#">PG-18-13</a>	Barrier Free Design Guides
<a href="#">PG-18-14</a>	Room Finishes, Door, and Hardware Schedules
<a href="#">PG-18-15</a>	Minimum Requirements for A/E Submissions
<a href="#">PG-18-17</a>	Environmental Compliance Manual
<a href="#">H-7545</a>	VA Cultural Resource Management Procedures
	OIT Infrastructure Standard for Telecommunications Spaces v3.1 (1 July 2021)

The following references should also be used to complete the design documents:

- VA Standards Alert 017 – Infrastructure Standards for Telecommunications Spaces and all standards, guides, and manuals incorporated by reference (<https://www.cfm.va.gov/til/sAlert/sAlert017.pdf>)

Where conflicts exist between VA adopted codes and standards and the documents on the TIL, the A/E shall bring this to the attention of the VA. The resolution of the conflict shall be made by the authority having jurisdiction for VA to ensure consistency department wide.

**6. DESIGN COLLABORATION:** The A/E during this design project shall collaborate with the VHA Office of Healthcare Environment and Facilities Programs Special Engineering Program (HEFP/SEP) staff, VISN 9 and the Independent Life Safety Review Agent (LS Agent) for the project. Design submittal comments from these contractors, if concurred with by VA, shall be incorporated into the design. HEFP/SEP and/or VISN deliverables shall be coordinated with the A/E's design submittals to ensure compliance with all requirements are met. The A/E is required to ensure all elements of the design adhere to the Life Safety Code, including recommendations for temporary construction barriers, prior to the Independent Life Safety review.

**7. INDEPENDENT LIFE SAFETY REVIEW:** The A/E shall incorporate any comments from the VA 3rd party life safety review.

**8. ENVIRONMENTAL PROTECTION:** The A/E shall assist the VA with completion of a National Environmental Policy Act (NEPA) assessment as required by the VA Medical Center Memphis TN. If the NEPA assessment results in potential environmental impacts, the A/E shall be responsible for completing any auxiliary documentation required per PG-18-17 NEPA Interim Guidance for Projects located on the TIL (<http://www.cfm.va.gov/til/etc/NEPAGuidance.pdf>). Additional requirements may include, but are not limited to, Environmental Assessment, Environmental Impact Statement, and Record of Decision. The NEPA analysis and concluding documentation must be completed by the Final Bid Documents submittal.

**9. PHYSICAL SECURITY:** The A/E must include a certified physical security specialist. The specialists must be involved with the design beginning with the concept phase and the qualifications must be submitted to the COR for review and approval prior to the concept/basis of design phase. The specialists shall meet the specific requirements listed in the Physical Security Design Manual for Mission Critical Facilities located on the TIL (<http://www.cfm.va.gov/til/PhysicalSecurity/dmPhySecMC.pdf>). The A/E shall ensure that all aspects of the applicable VA Physical Security Design Manual (either Life-Safety Protected or Mission Critical Facilities; both will be applicable depending on the area the work is taking place) are incorporated into the design and shall prepare a written report acknowledging compliance as required by the VAMC. The A/E must inform the COR of any physical security items that will be difficult to achieve during the concept/basis of design phase of the design and assist the VA with waiver requests as necessary.

**10. TELECOMMUNICATIONS DESIGN:** In accordance with "*Telecommunications and Special Telecommunications Systems Design Manual*," February 2016 (<https://www.cfm.va.gov/til/dManual/dmTelecomm.pdf>), paragraph 1.2 (d), Telecommunications design must be performed and stamped by a BICSI Registered Communications Distribution Designer (RCDD) for all projects.

**11. SUBMITTAL REQUIREMENTS:** Design submittals shall follow the requirements of *Program Guide, PG-18-15, Volume C - A/E Submission Instructions for Minor and NRM Construction Program* dated November 2008. This document is included as **SOW Attachment 04**. Submittal documents shall be prominently marked "For Official Use Only (FOUO)" if they contain qualifying data as defined in VHA Memorandum 2019-11-13 *Sensitive Infrastructure Data Classification – For Official Use Only (FOUO)*. This memo is included as **SOW Attachment 02**, as it is hosted on a non-public VHA site ([https://vaww.va.gov/vhapublications/ViewPublication.asp?pub\\_ID=8949](https://vaww.va.gov/vhapublications/ViewPublication.asp?pub_ID=8949)).

The A/E shall deliver design submittal documents that follow the iterative phase breakdown for design work in PG-18-15 and as additionally specified below. Specific requirements for each discipline/work product listed under each phase can be found in PG-18-15; it is expected for the phase of design that each of the checked items in the SD/DD/CD columns will be completed for the submittal. The A/E shall attend a review meeting following each design submittal as indicated under the Project Schedule section of this Scope of Work. Each new submittal will incorporate all VA comments from the previous submittal. The Asbestos Abatement requirements in PG-18-15 are applicable at VA Medical Center

Memphis TN due to the continued use of certain asbestos containing products for the 1986 completed building construction.

The following submittals will be required for this project:

- Quality Assurance/Quality Control (QA/QC) Plan
- Basis of Design (BD) - 10% - In addition to the requirements in PG-18-15, a Basis of Design is required. Basis of Design is a narrative presentation of facts, sufficiently complete, to demonstrate that the project concept is fully understood, and that subsequent design details, and their ultimate presentation in the final drawings and specifications, will be based on sound architectural and engineering decisions. Conceptual drawings of the planned design and the initial cost estimate will additionally be included.
- Design Program (DP) – 10%
- Schematic Design (SD) – 35%
- Design Development One (DD1) – 50%
- Design Development Two (DD2) – 65%
- Construction Documents (CD1) – 80%
- Construction Documents (CD2)- 95%
- Construction Documents (CD Checkset) – 100%
- Final Bid Documents (Bid)

## **12. DRAWING FORMAT:**

All drawings shall adhere to VA project software requirements for Computer Aided Design (CAD)] available at <http://www.cfm.va.gov/til/projReq.asp>.

**13. SUBMITTAL FORMATS:** Submittals shall be submitted in electronic format and hard copy formats as listed below. Portable Document Format (.pdf), Microsoft Office Suite formats (.doc, .xls, and .ppt), and AutoCAD (.dwg) files are acceptable. Submittals shall additionally be compliant with Section 508 of the Rehabilitation Act (29 U.S.C. '794 d); information on the requirements for accessible media can be found at <http://www.section508.gov/>. The A/E shall be responsible for providing:

### Meeting/Conference Minutes

Meeting minutes for all formal meetings and conferences held with the VA; including weekly construction meetings. Meeting minutes shall be submitted within seven (7) calendar days of the meeting or conference. All documents in any of the electronic formats listed above.

### Minimum meeting minutes requirements

- Project name, number, meeting host, Meeting Name
- Date, Time, meeting ID, call in number, Duration, and consecutive number of total related meetings
- Participant list (Name, Title, Phone number (office and Mobile), Email, Attended Meeting (yes/no Check box)
- Meeting purpose, Roll call, and Additional Items
- Agenda items (Decisions, action items, and fixes or next steps)
- Next meeting date and time
- Detailed attachment list

#### Construction Cost Estimates

Construction cost estimates shall comply with *Manual for Preparation of Cost Estimates & Related Documents for VA Facilities* dated March 8, 2011. This document is available on the TIL at <http://www.cfm.va.gov/cost/index.asp>. All estimates in any of the electronic formats listed above.

#### Quality Assurance/Quality Control (QA/QC) Plan

- All documents in electronic format.

#### Schematic Design (SD)

- All documents in electronic format.
- Two (2) half-size paper bond sets of drawings – 2 to VA
- Two (2) paper bond sets of specifications – 2 to VA
- Two (2) paper bond sets of investigation reports, design calculations, space planning data and cost estimate - 2 to VA

#### Design Development (DD), and Construction Documents (CD)

- All documents in electronic format.
- Memo annotating what was not upgraded and corresponding justifications.
- One (1) full size paper bond sets of drawings - 1 to VA
- Two (2) half-size paper bond sets of drawings – 2 to VA
- Two (2) paper bond sets of specifications – 2 to VA
- Two (2) paper bond sets of investigation reports, design calculations, space planning data, construction schedule, construction statement of work (SOW) and cost estimate - 2 to VA

#### Final Bid Documents (Bid)

- PDF files of drawings, specifications, and any miscellaneous design analysis documents such as submittal log and physical security compliance report.
- Certified memo annotating what areas/times were not upgraded and the corresponding justifications.
- Certified memo that the A/E design is independent of future projects and includes all equipment required for the project to be activated/full functional.
- Word files of specifications.
- AutoCAD files of drawings.
- One (1) full size paper bond sets of drawings - 1 to VA
- Two (2) half-size paper bond sets of drawings – 2 to VA
- Two (2) paper bond sets of specifications – 2 to VA
- One (1) paper bond sets of investigation reports, design calculations, space planning data, construction schedule, construction SOW and cost estimate - 1 to VA

### **14. OPTION ITEM REQUIREMENTS:**

#### Solicitation Support Services

Pre-bid site visit to include meeting and project walk around. This is the meeting where contractors are invited to the job site to visually inspect the project site in order to accurately develop a construction bid package.

Answer any technical questions/requests for information (RFIs) received from contractors over the duration of the solicitation, including questions asked during the site visit. Questions from contractors may come at multiple times and cover several questions over the course of the solicitation period. Technical question responses will be provided to the Contracting Officer who will distribute the information via amendment to the solicitation.

Answers to RFIs will be required from the A-E within five calendar days of the date the questions are sent to the A-E from either the project COR or CO. An alternate response period may be submitted for review, however, unless approved by the CO and COR, the A-E is required to comply with the five-calendar-day requirement.

Throughout the solicitation period, the A-E shall provide addenda as necessary if required to revise specs and drawings.

In response to any technical questions and/or addenda issued during the solicitation period, the A-E shall provide any final revisions to the 100% FC CD as part of the construction contract. These documents shall be labeled Final Construction.

#### Construction Period Services (CPS)

##### Requests for Information (RFI)

Requests for Information responses shall be submitted within three (3) calendar days of submittal to the A/E.

##### Submittal Reviews

Submittal reviews shall be submitted within seven (7) calendar days of submittal to the A/E.

##### Site Visit Reports

Site visit reports shall be submitted within seven (7) calendar days of the visit. All documents in any of the electronic formats listed above.

##### Modification/Change Order Requests

Modification request responses shall be submitted within seven (7) calendar days of submittal to the A/E. This includes the review of the contractor's change order/modification proposal for construction change orders, as well as the formulation of an IGCE for the modification, as requested. The A/E's reply regarding his/her review of cost proposals and his/her recommendations shall include an independent breakdown of costs in detail, quantities, and unit prices and shall cover both additions and deductions of labor, materials, and equipment. The A/E shall also supply cost estimates as requested by the COR for Request for Proposals for anticipated changes." All documents in any of the electronic formats listed above. Note - If major modification, VA will provide additional time and document format guidance.



Punch List

Punch list shall be submitted within seven (7) calendar days of the final acceptance inspection. All documents in any of the electronic formats listed above.

Record Drawings

Record drawings shall be delivered to the VA within thirty (30) calendar days after VA acceptance of the construction project. AutoCAD (.dwg) format.

**Third-Party Commissioning**

The A-E shall provide Commissioning and Commissioning Agent services and deliverables in accordance with the reference document, OCFM Whole Building Commissioning Process Manual located on the TIL (<https://www.cfm.va.gov/til/Cx-RCx/CxManual.PDF>). See "Commissioning Agent Tasks" in each section of the reference document. The Commissioning Agent shall be involved in all phases of the project, including both design and construction. It is anticipated that the Commissioning Agent will participate in the following: design reviews, owner's requirements updates, design phase commissioning planning (facilitate), commissioning specification reviews (facilitate), construction project meetings, construction observation visits, equipment startup and testing, Testing Adjusting and Balancing (TAB) verification, and project commissioning (facilitate in coordination with General Contractor). The commissioning process shall be adapted to the size and complexity of the project. Deliverables shall be as described in the reference document. Additionally, the A-E shall develop the commissioning plan, pre-functional checklists, systems functional performance test checklists, integrated system test checklists, and edited master specification templates to serve as a starting point for the commissioning process based on the following Systems to be Commissioned.

- HVAC (VA Master Specification Section 23 08 00): Direct Digital Control System, Chilled Water System, Condenser Water System, Steam/Heating Hot Water System, HVAC Air Handling System, HVAC Ventilation/Exhaust Systems, HVAC Terminal Unit Systems, Decentralized Unitary HVAC Systems, Humidity Control Systems, Hydronic Distribution Systems
- Electrical (VA Master Specification Section 26 08 00): Grounding and Bonding Systems, Electric Power Monitoring Systems, Low-Voltage Distribution System, Emergency Power Generation Systems
- Communications (VA Master Specification Section 27 08 00): Grounding and Bonding Systems, Structured Cabling System
- Electronic Safety and Security (VA Master Specification Section 28 08 00): Grounding and Bonding, Physical Access Control Systems, Access Control Systems, Security Access Detection Systems, Video Surveillance System

**15. PROJECT SCHEDULE/PERIOD OF PERFORMANCE:** The A/E shall perform Part One Services/Design Phase work according to the schedule shown below. The A-E is also responsible for following Specification Section 01 32 16.01, *Architectural and Engineering CPM Schedules*, located in **SOW Attachment 03**. If a due date on the timeline below falls on a Holiday or Weekend, the submittal shall be due the following business day. The remaining timeline will not be shifted to accommodate Holidays or Weekends.

Design Program (DP) 10% Submittal	35 calendar days after Notice of Award
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DP 10% Submittal Review Meeting	7 calendar days after VA receipt of DP 10% Submittals
35% SD Submittal	35 calendar days after acceptance of DP 10% Submittals
35% SD Review Meeting	14 calendar days after VA receipt of 35% SD Submittal
50% DD1 Submittal	56 calendar days after VA acceptance of 35% SD Submittal
50% DD1 Submittal Review Meeting	14 calendar days after VA receipt of 50% DD1 Submittal
65% DD2 Submittal	56 calendar days after VA acceptance of 50% DD1 Submittal
65% DD2 Submittal Review Meeting	14 calendar days after VA receipt of 65% DD2 Submittal
80% CD1 Submittal	56 calendar days after VA acceptance of 65% DD2 Submittal
80% CD1 Submittal Review Meeting	14 calendar days after VA receipt of 80% CD1 Submittal
95% CD2 Submittal	42 calendar days after VA acceptance of 80% CD1 Submittal
95% CD2 Submittal Review Meeting	14 calendar days after VA receipt of 95% CD2 Submittal
100% CD Checkset Submittal	28 calendar days after VA acceptance of 95% CD2 Submittal
100% CD Checkset Submittal Review Meeting	14 calendar days after VA receipt of 100% CD Checkset Submittal
Final Bid Documents Submittal	21 calendar days after VA acceptance of 100% CD Checkset Submittal
<b>Total Part One Services/Design Phase Schedule</b>	<b>420 calendar days after Notice of Award</b>

The 420 calendar days listed in part one project schedule may fluctuate based on when submittals meet all VA guidelines and acceptance is issued. If submittals are not accepted due to insufficient design requirements throughout the design period and additional time is deemed necessary. It is the responsibility of the AE firm to cover all costs associated with such delays.

Solicitation Support Services shall be performed for the length of time between the time the option is exercised and award of the construction project. Construction Period Services shall be performed for the length of time between the time the option is exercised and acceptance of Construction Completion. The VA has 365 calendar days from final acceptance of the design to exercise the option(s) for Solicitation Support Services and Construction Period Services.

**16. CONTRACT OVERSIGHT:** All contracts for this project shall be awarded by the Program Contracting Activity Central (PCAC); only a warranted VA Contracting Officer shall have authority to change the terms and conditions of a contract. These changes may involve the contract award amount, contract period of performance, issuance of stop work orders and changes to the statement of work.

PCAC shall designate a Contracting Officer's Representative (COR) to monitor and manage the A/E's performance under the design project contract. The COR shall be a representative of the VA Medical Center Memphis Engineering Service Project Section and have the technical knowledge required to monitor and oversee the project.

A COR from the VA Medical Center Memphis Engineering Service Project Section shall also be designated for the construction project contract to monitor and manage the construction contractor's performance under the construction project contract. This designation under the construction contract shall be considered equivalent to the industry standard of "Owner's Representative" and does not supersede or eliminate the A/E's responsibility for Part Two Services/Construction Period Services. The A/E ultimately shall be responsible for any errors and omissions with the design discovered during and after the construction phase.

**17. REPORTING REQUIREMENTS:**

The Contractor shall be required to report to the VA Engineering Service (Building 1, Room AEG17) to log in and obtain Contractor ID badge during normal working hours. Report to VA Police Service (Building 1, Room CEG4) after normal working hours. This check-in is mandatory. Issued badges must be returned at the end of the workday.

**18. SECURITY REQUIREMENTS:**

The A/E is responsible for assuring that all employees and consultant employees working on the project comply with these regulations.

1. Employees shall not be on site without appropriate badge. Employees are responsible for reporting to VA Police with acceptable photo ID to obtain a badge. VA approved badge shall be worn with the identification facing forward and visible above the waist. The employees may also be subject to inspection of their personal effects when entering or leaving the facility.
2. No photography or video recording of VA premises is allowed without prior authorization.
3. VA issued keys are to remain on VA property. Keys that are checked out from the Engineering Office shall be returned each day.
4. Before starting any work, the A-E shall submit an electronic security memorandum describing the approach to following goals and maintaining confidentiality of "sensitive information".
5. The A/E is responsible for safekeeping of all drawings, project manual and other project information. This information shall be shared only with those with a specific need to accomplish the project.
6. All paper waste or electronic media such as CD's and diskettes shall be shredded and destroyed in a manner acceptable to the VA.
7. VA Information Custodial Language
  - a. The Authorization requirements do not apply, and that a Security Accreditation Package is not required.

- b. The following standard items relate to records generated in executing this contract:
  - i. Citations to pertinent laws, codes and regulations such as 44 U.S.C. Chapter 21, 29, 31 and 33; Freedom of Information Act (5 U.S.C. 552); Privacy Act (5 U.S.C. 552a); 36 CFR Part 1222 and Part 1228.
  - ii. Contractor shall treat all deliverables under the contract as the property of the U.S. Government for which the Government Agency shall have unlimited rights to use, dispose of, or disclose such data contained therein as it determines to be in the public interest.
  - iii. Contractor shall not create or maintain any records that are not specifically tied to or authorized by the contract using Government 'IT' equipment and/or Government records.
  - iv. Contractor shall not retain, use, sell, or disseminate copies of any deliverable that contains information covered by the Privacy Act of 1974 or that which is generally protected by the Freedom of Information Act.
  - v. Contractor shall not create or maintain any records containing any Government Agency records that are not specifically tied to or authorized by the contract.
  - vi. The Government Agency owns the rights to all data/records produced as part of this contract.
  - vii. The Government Agency owns the rights to all electronic information (electronic data, electronic information systems, electronic databases, etc.) and all supporting documentation created as part of this contract. Contractor must deliver sufficient technical documentation with all data deliverables to permit the agency to use the data.
  - viii. Contractor agrees to comply with Federal and Agency records management policies, including those policies associated with the safeguarding of records covered by the Privacy Act of 1974. These policies include the preservation of all records created or received regardless of format [paper, electronic, etc.] or mode of transmission [e-mail, fax, etc.] or state of completion [draft, final, etc.].
  - ix. No disposition of documents will be allowed without the prior written consent of the Contracting Officer. The Agency and its contractors are responsible for preventing the alienation or unauthorized destruction of records, including all forms of mutilation. Willful and unlawful destruction, damage or alienation of Federal records is subject to the fines and penalties imposed by 18 U.S.C. 2701. Records may not be removed from the legal custody of the Agency or destroyed without regard to the provisions of the agency records schedules.
  - x. Contractor is required to obtain the Contracting Officer's approval prior to engaging in any contractual relationship (sub-contractor) in support of this contract requiring the disclosure of information, documentary material and/or records generated under or relating to this contract. The Contractor (and any sub-contractor) is required to abide by Government and Agency guidance for protecting sensitive and proprietary information.
- c. Prior to termination or completion of this contract, contractor/subcontractor must not destroy information received from VA, or gathered/created by the contractor in the course of performing this contract without prior written approval by the VA. Any data destruction done on behalf of VA by a contractor/subcontractor must be done in accordance with National Archives and Records Administration (NARA) requirements as outlined in VA Directive 6300, Records and Information Management and its Handbook

- 6300.1 Records Management Procedures, applicable VA Records Control Schedules, and VA Handbook 6500.1, Electronic Media Sanitization. Self-certification by the contractor that the data destruction requirements above have been met must be sent to the VA Contracting Officer within 30 days of termination of the contract.
- d. The contractor/subcontractor must receive, gather, store, back up, maintain, use, disclose and dispose of VA information only in compliance with the terms of the contract and applicable Federal and VA information confidentiality and security laws, regulations and policies. If Federal or VA information confidentiality and security laws, regulations and policies become applicable to the VA information or information systems after execution of the contract, or if NIST issues or updates applicable FIPS or Special Publications (SP) after execution of this contract, the parties agree to negotiate in good faith to implement the information confidentiality and security laws, regulations and policies in this contract.
  - e. The contractor/subcontractor shall not make copies of VA information except as authorized and necessary to perform the terms of the agreement or to preserve electronic information stored on contractor/subcontractor electronic storage media for restoration in case any electronic equipment or data used by the contractor/subcontractor needs to be restored to an operating state. If copies are made for restoration purposes, after the restoration is complete, the copies must be appropriately destroyed.
  - f. If VA determines that the contractor has violated any of the information confidentiality, privacy, and security provisions of the contract, it shall be sufficient grounds for VA to withhold payment to the contractor or third party or terminate the contract for default or terminate for cause under Federal Acquisition Regulation (FAR) part 12.
  - g. If a VHA contract is terminated for cause, the associated BAA must also be terminated, and appropriate actions taken in accordance with VHA Handbook 1600.01, Business Associate Agreements. Absent an agreement to use or disclose protected health information, there is no business associate relationship.
  - h. The contractor/subcontractor must store, transport, or transmit VA sensitive information in an encrypted form, using VA-approved encryption tools that are, at a minimum, FIPS 140-2 validated.
  - i. The contractor/subcontractor's firewall and Web services security controls, if applicable, shall meet or exceed VA's minimum requirements. VA Configuration Guidelines are available upon request.
  - j. Except for uses and disclosures of VA information authorized by this contract for performance of the contract, the contractor/subcontractor may use and disclose VA information only in two other situations: (i) in response to a qualifying order of a court of competent jurisdiction, or (ii) with VA's prior written approval. The contractor/subcontractor must refer all requests for, demands for production of, or inquiries about, VA information and information systems to the VA contracting officer for response.
  - k. Notwithstanding the provision above, the contractor/subcontractor shall not release VA records protected by Title 38 U.S.C. 5705, confidentiality of medical quality assurance records and/or Title 38 U.S.C. 7332, confidentiality of certain health records pertaining to drug addiction, sickle cell anemia, alcoholism or alcohol abuse, or infection with human immunodeficiency virus. If the contractor/subcontractor is in receipt of a court order or other requests for the above-mentioned information, that

contractor/subcontractor shall immediately refer such court orders or other requests to the VA contracting officer for response.

- I. For service that involves the storage, generating, transmitting, or exchanging of VA sensitive information but does not require C&A or an MOU-ISA for system interconnection, the contractor/subcontractor must complete a Contractor Security Control Assessment (CSCA) on a yearly basis and provide it to the COTR.
8. Privacy – VA Mandatory Training
- a. VA Privacy Training for employees without access to VA computer systems or VA sensitive information.
    1. VA Talent Management System (TMS) training course VA20939 provides the mandatory Privacy Training requirements for any contractor without access to VA computer systems or VA sensitive information.
  - b. VA Privacy Training for employees with access to VA computer systems or VA sensitive information.
    1. VA Talent Management System (TMS) training course VA10176 provides the mandatory Privacy Training requirements for any contractor with access to VA computer systems or VA sensitive information.
  - c. Each employee self-enrolls for a profile on the VA TMS by visiting <https://www.tms.va.gov/plateau/user/login.jsp>. Once there, employees should follow the steps below to create a profile, launch the mandatory training, and complete the content prior to starting work at VA.
  - d. Provide the COR with each employee's printed certificate of completion from the TMS. This certificate displays the employee's TMS User ID.
  - e. Each employee self-enrolls for a profile on the VA TMS by visiting <https://www.tms.va.gov/plateau/user/login.jsp>. Once there, employees should follow the steps below to create a profile, launch the mandatory training, and complete the content prior to starting work at VA.
  - f. Provide the COR with each employee's printed certificate of completion from the TMS. This certificate displays the employee's TMS User ID.

#### **19. SOW and ATTACHMENTS:**

The following list of documents are attached to this SOW for A/E use and incorporation into the project documents:

- VHA Required Div 01 Specification Sections (See **SOW Attachment 01**)
- Sensitive Infrastructure Data Classification FOUO (See **SOW Attachment 02**)
- 01 32 16.01 Architecture and Engineering CPM Schedule (See **SOW Attachment 03**)
- Program guide, PG-18-15 Volume C – A/E Submission Instructions for Minor and NRM Construction program dates November 2008 (See **SOW Attachment 04**)
- Seasonal influenza with vaccines (See **SOW Attachment 05**)
- VHA Directive 1061 Prevention of Healthcare Associated Legionella Disease (See **SOW Attachment 06**)
- Campus Map and Floor Plans (See **SOW Attachment 07**)
- COVID-19 Safety Protocols 12-14-21 (See **SOW Attachment 08**)

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End of SOW