

<b>SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS</b> <b>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, &amp; 30</b>				1. REQUISITION NUMBER		PAGE 1 OF 4	
2. CONTRACT NO.		3. AWARD/ EFFECTIVE DATE	4. ORDER NUMBER		5. SOLICITATION NUMBER 75H70623R00002		6. SOLICITATION ISSUE DATE 12/09/2022
7. <b>FOR SOLICITATION INFORMATION CALL:</b>		a. NAME NICHOLE LEREW			b. TELEPHONE NUMBER (No collect calls) 605-226-7571		8. OFFER DUE DATE/LOCAL TIME 12/30/2022 1500 CT
9. ISSUED BY CODE 159  Aberdeen Area Indian Health Servic Federal Building 115 Fourth Ave, SE Aberdeen SD 57401				10. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED OR <input checked="" type="checkbox"/> SET ASIDE: 100.00 % FOR: <input checked="" type="checkbox"/> SMALL BUSINESS WOMEN-OWNED SMALL BUSINESS <input type="checkbox"/> (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> EDWOSB NAICS: 621399 <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8(A) SIZE STANDARD: \$9.0			
11. DELIVERY FOR FOB DESTINA- TION UNLESS BLOCK IS MARKED <input checked="" type="checkbox"/> SEE SCHEDULE		12. DISCOUNT TERMS		13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		13b. RATING	
15. DELIVER TO CODE IHSPINERIDGE  IHSPINERIDGE 607 Indian Health Road E. Hwy 18 PINE RIDGE SD 57770		16. ADMINISTERED BY CODE 159  Aberdeen Area Indian Health Servic Federal Building 115 Fourth Ave, SE Aberdeen SD 57401		14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP			
17a. CONTRACTOR/ OFFEROR CODE		FACILITY CODE		18a. PAYMENT WILL BE MADE BY CODE			
TELEPHONE NO.				18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER							
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES			21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	100% Indian Small Business Economic Enterprise Set-Aside. Firm Fixed-Price, Non-Personal Health Care Services, Single Award, ID/IQ contract, Commercial Item, to provide Certified Nurse Midwife Services for the Pine Ridge IHS Hospital, Pine Ridge, South Dakota. Up to five (5) providers, minimum of one (1) provider. The period of performance will be for one (1) year from the Date of Award, with four (4), one (1) option year periods. The award resulting from <i>(Use Reverse and/or Attach Additional Sheets as Necessary)</i>						
25. ACCOUNTING AND APPROPRIATION DATA						26. TOTAL AWARD AMOUNT (For Govt. Use Only)	
<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4. FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA						<input checked="" type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.	
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA						<input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.	
<input checked="" type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 1 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED.				<input type="checkbox"/> 29. AWARD OF CONTRACT: _____ OFFER DATED _____. YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:			
30a. SIGNATURE OF OFFEROR/CONTRACTOR				31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)			
30b. NAME AND TITLE OF SIGNER (Type or print)		30c. DATE SIGNED		31b. NAME OF CONTRACTING OFFICER (Type or print)		31c. DATE SIGNED	
				CRAIG J. WELLS			

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	this solicitation will not obligate funds; funds must be obligated prior to the starting performance through a task order. Period of Performance: 02/01/2023 to 01/31/2024				
1	Base Year: 02/01/2023 thru 01/31/20224 Regular Hours-estimated 10,400 hours.	10400	HR		
2	Base Year: 02/01/2023 thru 01/31/2024 On-Call Hours (including weeknights, weekends and holidays)-estimated 4,888 hours.	4888	HR		
3	Base Year: 02/01/2023 thru 01/31/2024 Call Back/Overtime Hours (including weeknights, weekends and holidays)-estimated 1,040 hours.	1040	HR		
4	Option Year One (1): 02/01/2024 thru 01/31/2025 Regular Hours-estimated 10,400 hours. (Option Line Item) 11/06/2023	10400	HR		
5	Option Year One (1): 02/01/24 thru 01/31/2025 On-Call Hours (including weeknights, weekends and holidays)-estimated 4,888 hours. (Option Line Item) Continued ...	4888	HR		

32a. QUANTITY IN COLUMN 21 HAS BEEN

☐ RECEIVED    ☐ INSPECTED    ☐ ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: \_\_\_\_\_

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE		32c. DATE	32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE	
32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE			32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE	
			32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE	
33. SHIP NUMBER	34. VOUCHER NUMBER	35. AMOUNT VERIFIED CORRECT FOR	36. PAYMENT	37. CHECK NUMBER
<input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL			<input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	
38. S/R ACCOUNT NUMBER	39. S/R VOUCHER NUMBER	40. PAID BY		
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT			42a. RECEIVED BY ( <i>Print</i> )	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER		41c. DATE	42b. RECEIVED AT ( <i>Location</i> )	
			42c. DATE REC'D (YY/MM/DD)	42d. TOTAL CONTAINERS

## CONTINUATION SHEET

REFERENCE NO. OF DOCUMENT BEING CONTINUED

75H70623R00002

PAGE OF

3

4

NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	11/06/2023				
6	Option Year One (1): 02/01/2024 thru 01/31/2025 Call Back/Overtime Hours (including weeknights, weekends and holidays)-estimated 1,040 hours. (Option Line Item) 11/06/2023	1040	HR		
7	Option Year Two (2): 02/01/2025 thru 01/31/2026 Regular Hours-estimated 10,400 hours. (Option Line Item) 11/06/2024	10400	HR		
8	Option Year Two (2): 02/01/2025 thru 01/31/2026 On-Call Hours (including weeknights, weekends and holidays)-estimated 4,888 hours. (Option Line Item) 11/06/2024	4888	HR		
9	Option Year Two (2): 02/01/2025 thru 01/31/2026 Call Back/Overtime Hours (including weeknights, weekends and holidays)-estimated 1,040 hours. (Option Line Item) 11/06/2024	1040	HR		
10	Option Year Three (3): 02/01/2026 thru 01/31/2027 Regular Hours-estimated 10,400 hours. (Option Line Item) 11/06/2025	10400	HR		
11	Option Year Three (3): 02/01/2026 thru 01/31/2027 On-Call Hours (including weeknights, weekends and holidays)-estimated 4,888 hours. (Option Line Item) 11/06/2025	4888	HR		
12	Option Year Three (3): 02/01/2026 thru 01/31/2027 Call Back/Overtime Hours (including weeknights, weekends and holidays)-estimated 1,040 hours. (Option Line Item) Continued ...	1040	HR		

NAME OF OFFEROR OR CONTRACTOR

ITEM NO. (A)	SUPPLIES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	11/06/2025				
13	Option Year Four (4): 02/01/2027 thru 01/31/2028 Regular Hours-estimated 10,400 hours. (Option Line Item) 11/06/2026	10400	HR		
14	Option Year Four (4): 02/01/2027 thru 01/31/2028 On-Call Hours (including weeknights, weekends and holidays)-estimated 4,888 hours. (Option Line Item) 11/06/2026	4888	HR		
15	Option Year Four (4): 02/01/2027 thru 01/31/2028 Call Back/Overtime Hours (including weeknights, weekends and holidays)-estimated 1,040 hours. (Option Line Item) 11/06/2026	1040	HR		

Performance Work Statement (PWS)  
Certified Nurse Midwife Services

**C.1) Background**

The mission of the Pine Ridge Indian Health Service (PRIHS) is to raise the physical, mental, social and spiritual health of American Indians and Alaska Natives to the highest level. To meet this mission, Certified Nurse Midwifery (CNM) services are extensively utilized through the reservation for nearly all aspects of CNM Obstetric & Gynecologic health care, including Labor & Delivery services. Pine Ridge Reservation is located in the southwestern corner of South Dakota, approximately 100 miles from Rapid City. Surrounded by rolling prairie, Badlands and Black Hills, the Pine Ridge Reservation is home to the Oglala Lakota Nation.

Pine Ridge Reservation possesses low life expectancy in the United States and high infant mortality rates. Adding, consistently been the poorest county (Oglala Lakota County) in the US according to the US Government. Unemployment is very high in this population. Note, closest higher level of care is 35 minutes away by life flight and 1 hour and 30 minutes by ground ambulance. Transfer weather conditions at times can be challenging thus precluding air or even ground transfer.

**C.2) General Requirements****C.2.1 Purpose of Contract**

To provide direct patient care, supporting the current Nurse Midwifery staff, especially in times of temporary staffing shortages. It is of utmost importance the Contractor renders seamless coverage and provides continuity care. PRIHS is seeking one (1) to five (5) qualified CNMs as full-time equivalents (FTEs). The contract company shall furnish licensed, experienced personnel, with the relevant background in accordance with the terms and conditions specified in the resulting contract.

**C.2.2 Contract Type**

Fixed Unit Price, Non-Personal Service, Indefinite Delivery, Indefinite Quantity contract and shall not exceed the parent contract ceiling amount. The contract will be administered by issuing task orders (TOs) for the performance of work. Only an authorized Government Contracting Officer (CO) can issue a TO under this contract. TOs shall be issued in accordance with Federal Acquisition Regulation provisions. TO periods may vary and will be no longer than a 12-month period.

**C.2.3 Contract Performance Period**

The fixed contract performance period will be base year plus four option years. Every 12 months, dependent upon the need of PRIHS, is the option to extend the term of the contract. If PRIHS needs the service, an authorized government CO shall request to exercise a new option year. A preliminary written notice shall be delivered to contractor, at least 60 days before the current option year expires.

In addition, this contract can be terminated for the convenience of PRIHS if, a sufficient number of permanent Government Providers are hired to serve in this work capacity. In this event, an authorized Government CO shall provide a preliminary written notice to contractor, 60 days in advance.

**C.2.4 Contract Place of Performance**

PRIHS is comprised of one hospital, three outlying clinics and a mobile unit. The Contractor's primary duty station will be at Pine Ridge Hospital (PRH). At times, the Contractor may be asked to provide services at any of the outlying clinics or mobile unit.

1. Pine Ridge Hospital (located in Pine Ridge, SD)
2. LaCreek Clinic (outlying clinic, located in Martin, SD)
3. Kyle Health Center (outlying clinic, located in Kyle, SD)
4. Wanblee Health Center (outlying clinic, located in Wanblee, SD)
5. Mobile Unit (parked at PRH, deployed throughout Pine Ridge Reservation)

**C.3) Performance Requirements**

Pre-requisites to determine contract CNM eligibility for contract performance: Please submit contract CNM Curriculum Vitae and Pre-Application Questionnaire to the PRIHS OB/GYN Supervisor and/or PRIHS Deputy/Clinical Director. If approved/accepted by the PRIHS OB/GYN Supervisor and/or PRIHS Deputy/Clinical Director, character investigation & credentialing & privileging processes are to immediately follow.

**C.3.1 Scope**

The Contractor shall furnish CNM primary care services. These services will be compatible with the facilities' operating capacity and equipment. The Contractor shall provide Midwifery services to beneficiaries served by PRIHS. The Contractor shall report to the PRIHS OB/GYN Supervisor and/or Clinical Director. It is important to note; the respective contract company supervises the CNM contract personnel. Contract services shall cover the range of Midwifery services typically provided in rural civilian practice, including the following:

- a. Management of intrapartum period for normal and high-risk mothers; provide health care for newborns; provides women's health care and adult/adolescent sexual assault forensic exams (SAFE) related to sexual assault, educate, counsel, and advise patients on all aspects of the reproductive cycle and related psychosocial issues;
- b. Provides on call & consultative Midwifery services. On call services include Labor and Delivery, care of the postpartum patient, emergent women's health issues, and sexual assault examinations.
- c. Routine duties shall include providing maternal health care services.
- d. Knowledge of nurse-midwifery and medical management practices in caring for well-women, mothers and newborns and patients affected by sexual assault throughout the lifespan.
- e. Knowledge of frequently used drugs including normal dosage, administration, action, adverse effects and ability to perform and interpret specified laboratory tests.
- f. Knowledge of frequently used drugs including normal dosage, administration, action, adverse effects and ability to perform and interpret specified laboratory tests.
- g. Ability to teach, counsel and facilitate participation throughout the lifespan.
- h. Ability to utilize, implement and supervise electronic data collection equipment; to interpret and apply the informational output in managing care.
- i. Contract staff shall comply with all PRIHS infection control and safety procedures, practices and standards. This includes COVID-19 policies/procedures, appropriate use of Personal Protective

Equipment (PPE), and hand hygiene policies, to which include, requirements to wear masks at all times during work hours.

- j. Contract staff shall respect and maintain basic rights of patients to include but not be limited to personal dignity.

Pursuant to Section 224 of the Public Health Service Act, 42 USC 233, the Federal Tort Claims Act coverage for medical related claims is extended to individuals providing services pursuant to these contracts. The services performed must have been within the scope of the contract.

The work may require prolonged periods of standing; walking over rough, uneven or rocky surfaces, recurring bending, crouching, stooping, stretching, reaching; recurring lifting of moderately heavy items such as patients or equipment (occasionally over 50 pounds). The work may require specific, but common, physical characteristics of ability such as above average agility and dexterity. Round-the-clock coverage for patient care needs may cause physical and emotional stressors unique to the role

### **C.3.2 New Employee Orientation (NEO) & Annual Trainings**

New Employee Orientation (NEO) is required for all new staff, occurs every other week & is held at the PRIHS Nursing Library. NEO must be completed before performing any services of this contract. NEO labor hours are billable to PRIHS.

Contract staff shall complete all PRIHS required annual trainings.

### **C.3.3 Credentialing & Privileging (C&P)**

The standards of Midwifery practice and the duties of the Contractor shall be pursuant to current Medical Staff Bylaws, Nurse Midwifery guidelines and protocols/policies of the Pine Ridge Indian Health Service (PRIHS). In addition, contract CNMs shall perform services per their CNM licensure and within Nurse Midwifery scope of practice in compliance with The Joint Commission (TJC) standards and CMS regulations. The Contractor shall be required to participate in a quality improvement program, which is consistent with TJC requirements for ongoing monitoring and evaluation of the quality and appropriateness of care.

Midwifery services shall not be performed by a contract CNM until PRIHS Governing Body has granted professional staff membership and clinical privileges in writing. As a prerequisite to performance under the resultant contract, the contract CNM performing the services must be privileged in accordance with PRIHS/Great Plains Area credentialing policy. Therefore, compliance with the PRIHS privileging requirements is essential in the performance of the contract. Any failure to comply with Indian Health Service requirements shall be considered to be non-performance of the contract. The Governing Body will not grant clinical privileges until it is determined that credentials information has been verified and until the contract CNM has completed and passed the background clearance process. The Credentialing and Privileging process on average may take up to 30-45 business days.

The Contractor shall have basic core privileges granted upon verification of all credentialing processes. The PRIHS Supervisory OB/GYN and/or Clinical Director shall deny privileges if the Contractor is unable to prove sufficient training, requested procedure logs, and state law citing specific allowance to perform requested privileges.

Required credential and appointment documents needed to allow initial provisional, subsequent active privileges and appointment shall include yet not limited to the following items.

- 1) Photo of individual that is recognizable.
- 2) Unrestricted active CNM State license photocopied.
- 3) Proof of Board certification by American College of Nurse Midwives (ACNM) as a Certified Nurse Midwife.
- 4) Complete Curriculum Vitae (CV) with complete and current medical provider work history, listing months and years. All gaps of medical employment eight-(8) weeks or greater must include an explanation by the applicant to the reason of this prolonged period of unemployment.
- 5) Current and active Basic Life Support (BLS), Advance Life Support (ACLS) and NRP, which will remain active throughout the provider's tour, while seeing patients in Pine Ridge IHS Hospital/Clinics/ED.
- 6) Three-(3) letters of professional reference less than six-(6) months old from at least (1) supervisor and (2) from peers.
- 7) Active Drug Enforcement Administration (DEA) license including prescription privileges of Schedule 2 & 2N.
- 8) Current Liability Insurance of not less than \$300,000/\$1,000,000.
- 9) Record of recent (< 3 years) continuing education units (CEUs) or continuing medical education (CMEs) consisting of at least 20 credits of ongoing education in the area of OB/GYN care yearly.
- 10) Contractors not furnishing adequate number of CMEs before the expiration of their medical staff appointment will not have their credential file submitted for their next two-(2) year permanent medical staff appointment and clinical privileges.

PRIHS Credentialing & Privileging Point of Contact:

Tammy Bailey

Office: 605 867 3043

Fax: 605 867 3271

Email: Tammy.Bailey@ihs.gov

#### **C.3.4 Certified Nurse Midwife Qualifications**

The contract Nurse Midwife shall illustrate competence in the basic Nurse Midwifery skills as defined by the American College of Nurse Midwives' (ACNM) Core Competencies and certified to practice as a Nurse Midwife by successful completion of an ACNM accredited school and passing of the ACNM Board Certification Test. Applicant must be licensed to practice as a Nurse Midwife in one of the



50 states. The Contractor shall have the onus of supplying documentation supporting any requested privilege that is deemed outside the normal basic scope of a CNM.

### **C.3.5 Health Information Management (HIM)/Electronic Health Record (EHR)**

The Contractor shall use PRIHS Electronic Health Record (EHR) system to maintain accurate and up-to-date information on clinical care provided to patients. Experience with EHR is highly recommended. This includes completing all coding and purpose of visit diagnoses. All patient health record documentation initiated by the Contractor shall be completed to the satisfaction of PRIHS. The PRIHS approving authority of the Contractor's timesheets will not sign off on/approve time sheets unless the Contractor has successfully completed all required patient medical encounter documentation (medical records). To ensure medical records are complete with no deficiencies, the Contractor shall submit a Health Information Management Clearance Form (HIMCF) with each timesheet. The Contract Officer (CO) and Contract Officer Representative (COR) shall be notified within two business days, should the HIMCF indicate deficiency.

The contract CNM completes the medical, obstetrical, family, socio-economic and dietary history. Medical documentation shall be completed in a timely manner, in accordance to PRIHS policies and medical staff bylaws. All medical record documentation shall meet or exceed established standards for PRIHS to include, but not limited to: timeliness, legibility, accuracy, content and signature. All medical record information generated in the performance of this contract will remain the property of and subject to the exclusive control of PRIHS.

### **C.3.6 Purchased Referred Care (PRC)**

Treatment of patients shall be performed at PRIHS facilities except in certain instances where patients are referred to private facilities for performance of special diagnostic procedures or definitive care, not offered at PRIHS. This warrants a referral in EHR on behalf of the patient. The contract CNM shall consult with the PRIHS Supervisory OB/GYN prior to making a referral. The contract CNM shall follow PRIHS procedures when referring patients out through the Purchased Referred Care (PRC) system. Once the referral is made, it is picked up by PRIHS Purchased Referred Care Department. PRC meets daily to review and approve or deny patient referrals. Sufficient justification is very important when making a referral on behalf of the patient.

### **C.3.7 Pharmaceuticals**

The contract CNM authorized to prescribe Pharmaceuticals shall do so according to the availability of drugs listed in the PRIHS formulary. PRIHS Pharmacy services will provide instructions to the prescribing Contractor as to substitute of generic drugs for prescribed drugs. PRIHS Pharmacy & Therapeutics Committee's policies shall determine any approval of medications not on the formulary. Any non-formulary drug request must be first initiated by the completion of a non-formulary drug request form. This completed non-formulary drug request will be reviewed at the next Pharmacy & Therapeutics meeting.

### **C.3.8 Tour of Duties**

The contract CNM hours may vary due to changing needs of PRIHS, varying complexity of medical needs and/or patient volume. The Supervisory OB/GYN and/or Clinical Director of PRIHS will address these

changes to the contract company. The contract company must make all contractor staff aware of the OB/GYN Department and Women's Health Department hours, including on-call shifts.

The contract staff shall be available for a work schedule that will be established by the PRIHS Supervisory OB/GYN and/or Clinical Director. Work shifts will vary between clinic schedules and on-call rotation. Clinic rotation is an eight (8) or ten (10) hour day and will be worked between the hours of 8:00 am and 4:30 pm or 8:00 am and 6:30 pm. These hours are classified as Regular Hours.

A thirty (30) minute lunch break is required, is not billable and is not to adversely affect patient care. If work is performed over the 12:00 pm (Noon) lunch period, a 30-minute lunch may be taken at a more convenient time.

On-call rotation hours vary between 4:30 pm to 8:00 am; 6:30 pm to 8:00 am; 8:00 am to 8:00 pm; 8:00 pm to 8:00 am. The contract CNM shall participate in the weeknight, weekend and holiday Midwifery call schedule. These hours are classified as On-call Hours.

The contract CNM will respond in a timely manner appropriate to the condition of the patient, per request of the consulting Provider, and in compliance with PRIHS policy & Medical Staff bylaws. Phone consults must be responded to within 5 minutes and onsite call back within 20 minutes response time. Contract CNM must be at the patient's bedside within the 20-minute response requirement in the case of an emergency.

Prior to assumption of duty on any scheduled work shift, the contract CNM will be briefed by the PRIHS Supervisory OB/GYN or his/her designated representative regarding patient(s) situation, background, assessment and recommendation (SBAR). If the contract CNM encounters any problems or issues that interfere with provision of care to patients, the PRIHS Supervisory OB/GYN shall be advised. The briefing shall also include conditions of any inpatients for whom the contract CNM is caring for, to the following duty Nurse Midwife or Physician.

The contract CNM shall report continuing problems of any nature or concerns to the PRIHS Supervisory OB/GYN.

### **C.3.9 Employee Health Requirements**

The Contractor shall adhere to PRIHS Employee Health Program policy. The purpose is to provide uniform guidelines for ensuring all staff are free from communicable disease or any other diseases, which may be debilitating or render the Contractor not able to perform his/her, assigned duties. The Contractor shall also adhere to receiving annual vaccinations required. The immunization records are required to be turned into Employee Health Department (within 7 days of employment). Employee Health Requirements are as follows (see attached policy for full details):

- a. Measles, Mumps, & Rubella (MMR)
- b. Varicella (Chicken Pox)
- c. Tetanus, Diphtheria, Pertussis (Tdap)
- d. Tuberculosis
- e. Hepatitis A

- f. Hepatitis B
- g. Influenza
- h. Meningococcal
- i. Shingles Vaccination (Shringrix)
- j. COVID-19 Vaccination series

PRIHS Employee Health Nurse Point of Contact:

JoDee Bettelyoun

Office: 605 867 3286

Email: Jodee.Bettelyoun@ihs.gov

### **C.3.10 Third Party Enrollment**

All Medicare B and other insurance provider enrollment documentation shall be submitted to Contractor staff by PRIHS Business Office (BO) during New Employee Orientation. Enrollment documentation shall be to the satisfaction of PRIHS BO for insurance enrollment confirmation. No initial timesheets or invoices will be approved & processed until the contractor has completed all insurance form documentation. This enrollment process generally takes 2 – 3 business days to approve.

## **C.4) Special Requirements**

### **C.4.1 Security – Character Investigation**

Contractor staff will be required to follow PRIHS procedures for obtaining a full Federal background investigation and preliminary clearance. The preliminary clearance process ranges from 5-30 business days. In order to obtain a Personal Identity Verification (PIV) card, contractor staff shall complete and pass a Federal background investigation conducted by the Office of Personnel Management. PRIHS will process the investigations through the Office of Personnel Management on all contractor staff.

Processing of PIV cards shall be completed by Great Plains Area HSPD-12/Suitability Office in conjunction with PRIHS PIV card stations. The contractors will be required to be physically present at one of the HSPD-12 enrollment and issuance workstations to obtain a PIV Card. Two forms of identification are needed for PIV related matters.

Each contractor shall complete each of the requirements below and receive pre-employment clearance from GPA/PRIHS prior to performing services under this contract.

- 1) Fingerprints must be captured for digital processing. Contractor may have fingerprints captured via hard copy, then sent to PRIHS by postal service (at contractor's expense), tracking is highly recommended. Note, FD-258 fingerprint card is the only acceptable hard copy. Or, Contractor may have their fingerprints captured electronically, upon arrival at PRH. Two forms of identification are also required if the contractor is being fingerprinted upon arrival at PRIHS. Please consult with PRIHS HSPD-12 representatives located in the Administration Department at PRH;
- 1) The OF-306, Declaration for Federal Employment shall be completed;
- 2) The Addendum to the OF-306, shall be completed;
- 3) Provisional Waiver form shall be completed;
- 4) Copy of Curriculum Vitae/Resume;

- 5) 86 C form shall be completed;
- 6) General Release form shall be completed;
- 7) eQIP (if applicable initially otherwise, required after 120 days of PRIHS employment);
- 8) The contractor shall be enrolled for PIV if eQIP is completed;
- 9) State Packets, individualized documents shall be completed, please consult with PRIHS HSPD-12 representative for guidance.

The contractor shall ensure that the employees it proposes for work under this contract have a reasonable chance for approval. If at any point during the investigation process a contractor staff is deemed ineligible or found to have other than favorable suitability, the individual must be removed from providing services under this contract. PRIHS shall investigate personnel at no cost to the contractor.

**PRIHS pre-security clearance is a pre-requisite. It is imperative to note; all Contract personnel must receive a favorable adjudicated pre-security clearance in order to perform any services/requirements of this contract. Contract personnel are not permitted to wait in any PRIHS facility while awaiting adjudication.**

If pre-security clearance is deemed unfavorable, the contract company shall submit a replacement provider immediately or risk breaching the terms and conditions of this contract. **A delay in securing a replacement contract CNM greater than 14 calendar days shall be considered grounds for PRIHS to terminate the contract for convenience.**

Please address (FD-258) hard copy fingerprint card to:

Pine Ridge I.H.S Hospital  
Attn: Purchasing Agents  
607 Indian Health Road  
P.O. Box 1201  
Pine Ridge SD, 57770

PRIHS HSPD-12/Background Investigation Point of Contracts:

1) Diane Little Hawk  
Administration Department at PRH  
Office: 605 867 3390  
Email: [Diane.LittleHawk@ihs.gov](mailto:Diane.LittleHawk@ihs.gov)

2) Annie Means  
Administration Department at PRH  
Office: 605 867 3403  
Email: [Annie.Means@ihs.gov](mailto:Annie.Means@ihs.gov)

#### **C.4.2 Work Identification Badge**

When the contract CNM is cleared to start providing service, upon arrival, he/she shall obtain a PRIHS work identification badge from PRIHS Information Technology. The contractor is required to wear the work identification badge at all times when in working status.

#### **C.4.3 Contractor Furnished Property**

PRIHS requires the contractor to carry a working form of communication (i.e. cellular phone or pager) at their expense.

**C.5) Additional Requirements****C.5.1 Contract Line Item Numbers (CLINs)****# 1 Regular Hours**

On site coverage, Monday through Friday, 8 or 10 hours shift(s).

**# 2 On Call Hours**

All hours after the Regular Hours in a 24-hour period. Maximum allowable On Call Hours during a weekday is 14 hours. Maximum allowable On Call Hours during the weekend/Holiday is 12 hours per day.

**# 3 Call Back/Overtime**

Call Back applies when the contractor returns to the facility (on-site) for face to face patient services as requested by the attending provider in the department of need.

Overtime applies when the contractor works beyond their regular scheduled 8/10-hour duty day. For Overtime, the contractor shall seek prior approval from the PRIHS Supervisory OB-GYN or designee.

**C.5.2 Timesheet**

Timesheets shall capture daily time in, time out and 30-minute (unpaid/required) lunch break. Please tally time on timesheet in 15-minute increments. Contractor time from 1 to 7 minutes shall be rounded down, and thus not counted as hours worked, but Contractor time from 8 to 14 minutes must be rounded up and counted as a quarter hour of time worked. Ensure prior approval for overtime is obtained from the PRIHS Supervisory OB/GYN or designee. A Health Information Management Clearance Form (HIMCF) shall be submitted by the Contractor with each timesheet. All timesheets & HIMCFs shall be signed by the PRIHS Supervisory OB/GYN or designee for approval. No invoices will be processed unless the timesheet & HIMCF has been approved. The Contractor shall send a copy of these approved records to their company & all originals to the PRIHS Supervisory OB/GYN.

The contract CNM will be paid for actual labor hours worked based on their approved timesheet & HIMCF. Contractor invoices are based off approved timesheets & approved HIMCFs. It is important to note, no timesheets or invoices will be processed for unapproved HIMCFs.

**C.5.3 Invoicing**

The Contractor shall submit an invoice on a minimum monthly basis, via email. Contractor shall include the approved timesheet(s) and approved HIMCF(s) with each invoice. The Contractor will be paid for their hours worked, at the fixed hourly rate, by labor category. Please address invoices to the PRIHS Supervisory OB/GYN, Contract Officer Representative (COR) assigned at contract award and Great Plains Area (GPA) Accounts Payable (AP) Accountant.

It is important to note; no invoices will be processed for unapproved timesheets and/or unapproved HIMCFs.

[Donald.Brown@ihs.gov](mailto:Donald.Brown@ihs.gov) – PRIHS Supervisory OB/GYN

[Rachel.Olson@ihs.gov](mailto:Rachel.Olson@ihs.gov) – GPA AP Accountant

[Sammi.Herman@ihs.gov](mailto:Sammi.Herman@ihs.gov) – PRIHS COR

[Janelle.Byrne@ihs.gov](mailto:Janelle.Byrne@ihs.gov) – PRIHS COR

## **C.6) Additional Information**

### **C.6.1 PRIHS Furnished Property**

PRIHS will provide a patient examination area, all medical & non-medical equipment and supplies used in the facilities for the care and maintenance of patients as per the standards of care.

### **C.6.2 Work Environment**

Exposure to contagious diseases is possible in the PRH, outlying clinics and mobile unit. Potential exposure to bodily fluids may occur in the course of caring for trauma patients.

### **C.6.3 Weather**

Pine Ridge, South Dakota, is a geographic area with wide temperature span. The winters can be very cold and windy. Contractors should expect to drive in weather conditions for which they may not be accustomed. The sole authority to close PRH or outlying clinics rests with the Chief Executive Officer (CEO). If the hospital remains open, the Contractor will be expected to report to work on time, as all other hospital employees will be required. Reliable transportation to report for duty within the specified timeframe of this contract is the contractor's responsibility and at their expense.

### **C.6.4 Meals**

Breakfast, lunch and dinner (supper) is available in the PRIHS hospital cafeteria with the purchase of a meal ticket. Meal tickets can be purchased in the Finance Department between the hours of 09:30 am to 11:30 am and 2:00 pm to 4:00 pm, Monday through Friday. Cash, check or money order are the acceptable payment options. PRIHS Hospital is not equipped to perform credit/debit card transactions.

### **C.6.5 Housing**

If available, PRIHS Hospital housing can be offered to ensure timely response to on-call responsibilities. The Contractor is required to pay rent for offered housing. The rental rate is determined by PRIHS Guidelines. PRIHS will invoice the individual renting.

PRH Housing point of contact:

Martin "Marty" Zephier

Office: (605) 867-3071

Email: [Martin.Zephier@ihs.gov](mailto:Martin.Zephier@ihs.gov)

## **C.7) Deliverables**

Deliverable	Frequency	Number of copies to PRIHS	Delivery format to PRIHS	Submit to at PRIHS

Curriculum Vitae & Pre-Application Questionnaire (C.3)	Once, prior to contract performance.	<b>1 copy</b>	<b>Via fax</b> or via secure data transfer email	Supervisory OB/GYN and/or Deputy/CD
Credentialing & Privileging Requirements (C.3.3)	Once, prior to contract performance & as needed thereafter	<b>1 copy</b>	<b>Via fax</b> or via secure data transfer email	Tammy Bailey, Medical Staff Coordinator
Health Information Management Clearance Form (C.3.5)	Every week	<b>1 original</b>	<b>Hand deliver</b>	Supervisory OB/GYN, Contract Officer Representative (COR) as alternate.
Employee Health Requirements (C.3.9)	Within 7 days of contract performance & annually thereafter.	<b>1 copy</b>	<b>Hand deliver</b>	Employee Health Nurse
Character Investigation Requirements (C.4.1)	Once, prior to contract performance & as needed thereafter	<b>1 copy</b>	<b>Via fax</b> or via secure data transfer email	HSPD-12 Representative
Timesheet (C.5.2)	Every week	<b>1 original</b>	<b>Hand deliver</b>	Supervisory OB/GYN, Contract Officer Representative as alternate.
Invoice (C.5.3)	Minimum monthly	<b>1 copy</b>	<b>Via email</b>	Supervisory OB/GYN, GPA Accountant & CORs

CONTRACTORS PERFORMANCE CONDITIONS & RESPONSIBILITIES:

1. Contractor is responsible for reporting all taxes from wages earned under this contract to the appropriate State and Federal Agencies, provided the awardee is an individual.
2. Contractor is responsible for his/her own reliable transportation in the performance of the contract.
3. Contractor is responsible for Fringe Benefits and other benefits such as health, retirement, etc. for his/her employees, if other than self.
4. Contractor is responsible for maintaining satisfactory standards of competence, conduct, appearance and integrity. The quality of work performance of the contractor shall be subject to review.
5. Contractor is responsible for notifying the designated supervisor/director if he/she will be late, ill or unable to work for other reasons.
6. Contractor earns no leave and is compensated only for hours actually worked at the agreed compensatory rate.
7. Contractor is responsible for signing-in and signing-out of immediate work area, utilizing in-house system of accountability.



## **CLAUSES INCORPORATED BY REFERENCE**

(Firm Fixed-Price, Non-Personal Service-Commercial Items)

### **FAR CITATION: 52.252-1: Solicitation Provision Incorporated by Reference. (FEB 1998)**

This solicitation incorporates one or more solicitation provisions 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. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es): <http://arnet.gov/far/index.html>.

### **52.252-2 Clauses Incorporated by Reference. (FEB 1998)**

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/these address(es): <http://arnet.gov/far/index.html>

#### **I. Federal Acquisition Regulations (FAR) (48 CFR Chapter 1) Clauses**

<b>No.</b>	<b>FAR Citation</b>	<b>Clause Title</b>	<b>Clause Date</b>
1.	52.202-1	Definitions	June 2020
2.	52.203-3	Gratuities	April 1984
3.	52.203-12	Limitation on Payments to Influence Certain Federal Transactions	June 2020
4.	52.204-13	System for Award Management Maintenance	October 2018
5.	52.204-7	System for Award Management	October 2018
6.	52.204-9	Personal Identify Verification of Contractor Personnel	January 2011
7.	52.204-16	Commercial and Government Entity Code Reporting	August 2020
8.	52.204-18	Commercial and Government Entity Code Maintenance	August 2020
9.	52.204-19	Incorporation by Reference of Representations and Certifications	December 2014
10.	52.212-1	Instructions to Offerors-Commercial Items	November 2021
11.	52.212-4	Contract Terms and Conditions-Commercial Items Items	November 2021
12.	52.217-5	Evaluation of Options	July 1990
13.	52.217-8	Option to Extend Services	November 1999
14.	52.224-1	Privacy Act Notification	April 1984
15.	52.224-2	Privacy Act	April 1984
16.	52.232-39	Unenforceability of Unauthorized Obligations	June 2013
17.	52.232-40	Providing Accelerated Payments to Small Business Subcontractors	November 2021

18.	52.237-1	Site Visit	April 1984
19.	52.237-2	Protection of Government Buildings, Equipment and Vegetation	April 1984
20.	52.237-7	Indemnification and Medical Liability Insurance	January 1997
21.	52.253-1	Computer Generated Forms	January 1991
<b>II. Federal Acquisition Regulations (FAR) (48 CFR Chapter 1) Clauses in Full Text</b>			

<b>No.</b>	<b>FAR Citation</b>	<b>Clause Title</b>	<b>Clause Date</b>
1.	52.204-21	Basic Safeguarding of Covered Contractor Information Systems	November 2021
2.	52.212-2	Evaluation-Commercial Products and Commercial Services	November 2021
3.	52.212-3	Offeror Representation & Certification-Commercial Items	October 2022
4.	52.212-5	Contract Terms & Conditions Required to Implement Statutes or Executive Orders-Commercial Items	October 2022
5.	52.216-18	Ordering	August 2020
6.	52.216-19	Ordering Limitations	October 1995
7.	52.216-22	Indefinite Quantity	October 1995
8.	52.217-9	Option to Extend the Term of the Contract	March 2000
9.	52.232-19	Availability of Funds for the Next Fiscal Year	April 1984
10.	52.223-99	Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors	October 2021

#### **52.204-21 Basic Safeguarding of Covered Contractor Information Systems.**

As prescribed in [4.1903](#) , insert the following clause:

##### **BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (NOV 2021)**

(a) *Definitions.* As used in this clause—

*Covered contractor information system* means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

*Federal contract information* means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public websites) or simple transactional information, such as necessary to process payments.

*Information* means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

*Information system* means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information ( [44 U.S.C. 3502](#)).

*Safeguarding* means measures or controls that are prescribed to protect information systems.

(b) Safeguarding requirements and procedures.

(1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

(i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).

(ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.

(iii) Verify and control/limit connections to and use of external information systems.

(iv) Control information posted or processed on publicly accessible information systems.

(v) Identify information system users, processes acting on behalf of users, or devices.

(vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.

(vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.

(viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.

(ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.

(x) Monitor, control, and protect organizational communications (*i.e.*, information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.

(xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.

(xii) Identify, report, and correct information and information system flaws in a timely manner.

(xiii) Provide protection from malicious code at appropriate locations within organizational information systems.

(xiv) Update malicious code protection mechanisms when new releases are available.

(xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) *Other requirements.* This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

(c) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial products or commercial services, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

(End of clause)

## **52.212-2 Evaluation—Commercial Products and Commercial Services.**

As prescribed in [12.301\(c\)](#), the Contracting Officer may insert a provision substantially as follows:

### **EVALUATION—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (NOV 2021)**

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

#### **P'ROBLEM AND' APPROACH**

1. Evaluation of this criterion will assess the bidders overall understanding of the complexities and logistical requirements associated with the provisional agreed upon CNM Services - as applicable to the Inpatient, Outpatient, Nursery, and ED

consultation departments at PRIHS Hospital. This criterion will be evaluated based upon the available bids in concert with submitted portfolios addressing each of the following points as noted below:

- a. Understanding of the complexity and logistical requirements of the organization template of rendered care. (housing, travel conditions, travel time, etc.)
- b. Understanding of the inherent difficulties encountered in deliverance of hospital-based care within a small rural Indian Health Service facility. (Limited resources, limited geographic area, socio-economic conditions of the patient population, etc.)
- c. Possession of necessary organization, experience and technical skills to perform such services understanding cultural diversities and incurred work ethics required to function within such a milieu.
- d. A detailed work plan **shall be submitted** that outlines how each aspect of the work statement is to be accomplished. The technical approach shall be sufficiently detailed, taking into account such aforementioned methodology. Particular attention should be directed toward the scheduling of work force and potential problems and solutions for the CNM work statement components.
- e. Ability to respond to planned and unplanned emergency replacement requests.
- f. Ability to submit qualified CNM applicants with appropriate experience for credentialing and character investigation requirements.
- g. Ability to meet and/or exceed PRIHS credentialing and character investigation requirements.
- h. Ability to comply with PRIHS medical documentation (via use of electronic health record) and reporting requirements.

## **PAST PERFORMANCE & EXPERIENCE**

This evaluation shall assess the relevance and breadth of offeror's experience and quality of the performance within the scope and complexity with the Provider coverage of the PRIHS requirement.

2. The technical proposal **must include a** listing of offeror's previous performance history regarding agreed upon contractual obligations on contracts, other primary care service contracts and subcontracts, Government and/or commercial enterprises awarded to the responsible organization submitting such offers in not dissimilar environmental conditions serving at times challenging rural, isolated locations. The contracts must contain the same type of primary care requirements outlined in the work statement. The respective contractor must include the following information for each contract and subcontract:
  - a. List of other Medical Staff contracts or subcontracts with these categories: description of contracted work, Program Manager as reference with contact information and list of major achievements.
  - b. Demonstration of successful performance of past contracts to include: at least 1 contract that was most successful and the reason for this consideration, evidence of timely and acceptable contract performance.
  - c. Evidence of concern for cost control and budgetary considerations.

## **KEY PERSONNEL**

3. This factor will be evaluated utilizing quantitative personnel availability/mobility for potential last minute assignment to the project. The proposal shall identify key personnel who have relevant experience in performing the tasks required of this solicitation in other projects that are similar in function, scope, and complexity to the PRIHS Hospital requirement. The bidder must provide a staffing plan to provide the availability of qualified staff that assures the requirements of the work statement are fulfilled in a timely manner. The agreed upon contractor shall specify the extent to which staff will participate in contract performance. Curriculum vitae (CV)/resume of key personnel that will be directly involved in contract performance shall be included in the proposal. CV/resume must demonstrate that the vendor/ agency has the personnel with the necessary knowledge and experience to perform the tasks outlined in the work statement to include such management duties as they may arise in patient services, medical services, medical-obstetrical emergencies, emergency room and the OB/GYN specialty area.

Identify the key personnel available for assignment to this contract, specify the extent to which the staff will participate in this contract, submit evidence of licensure and CEU to demonstrate offer has required knowledge, experience, and educational background to perform the tasks outlined in the complete work statement. All potential staff must be free of OIG sanctions and achieve credentialed status at PRIHS.

- a. Recruiter
- b. Finance/Accounting staff
- c. Credential Liaison
- d. Any other contact of importance to fulfill the commitment

Technical and past performance, when combined, are \_\_\_\_\_ *[Contracting Officer state, in accordance with FAR [15.304](#), the relative importance of all other evaluation factors, when combined, when compared to price.]*

(b) *Options.* The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of provision)

### **52.212-3 Offeror Representations and Certifications—Commercial Products and Commercial Services.**

As prescribed in [12.301](#)(b)(2), insert the following provision:

#### **OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (OCTOBER 2022)**

---

The Offeror shall complete only paragraph (b) of this provision if the Offeror has completed the annual representations and certification electronically in the System for Award Management (SAM) accessed through <https://www.sam.gov>. If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (v) of this provision.

(a) *Definitions.* As used in this provision—

"Covered telecommunications equipment or services" has the meaning provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

*Economically disadvantaged women-owned small business (EDWOSB) concern* means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business eligible under the WOSB Program.

*Forced or indentured child labor* means all work or service—

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

*Highest-level owner* means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest level owner.

*Immediate owner* means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

*Inverted domestic corporation*, means a foreign incorporated entity that meets the definition of an inverted domestic corporation under [6 U.S.C. 395\(b\)](#), applied in accordance with the rules and definitions of [6 U.S.C. 395\(c\)](#).

*Manufactured end product* means any end product in product and service codes (PSCs) 1000-9999, except—

- (1) PSC 5510, Lumber and Related Basic Wood Materials;
- (2) Product or Service Group (PSG) 87, Agricultural Supplies;
- (3) PSG 88, Live Animals;
- (4) PSG 89, Subsistence;
- (5) PSC 9410, Crude Grades of Plant Materials;
- (6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;



(8) PSC 9610, Ores;

(9) PSC 9620, Minerals, Natural and Synthetic; and

(10) PSC 9630, Additive Metal Materials.

*Place of manufacture* means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.

*Predecessor* means an entity that is replaced by a successor and includes any predecessors of the predecessor.

*Reasonable inquiry* has the meaning provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

*Restricted business operations* means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education;  
or

(6) Have been voluntarily suspended."Sensitive technology"—

*Sensitive technology*—

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—

(i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

*Service-disabled veteran-owned small business concern—*

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in [38 U.S.C. 101](#)(2), with a disability that is service connected, as defined in [38 U.S.C. 101](#)(16).

*Small business concern—*

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and size standards in this solicitation.

(2) *Affiliates*, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

*Small disadvantaged business concern*, consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that—

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by—

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13 CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

*Subsidiary* means an entity in which more than 50 percent of the entity is owned—

- (1) Directly by a parent corporation; or
- (2) Through another subsidiary of a parent corporation

*Successor* means an entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name (often through acquisition or merger). The term "successor" does not include new offices/divisions of the same company or a company that only changes its name. The extent of the responsibility of the successor for the liabilities of the predecessor may vary, depending on State law and specific circumstances.

*Veteran-owned small business concern* means a small business concern—

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

*Women-owned business concern* means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women

*Women-owned small business concern* means a small business concern—

- (1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

*Women-owned small business (WOSB) concern eligible under the WOSB Program* (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

(b)

(1) *Annual Representations and Certifications*. Any changes provided by the Offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications in SAM.

(2) The offeror has completed the annual representations and certifications electronically in SAM accessed through <http://www.sam.gov>. After reviewing SAM information, the Offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR [52.212-3](#), Offeror Representations and Certifications-Commercial Products and Commercial Services, have been entered or updated in the last 12 months, are current, accurate, complete, and

applicable to this solicitation (including the business size standard(s) applicable to the NAICS code(s) referenced for this solicitation), at the time this offer is submitted and are incorporated in this offer by reference (see FAR [4.1201](#)), except for paragraphs \_\_\_\_\_.

*[Offeror to identify the applicable paragraphs at (c) through (v) of this provision that the offeror has completed for the purposes of this solicitation only, if any.]*

*These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.*

*Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted electronically on SAM.]*

(c) Offerors must complete the following representations when the resulting contract is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied [part 19](#) in accordance with [19.000\(b\)\(1\)\(ii\)](#). Check all that apply.

(1) *Small business concern.* The offeror represents as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) *Veteran-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a veteran-owned small business concern.

(3) *Service-disabled veteran-owned small business concern.* [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a service-disabled veteran-owned small business concern.

(4) *Small disadvantaged business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, that it ☐ is, ☐ is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) *Women-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it ☐ is, ☐ is not a women-owned small business concern.

(6) *WOSB concern eligible under the WOSB Program.* [Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(5) of this provision.] The offeror represents that-

(i) It ☐ is, ☐ is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(6)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [The offeror shall enter the name

or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture: \_\_\_\_\_.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(7) Economically disadvantaged women-owned small business (EDWOSB) concern. [Complete only if the offeror represented itself as a WOSB concern eligible under the WOSB Program in (c)(6) of this provision.] The offeror represents that-

(i) It ☐ is, ☐ is not an EDWOSB concern, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(7)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. [*The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture: \_\_\_\_\_.*] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

**Note:** Complete paragraphs (c)(8) and (c)(9) only if this solicitation is expected to exceed the simplified acquisition threshold.

(8) *Women-owned business concern (other than small business concern).* [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it ☐ is a women-owned business concern.

(9) *Tie bid priority for labor surplus area concerns.* If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price: \_\_\_\_\_

(10) *HUBZone small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, as part of its offer, that-

(i) It ☐ is, ☐ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR Part 126; and

(ii) It ☐ is, ☐ is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: \_\_\_\_\_.] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(d) Representations required to implement provisions of Executive Order 11246-

(1) Previous contracts and compliance. The offeror represents that-

(i) It ☐ has, ☐ has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and

(ii) It ☐ has, ☐ has not filed all required compliance reports.

(2) *Affirmative Action Compliance*. The offeror represents that-

(i) It ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or

(ii) It ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) *Certification Regarding Payments to Influence Federal Transactions*

(31 <http://uscode.house.gov/> U.S.C. 1352). (Applies only if the contract is expected to exceed \$150,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) *Buy American Certificate*. (Applies only if the clause at Federal Acquisition Regulation (FAR) [52.225-1](#), Buy American-Supplies, is included in this solicitation.)

(1)

(i) The Offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product.

(ii) The Offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

(iii) The terms "domestic end product," "end product," "foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American-Supplies."

(2) Foreign End Products:

---

---

---

[List as necessary]

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR [part 25](#).

(g)

(1) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate*. (Applies only if the clause at FAR [52.225-3](#), Buy American-Free Trade Agreements-Israeli Trade Act, is included in this solicitation.)

(i)

(A) The Offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (iii) of this provision, is a domestic end product.

(B) The terms "Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product," "domestic end product," "end product," "foreign end product," "Free Trade Agreement country," "Free Trade Agreement country end product," "Israeli end product," and "United States" are defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act."

(ii) The Offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act."

Free Trade Agreement Country End Products (Other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

---

---

---

[List as necessary]

(iii) The Offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act." The Offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

Other Foreign End Products:

---

---

---

[List as necessary]

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR [part 25](#).

(2) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate, Alternate I*. If Alternate I to the clause at FAR [52.225-3](#) is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act":

Canadian End Products:



---

---

[List as necessary]

(3) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate, Alternate II.* If Alternate II to the clause at FAR [52.225-3](#) is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act":

Canadian or Israeli End Products:

---

---

---

---

---

[List as necessary]

(4) *Buy American-Free Trade Agreements-Israeli Trade Act Certificate, Alternate III.* If Alternate III to the clause at [52.225-3](#) is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled "Buy American-Free Trade Agreements-Israeli Trade Act":

Free Trade Agreement Country End Products (Other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

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

[List as necessary]

(5) *Trade Agreements Certificate*. (Applies only if the clause at FAR [52.225-5](#), Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(5)(ii) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled "Trade Agreements."

(ii) The offeror shall list as other end products those end products that are not U.S.-made or designated country end products.

Other End Products:

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

[List as necessary]

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR [part 25](#). For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American statute. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

(h) *Certification Regarding Responsibility Matters (Executive Order 12689)*. (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals—

(1) ☐ Are, ☐ are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2) ☐ Have, ☐ have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

(3) ☐ Are, ☐ are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

(4) ☐ Have, ☐ have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds the threshold at [9.104-5\(a\)\(2\)](#) for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

(A) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(B) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) *Examples.*

(A) The taxpayer has received a statutory notice of deficiency, under I.R.C. §6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(B) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. §6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(C) The taxpayer has entered into an installment agreement pursuant to I.R.C. §6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(D) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. §362 (the Bankruptcy Code).

(i) *Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126). [The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at [22.1503\(b\)](#).]*

(1) *Listed end products.*

---

---

(2) *Certification. [If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]*

(i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

(ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(j) *Place of manufacture.* (Does not apply unless the solicitation is predominantly for the acquisition of manufactured end products.) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly-

(1) ☐ In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

(2) ☐ Outside the United States.

(k) *Certificates regarding exemptions from the application of the Service Contract Labor Standards* (Certification by the offeror as to its compliance with respect to the contract also constitutes

its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) [*The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.*]

(1) Maintenance, calibration, or repair of certain equipment as described in FAR [22.1003-4\(c\)\(1\)](#). The offeror ☐ does ☐ does not certify that—

(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

(ii) The services will be furnished at prices which are, or are based on, established catalog or market prices (see FAR [22.1003-4\(c\)\(2\)\(ii\)](#)) for the maintenance, calibration, or repair of such equipment; and

(iii) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract will be the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

(2) Certain services as described in FAR [22.1003-4\(d\)\(1\)](#). The offeror ☐ does ☐ does not certify that—

(i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR [22.1003-4\(d\)\(2\)\(iii\)](#));

(iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

(iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

(3) If paragraph (k)(1) or (k)(2) of this clause applies—

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Labor Standards wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

(ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(1) *Taxpayer Identification Number (TIN)* ( [26 U.S.C. 6109](#), [31 U.S.C. 7701](#)). (Not applicable if the offeror is required to provide this information to the SAM to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (1)(3) through (1)(5) 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 6050M](#), and implementing regulations issued by the Internal Revenue Service (IRS).

(2) 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 the payment reporting requirements described in FAR [4.904](#), the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) *Taxpayer Identification Number (TIN)*.

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.

(4) *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 CFR1.6049-4;

Other \_\_\_\_\_.

(5) *Common parent*.

Offeror is not owned or controlled by a common parent;

Name and TIN of common parent:

Name \_\_\_\_\_.

TIN \_\_\_\_\_.

(m) *Restricted business operations in Sudan*. By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(n) Prohibition on Contracting with Inverted Domestic Corporations.

(1) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation, unless the exception at [9.108-2](#)(b) applies or the requirement is waived in accordance with the procedures at [9.108-4](#).

(2) *Representation*. The Offeror represents that—

(i) It ☐ is, ☐ is not an inverted domestic corporation; and

(ii) It ☐ is, ☐ is not a subsidiary of an inverted domestic corporation.

(o) Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.

(1) The offeror shall e-mail questions concerning sensitive technology to the Department of State at [CISADA106@state.gov](mailto:CISADA106@state.gov).

(2) *Representation and Certifications*. Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, the offeror—

(i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; and

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds the threshold at FAR [25.703-2](#)(a)(2) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).

(3) The representation and certification requirements of paragraph (o)(2) of this provision do not apply if-

(i) This solicitation includes a trade agreements certification (e.g., [52.212-3](#)(g) or a comparable agency provision); and

(ii) The offeror has certified that all the offered products to be supplied are designated country end products.

(p) *Ownership or Control of Offeror.* (Applies in all solicitations when there is a requirement to be registered in SAM or a requirement to have a unique entity identifier in the solicitation).

(1) The Offeror represents that it ☐ has or ☐ does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (2) and if applicable, paragraph (3) of this provision for each participant in the joint venture.

(2) If the Offeror indicates "has" in paragraph (p)(1) of this provision, enter the following information:

Immediate owner CAGE code: \_\_\_\_\_.

Immediate owner legal name: \_\_\_\_\_.

(Do not use a "doing business as" name)

Is the immediate owner owned or controlled by another entity: ☐ Yes or ☐ No.

(3) If the Offeror indicates "yes" in paragraph (p)(2) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:

Highest-level owner CAGE code: \_\_\_\_\_.

Highest-level owner legal name: \_\_\_\_\_.

(Do not use a "doing business as" name)

(q) *Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.*

(1) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts, The Government will not enter into a contract with any corporation that—

(i) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or



debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(ii) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(2) The Offeror represents that—

(i) It is ☐ is not ☐ a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(ii) It is ☐ is not ☐ a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(r) *Predecessor of Offeror*. (Applies in all solicitations that include the provision at [52.204-16](#), Commercial and Government Entity Code Reporting.)

(1) The Offeror represents that it ☐ is or ☐ is not a successor to a predecessor that held a Federal contract or grant within the last three years.

(2) If the Offeror has indicated "is" in paragraph (r)(1) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order):

Predecessor CAGE code: (or mark "Unknown").

Predecessor legal name:\_\_\_\_\_.

(Do not use a "doing business as" name).

(s) [Reserved].

(t) *Public Disclosure of Greenhouse Gas Emissions and Reduction Goals*. Applies in all solicitations that require offerors to register in SAM ( [12.301](#)(d)(1)).

(1) This representation shall be completed if the Offeror received \$7.5 million or more in contract awards in the prior Federal fiscal year. The representation is optional if the Offeror received less than \$7.5 million in Federal contract awards in the prior Federal fiscal year.

(2) Representation. [Offeror to check applicable block(s) in paragraph (t)(2)(i) and (ii)].

(i) The Offeror (itself or through its immediate owner or highest-level owner) ☐ does, ☐ does not publicly disclose greenhouse gas emissions, i.e., makes available on a publicly accessible website the results of a greenhouse gas inventory, performed in accordance with an accounting standard with

publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

(ii) The Offeror (itself or through its immediate owner or highest-level owner) ☐ does, ☐ does not publicly disclose a quantitative greenhouse gas emissions reduction goal, i.e., make available on a publicly accessible website a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(iii) A publicly accessible website includes the Offeror's own website or a recognized, third-party greenhouse gas emissions reporting program.

(3) If the Offeror checked "does" in paragraphs (t)(2)(i) or (t)(2)(ii) of this provision, respectively, the Offeror shall provide the publicly accessible website(s) where greenhouse gas emissions and/or reduction goals are reported: \_\_\_\_\_.

(u)

(1) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions), Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with an entity that requires employees or subcontractors of such entity seeking to report waste, fraud, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(2) The prohibition in paragraph (u)(1) of this provision does not contravene requirements applicable to Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(3) *Representation.* By submission of its offer, the Offeror represents that it will not require its employees or subcontractors to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting waste, fraud, or abuse related to the performance of a Government contract to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (e.g., agency Office of the Inspector General).

(v) *Covered Telecommunications Equipment or Services-Representation.* Section 889(a)(1)(A) and section 889 (a)(1)(B) of Public Law 115-232.

(1) The Offeror shall review the list of excluded parties in the System for Award Management (SAM) ( <https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(2) The Offeror represents that—

(i) It ☐ does, ☐ does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(ii) After conducting a reasonable inquiry for purposes of this representation, that it ☐ does, ☐ does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

(End of Provision)

*Alternate I (Oct2014).* As prescribed in [12.301](#)(b)(2), add the following paragraph (c)(11) to the basic provision:

(11) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) of this provision.)

\_\_\_\_\_ Black American.

\_\_\_\_\_ Hispanic American.

\_\_\_\_\_ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

\_\_\_\_\_ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, 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.

#### **52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.**

As prescribed in [12.301](#)(b)(4), insert the following clause:

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—  
COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (OCTOBER 2022)

---

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services:

(1) [52.203-19](#), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further

Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021) (Section 1634 of Pub. L. 115-91).

(3) [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(4) [52.209-10](#), Prohibition on Contracting with Inverted Domestic Corporations (NOV 2015).

(5) [52.233-3](#), Protest After Award (AUG 1996) ( [31 U.S.C. 3553](#)).

(6) [52.233-4](#), Applicable Law for Breach of Contract Claim (OCT 2004) (Public Laws 108-77 and 108-78 ( [19 U.S.C. 3805 note](#))).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services:

*[Contracting Officer check as appropriate.]*

☒ (1) [52.203-6](#), Restrictions on Subcontractor Sales to the Government (JUN 2020), with *Alternate I* (NOV 2021) ( [41 U.S.C. 4704](#) and [10 U.S.C. 2402](#)).

☐ (2) [52.203-13](#), Contractor Code of Business Ethics and Conduct (NOV 2021) ( [41 U.S.C. 3509](#))).

☐ (3) [52.203-15](#), Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

☐ (4) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020) (Pub. L. 109-282) ( [31 U.S.C. 6101 note](#)).

☐ (5) [Reserved].

☐ (6) [52.204-14](#), Service Contract Reporting Requirements (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

☐ (7) [52.204-15](#), Service Contract Reporting Requirements for Indefinite-Delivery Contracts (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

☐ (8) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (NOV 2021) ( [31 U.S.C. 6101 note](#)).

\_\_\_ (9) [52.209-9](#), Updates of Publicly Available Information Regarding Responsibility Matters (OCT 2018) ( [41 U.S.C. 2313](#)).

\_\_\_ (10) [Reserved].

\_\_\_ (11) [52.219-3](#), Notice of HUBZone Set-Aside or Sole-Source Award (SEP 2021) ( [15 U.S.C. 657a](#)).

\_\_\_ (12) [52.219-4](#), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (SEP 2021) (if the offeror elects to waive the preference, it shall so indicate in its offer) ( [15 U.S.C. 657a](#)).

\_\_\_ (13) [Reserved]

\_\_\_x (14) (i) [52.219-6](#), Notice of Total Small Business Set-Aside (Nov 2020) ( [15 U.S.C. 644](#)).

\_\_\_ (ii) Alternate I (MAR 2020) of [52.219-6](#).

\_\_\_ (15) (i) [52.219-7](#), Notice of Partial Small Business Set-Aside (Nov 2020) ( [15 U.S.C. 644](#)).

\_\_\_ (ii) Alternate I (MAR 2020) of [52.219-7](#).

\_\_\_ (16) [52.219-8](#), Utilization of Small Business Concerns (OCT 2018) ( [15 U.S.C. 637\(d\)\(2\)](#) and (3)).

\_\_\_ (17)

(i) [52.219-9](#), Small Business Subcontracting Plan (Nov 2021) ( [15 U.S.C. 637\(d\)\(4\)](#)).

\_\_\_ (ii) Alternate I (Nov 2016) of [52.219-9](#).

\_\_\_ (iii) Alternate II (Nov 2016) of [52.219-9](#).

\_\_\_ (iv) Alternate III (JUN 2020) of [52.219-9](#).

\_\_\_ (v) Alternate IV (SEP 2021) of [52.219-9](#).

\_\_\_ (18) (i) [52.219-13](#), Notice of Set-Aside of Orders (MAR 2020) ( [15 U.S.C. 644\(r\)](#)).

\_\_\_ (ii) Alternate I (MAR 2020) of [52.219-13](#).

\_\_\_ (19) [52.219-14](#), Limitations on Subcontracting (SEP 2021) ( [15 U.S.C. 637s](#)).

\_\_\_ (20) [52.219-16](#), Liquidated Damages—Subcontracting Plan (SEP 2021) ( [15 U.S.C. 637\(d\)\(4\)\(F\)\(i\)](#)).

\_\_\_ (21) [52.219-27](#), Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (SEP 2021) ( [15 U.S.C. 657f](#)).

\_\_\_ (22) (i) [52.219-28](#), Post Award Small Business Program Rerepresentation (SEP 2021) ( [15 U.S.C. 632\(a\)\(2\)](#)).

\_\_\_ (ii) Alternate I (MAR 2020) of [52.219-28](#).

\_\_\_ (23) [52.219-29](#), Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (SEP 2021) ( [15 U.S.C. 637\(m\)](#)).

\_\_\_ (24) [52.219-30](#), Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (SEP 2021) ( [15 U.S.C. 637\(m\)](#)).

\_\_\_ (25) [52.219-32](#), Orders Issued Directly Under Small Business Reserves (MAR 2020) ( [15 U.S.C. 644\(r\)](#)).

\_\_\_ (26) [52.219-33](#), Nonmanufacturer Rule (SEP 2021) ( [15U.S.C. 637\(a\)\(17\)](#)).

\_x\_ (27) [52.222-3](#), Convict Labor (JUN 2003) (E.O.11755).

\_x\_ (28) [52.222-19](#), Child Labor-Cooperation with Authorities and Remedies (JAN 2022) (E.O.13126).

\_\_\_ (29) [52.222-21](#), Prohibition of Segregated Facilities (APR 2015).

\_\_\_ (30) (i) [52.222-26](#), Equal Opportunity (SEP 2016) (E.O.11246).

\_\_\_ (ii) Alternate I (FEB 1999) of [52.222-26](#).

\_x\_ (31) (i) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).

\_\_\_ (ii) Alternate I (JUL 2014) of [52.222-35](#).

\_x\_ (32) (i) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUN 2020) ( [29 U.S.C. 793](#)).

\_\_\_ (ii) Alternate I (JUL 2014) of [52.222-36](#).

\_x\_ (33) [52.222-37](#), Employment Reports on Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).

\_x\_ (34) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).

\_x\_ (35) (i) [52.222-50](#), Combating Trafficking in Persons (NOV 2021) ( [22 U.S.C. chapter 78](#) and E.O. 13627).

- \_\_\_ (ii) Alternate I (MAR 2015) of [52.222-50](#) ( [22 U.S.C. chapter 78](#) and E.O. 13627).
- \_\_\_ (36) [52.222-54](#), Employment Eligibility Verification (MAY 2022) (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial products or commercial services as prescribed in FAR [22.1803](#).)
- \_\_\_ (37) (i) [52.223-9](#), Estimate of Percentage of Recovered Material Content for EPA–Designated Items (May 2008) ( [42 U.S.C. 6962\(c\)\(3\)\(A\)\(ii\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- \_\_\_ (ii) Alternate I (MAY 2008) of [52.223-9](#) ( [42 U.S.C. 6962\(i\)\(2\)\(C\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- \_\_\_ (38) [52.223-11](#), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O. 13693).
- \_\_\_ (39) [52.223-12](#), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693).
- \_\_\_ (40) (i) [52.223-13](#), Acquisition of EPEAT®-Registered Imaging Equipment (JUN 2014) (E.O.s 13423 and 13514).
- \_\_\_ (ii) Alternate I (OCT 2015) of [52.223-13](#).
- \_\_\_ (41) (i) [52.223-14](#), Acquisition of EPEAT®-Registered Televisions (JUN 2014) (E.O.s 13423 and 13514).
- \_\_\_ (ii) Alternate I (Jun2014) of [52.223-14](#).
- \_\_\_ (42) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (MAY 2020) ( [42 U.S.C. 8259b](#)).
- \_\_\_ (43) (i) [52.223-16](#), Acquisition of EPEAT®-Registered Personal Computer Products (OCT 2015) (E.O.s 13423 and 13514).
- \_\_\_ (ii) Alternate I (JUN 2014) of [52.223-16](#).
- \_x\_ (44) [52.223-18](#), Encouraging Contractor Policies to Ban Text Messaging While Driving (JUN 2020) (E.O. 13513).
- \_\_\_ (45) [52.223-20](#), Aerosols (JUN 2016) (E.O. 13693).
- \_\_\_ (46) [52.223-21](#), Foams (Jun2016) (E.O. 13693).
- \_x\_ (47) (i) [52.224-3](#) Privacy Training (JAN 2017) (5 U.S.C. 552 a).
- \_\_\_ (ii) Alternate I (JAN 2017) of [52.224-3](#).

- \_\_\_ (48) [52.225-1](#), Buy American-Supplies (NOV 2021) ( [41 U.S.C. chapter 83](#)).
- \_\_\_ (49) (i) [52.225-3](#), Buy American-Free Trade Agreements-Israeli Trade Act (NOV 2021) ( [41 U.S.C.chapter83](#), [19 U.S.C. 3301](#) note, [19 U.S.C. 2112](#) note, [19 U.S.C. 3805](#) note, [19 U.S.C. 4001](#) note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43.
- \_\_\_ (ii) Alternate I (JAN 2021) of [52.225-3](#).
- \_\_\_ (iii) Alternate II (JAN 2021) of [52.225-3](#).
- \_\_\_ (iv) Alternate III (JAN 2021) of [52.225-3](#).
- \_\_\_ (50) [52.225-5](#), Trade Agreements (OCT 2019) ( [19 U.S.C. 2501](#), *et seq.*, [19 U.S.C. 3301](#) note).
- \_x\_ (51) [52.225-13](#), Restrictions on Certain Foreign Purchases (FEB 2021) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- \_\_\_ (52) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; [10 U.S.C. 2302Note](#)).
- \_\_\_ (53) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (Nov 2007) ( [42 U.S.C. 5150](#)).
- \_\_\_ (54) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov2007) ( [42 U.S.C. 5150](#)).
- \_\_\_ (55) [52.229-12](#), Tax on Certain Foreign Procurements (FEB 2021).
- \_\_\_ (56) [52.232-29](#), Terms for Financing of Purchases of Commercial Products and Commercial Services (NOV 2021) ( [41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).
- \_\_\_ (57) [52.232-30](#), Installment Payments for Commercial Products and Commercial Services (NOV 2021) ( [41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).
- \_x\_ (58) [52.232-33](#), Payment by Electronic Funds Transfer-System for Award Management (OCT2018) ( [31 U.S.C. 3332](#)).
- \_\_\_ (59) [52.232-34](#), Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013) ( [31 U.S.C. 3332](#)).
- \_\_\_ (60) [52.232-36](#), Payment by Third Party (MAY 2014) ( [31 U.S.C. 3332](#)).
- \_x\_ (61) [52.239-1](#), Privacy or Security Safeguards (AUG 1996) ( [5 U.S.C. 552a](#)).



\_\_\_ (62) [52.242-5](#), Payments to Small Business Subcontractors (JAN 2017) ( [15 U.S.C. 637\(d\)\(13\)](#)).

\_\_\_ (63) (i) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021) ( [46 U.S.C. 55305](#) and [10 U.S.C. 2631](#)).

\_\_\_ (ii) Alternate I (APR 2003) of [52.247-64](#).

\_\_\_ (iii) Alternate II (NOV 2021) of [52.247-64](#).

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial products and commercial services:

[Contracting Officer check as appropriate.]

\_\_\_ (1) [52.222-41](#), Service Contract Labor Standards (AUG 2018) ( [41 U.S.C. chapter 67](#)).

\_\_\_ (2) [52.222-42](#), Statement of Equivalent Rates for Federal Hires (MAY 2014) ( [29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

\_\_\_ (3) [52.222-43](#), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (AUG 2018) ( [29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

\_\_\_ (4) [52.222-44](#), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (May 2014) ( [29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

\_\_\_ (5) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) ( [41 U.S.C. chapter 67](#)).

\_\_\_ (6) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (MAY 2014) ( [41 U.S.C. chapter 67](#)).

\_\_\_ (7) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).

\_\_\_ (8) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).

\_\_\_ (9) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) ( [42 U.S.C. 1792](#)).

(d) *Comptroller General Examination of Record*. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, as defined in FAR [2.101](#), on the date of award of this contract, and does not contain the clause at [52.215-2](#), Audit and Records-Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR subpart [4.7](#), Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)

(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial products or commercial services. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Nov 2021) ( [41 U.S.C. 3509](#)).

(ii) [52.203-19](#), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(iii) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Nov 2021) (Section 1634 of Pub. L. 115-91).

(iv) [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(v) [52.219-8](#), Utilization of Small Business Concerns (OCT 2018) ( [15 U.S.C. 637\(d\)\(2\)](#) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR [19.702](#)(a) on the date of subcontract award, the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(vi) [52.222-21](#), Prohibition of Segregated Facilities (APR 2015).

- (vii) [52.222-26](#), Equal Opportunity (SEP 2015) (E.O.11246).
- (viii) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).
- (ix) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUN 2020) ( [29 U.S.C. 793](#)).
- (x) [52.222-37](#), Employment Reports on Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).
- (xi) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause [52.222-40](#).
- (xii) [52.222-41](#), Service Contract Labor Standards (AUG 2018) ( [41 U.S.C. chapter 67](#)).
- (xiii)
  - (A) [52.222-50](#), Combating Trafficking in Persons (NOV 2021) ( [22 U.S.C. chapter 78](#) and E.O 13627).
  - (B) Alternate I (MAR 2015) of [52.222-50](#) ( [22 U.S.C. chapter 78 and E.O. 13627](#)).
- (xiv) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May2014) ( [41 U.S.C. chapter 67](#)).
- (xv) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (MAY 2014) ( [41 U.S.C. chapter 67](#)).
- (xvi) [52.222-54](#), Employment Eligibility Verification (MAY 2022) (E.O. 12989).
- (xvii) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).
- (xviii) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).
- (xix)
  - (A) [52.224-3](#), Privacy Training (Jan 2017) ( [5 U.S.C. 552a](#)).
  - (B) Alternate I (JAN 2017) of [52.224-3](#).
- (xx) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; [10 U.S.C. 2302 Note](#)).

(xxi) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) ( [42 U.S.C. 1792](#)). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xxii) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021) ( [46 U.S.C. 55305](#) and [10 U.S.C. 2631](#)). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the Contractor may include in its subcontracts for commercial products and commercial services a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

*Alternate I* (FEB 2000). As prescribed in [12.301\(b\)\(4\)\(i\)](#), delete paragraph (d) from the basic clause, redesignate paragraph (e) as paragraph (d), and revise the reference to "paragraphs (a), (b), (c), or (d) of this clause" in the redesignated paragraph (d) to read "paragraphs (a), (b), and (c) of this clause".

*Alternate II* (MAY 2022). As prescribed in [12.301\(b\)\(4\)\(ii\)](#), substitute the following paragraphs (d)(1) and (e)(1) for paragraphs (d)(1) and (e)(1) of the basic clause as follows:

(d)(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8 G of the Inspector General Act of 1978 ( [5 U.S.C. App.](#)), or an authorized representative of either of the foregoing officials shall have access to and right to—

(i) Examine any of the Contractor's or any subcontractors' records that pertain to, and involve transactions relating to, this contract; and

(ii) Interview any officer or employee regarding such transactions.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), and (c), of this clause, the Contractor is not required to flow down any FAR clause in a subcontract for commercial products or commercial services, other than—

(i) *Paragraph (d) of this clause.* This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (d)(1)(ii) does not flow down; and

(ii) *Those clauses listed in this paragraph (e)(1).* Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(A) [52.203-13](#), Contractor Code of Business Ethics and Conduct (NOV 2021) ( [41 U.S.C. 3509](#)).

(B) [52.203-15](#), Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5).

(C) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021) (Section 1634 of Pub. L. 115-91).

(D) [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(E) [52.219-8](#), Utilization of Small Business Concerns (OCT 2018) ( [15 U.S.C. 637\(d\)\(2\) and \(3\)](#)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR [19.702](#)(a) on the date of subcontract award, the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(F) [52.222-21](#), Prohibition of Segregated Facilities (APR 2015).

(G) [52.222-26](#), Equal Opportunity (SEP 2016) (E.O. 11246).

(H) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).

(I) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUN 2020) ( [29 U.S.C. 793](#)).

(J) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause [52.222-40](#).

(K) [52.222-41](#), Service Contract Labor Standards (AUG 2018) ( [41 U.S.C. chapter 67](#)).

(L) \_\_\_\_ (1) [52.222-50](#), Combating Trafficking in Persons (NOV 2021) ( [22 U.S.C. chapter 78](#) and E.O 13627).

\_\_\_\_ (2) Alternate I (MAR 2015) of [52.222-50](#) ( [22 U.S.C. chapter 78 and E.O. 13627](#)).

(M) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) ( [41 U.S.C. chapter 67](#)).

(N) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (MAY 2014) ( [41 U.S.C. chapter 67](#)).

(O) [52.222-54](#), Employment Eligibility Verification (MAY 2022) (Executive Order 12989).

(P) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).

(Q) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).

(R) (I) [52.224-3](#), Privacy Training (JAN 2017) ( [5 U.S.C. 552a](#)).

(2) Alternate I (JAN 2017) of [52.224-3](#).

(S) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; [10 U.S.C. 2302](#) Note).

(T) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations. (JUN 2020) ( [42 U.S.C. 1792](#)). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(U) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021) ( [46 U.S.C. 55305](#) and [10 U.S.C. 2631](#)). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

#### **52.217-9 -- Option to Extend the Term of the Contract.**

As prescribed in [17.208](#)(g), insert a clause substantially the same as the following:

##### **Option to Extend the Term of the Contract (Mar 2000)**

(a) The Government may extend the term of this contract by written notice to the Contractor within 1 day; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 5 years.

(End of Clause)

#### **52.216-18 Ordering.**

As prescribed in [16.506](#)(a), insert the following clause:

##### **ORDERING (AUGUST 2020)**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from Date of Award through five (5) years.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) A delivery order or task order is considered "issued" when—

(1) If sent by mail (includes transmittal by U.S. mail or private delivery service), the Government deposits the order in the mail;

(2) If sent by fax, the Government transmits the order to the Contractor's fax number; or

(3) If sent electronically, the Government either—

(i) Posts a copy of the delivery order or task order to a Government document access system, and notice is sent to the Contractor; or

(ii) Distributes the delivery order or task order via email to the Contractor's email address.

(d) Orders may be issued by methods other than those enumerated in this clause only if authorized in the contract.

(End of clause)

#### **52.216-19 Order Limitations.**

As prescribed in [16.506\(b\)](#), insert a clause substantially the same as follows:

##### **ORDER LIMITATIONS (OCT 1995)**

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than 0 hours, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) *Maximum order.* The Contractor is not obligated to honor-

(1) Any order for a single item in excess of 109,928 hours;

(2) Any order for a combination of items in excess of 109,928 hours; or

(3) A series of orders from the same ordering office within 30 days that together call for quantities exceeding the limitation in paragraph (b)(1) or (2) of this section.

(c) If this is a requirements contract (*i.e.*, includes the Requirements clause at subsection [52.216-21](#) of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 10 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

## **52.216-22 Indefinite Quantity**

As prescribed in [16.506](#)(e), insert the following clause:

### **Indefinite Quantity (Oct 1995)**

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the “maximum.” The Government shall order at least the quantity of supplies or services designated in the Schedule as the “minimum.”

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor’s and Government’s rights and obligations with respect to that order to the same extent as if the order were completed during the contract’s effective period; *provided*, that the Contractor shall not be required to make any deliveries under this contract after November 30, 2026.

(End of clause)

## **52.232-19 Availability of Funds for the Next Fiscal Year.**

As prescribed in [32.706-1](#)(b), insert the following clause:

### **Availability of Funds for the Next Fiscal Year (Apr 1984)**

Funds are not presently available for performance under this contract beyond December 16, 2022. The Government’s obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise for performance under this contract beyond December 3, 2021, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.

(End of clause)

## **52.223-99 Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors.**

ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS  
(OCT 2021) (DEVIATION)



(a) *Definition*. As used in this clause -  
*United States or its outlying areas means—*

- (1) The fifty States;
- (2) The District of Columbia;
- (3) The commonwealths of Puerto Rico and the Northern Mariana Islands;
- (4) The territories of American Samoa, Guam, and the United States Virgin Islands; and
- (5) The minor outlying islands of Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Atoll.

(b) *Authority*. This clause implements Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, dated September 9, 2021 (published in the Federal Register on September 14, 2021, 86 FR 50985).

(c) *Compliance*. The Contractor shall comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of this contract, for contractor or subcontractor workplace locations published by the Safer Federal Workforce Task Force (Task Force Guidance) at <https://www.saferfederalworkforce.gov/contractors/>.

(d) *Subcontracts*. The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts at any tier that exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award, and are for services, including construction, performed in whole or in part within the United States or its outlying areas.

(End of clause)]

### III. Department of HHS Acquisition Regulations (HHSAR) (49 Chapter 3) Clauses

No.	HHSAR Citation	Clause Title	Clause Date
1.	HHSAR 352.224-70	Privacy Act	December 2015
2.	HHSAR 352.224-71	Confidential Information	December 2015
3.	HHSAR 352.226-1	Indian Preference	December 2015
4.	HHSAR 352.226-2	Indian Preference Program	December 2015
5.	HHSAR 352.237-70	Pro-Children Act	December 2015
6.	HHSAR 352.237-71	Crime Control Act-Reporting of Child Abuse	December 2015
7.	HHSAR 352.237-72	Crime Control Act-Requirement For Background Checks	December 2015
8.	HHSAR 352.237-73	Indian Child Protection and Family Violence Act	December 2015
9.	HHSAR 352.237-74	Non-Discrimination in Service Delivery	December 2015
10.	HHSAR 352.232-71	Electronic Submission of Invoice Payment Request	February 2022

#### 352.224-70 Privacy Act

As prescribed in HHSAR [324.105\(a\)](#), the Contracting Officer shall insert the following clause:

## **Privacy Act (December 18, 2015)**

This contract requires the Contractor to perform one or more of the following: (a) design; (b) develop; or (c) operate a Federal agency system of records to accomplish an agency function in accordance with the Privacy Act of 1974 (Act) (**5 U.S.C. 552a(m)(1)**) and applicable agency regulations.

The term **system of records** means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. Violations of the Act by the Contractor and/or its employees may result in the imposition of criminal penalties (**5 U.S.C. 552a(i)**).

The Contractor shall ensure that each of its employees knows the prescribed rules of conduct in 45 CFR part 5b and that each employee is aware that he/she is subject to criminal penalties for violation of the Act to the same extent as Department of Health and Human Services employees. These provisions also apply to all subcontracts the Contractor awards under this contract which require the design, development or operation of the designated system(s) of records (**5 U.S.C. 552a(m)(1)**). The contract work statement:

- (a) Identifies the system(s) of records and the design, development, or operation work the Contractor is to perform; and
- (b) Specifies the disposition to be made of such records upon completion of contract performance.

(End of clause)

### **352.224-71 Confidential Information.**

As prescribed in [HHSAR 324.105\(b\)](#), insert the following clause:

#### **Confidential Information (December 18, 2015)**

(a) Confidential Information, as used in this clause, means information or data of a personal nature about an individual, or proprietary information or data submitted by or pertaining to an institution or organization.

(b) Specific information or categories of information that the Government will furnish to the Contractor, or that the Contractor is expected to generate, which are confidential may be identified elsewhere in this contract. The Contracting Officer may modify this contract to identify Confidential Information from time to time during performance.

(c) Confidential Information or records shall not be disclosed by the Contractor until:

(1) Written advance notice of at least 45 days shall be provided to the Contracting Officer of the Contractor's intent to release findings of studies or research, to which an agency response may be appropriate to protect the public interest or that of the agency.

(2) For information provided by or on behalf of the government,

(i) The publication or dissemination of the following types of information are restricted under this contract: [INSERT RESTRICTED TYPES OF INFORMATION. If none, so state.]

(ii) The reason(s) for restricting the types of information identified in subparagraph (i) is/are: [STATE WHY THE PUBLIC OR GOVERNMENT INTEREST REQUIRES THE RESTRICTION OF EACH TYPE OF INFORMATION. ANY BASIS FOR NONDISCLOSURE WHICH WOULD BE VALID UNDER THE FREEDOM OF INFORMATION ACT IS SUFFICIENT UNDER THIS CLAUSE.]

(iii) Written advance notice of at least 45 days shall be provided to the Contracting Officer of the Contractor's intent to disseminate or publish information identified in subparagraph (2)(i). The contractor shall not disseminate or publish such information without the written consent of the Contracting Officer.

(d) Whenever the Contractor is uncertain with regard to the confidentiality of or a property interest in information under this contract, the Contractor should consult with the Contracting Officer prior to any release, disclosure, dissemination, or publication.

### **352.226-1 Indian Preference.**

As prescribed in [HHSAR 326.505\(a\)](#), the Contracting Officer shall insert the following clause:

Indian Preference (December 18, 2015)

(a) The Contractor agrees to give preference in employment opportunities under this contract to Indians who can perform required work, regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation. To the extent feasible and consistent with the efficient performance of this contract, the Contractor further agrees to give preference in employment and training opportunities under this contract to Indians who are not fully qualified to perform regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation. The Contractor also agrees to give preference to Indian organizations and Indian-owned economic enterprises in the awarding of any subcontracts to the extent feasible and consistent with the efficient performance of this contract. The Contractor shall maintain the necessary statistical records to demonstrate compliance with this paragraph.

(b) In connection with the Indian employment preference requirements of this clause, the Contractor shall provide reasonable opportunities for training, incident to such employment. Such training shall include on-the—job, classroom, or apprenticeship training designed to increase the vocational effectiveness of an Indian employee.

(c) If the Contractor is unable to fill its employment and training opportunities after giving full consideration to Indians as required by this clause, the Contractor may satisfy those needs by selecting non-Indian persons in accordance with the clause of this contract entitled "Equal Opportunity."

(d) If no Indian organizations or Indian-owned economic enterprises are available under reasonable terms and conditions, including price, for awarding of subcontracts in connection with the work performed under this contract, the Contractor agrees to comply with the provisions of this contract involving utilization of small businesses; HUBZone small businesses; service-disabled, veteran-owned small businesses; 8(a) small businesses; veteran-owned small businesses; women-owned small businesses; or small disadvantaged businesses.

(e) As used in this clause,

(1) Indian means a person who is a member of an Indian tribe. If the Contractor has reason to doubt that a person seeking employment preference is an Indian, the Contractor shall grant the preference but shall require the individual provide evidence within 30 days from the tribe concerned that the person is a member of the tribe.

(2) Indian tribe means an Indian tribe, pueblo, band, nation, or other organized group or community, including Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601) which the United States recognizes as eligible for the special programs and services provided to Indians because of its status as Indians.

(3) Indian organization means the governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451).

(4) Indian-owned economic enterprise means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, provided that such Indian ownership shall constitute not less than 51 percent of the enterprise, and that ownership shall encompass active operation and control of the enterprise.

(f) The Contractor agrees to include the provisions of this clause, including this paragraph (f) of this clause, in each subcontract awarded at any tier under this contract.

(g) In the event of noncompliance with this clause, the Contracting Officer may terminate the contract in whole or in part or may pursue any other remedies authorized by law or by other provisions of the contract.

(End of clause)

### **352.226-2 Indian Preference Program.**

As prescribed in [HHSAR 326.505\(b\)](#), the Contracting Officer shall insert the following clause:

#### **Indian Preference Program (December 18, 2015)**

(a) In addition to the requirements of the clause of this contract entitled “Indian Preference,” the Contractor agrees to establish and conduct an Indian preference program which will expand opportunities for Indians to receive preference for employment and training in connection with the work performed under this contract, and which will expand the opportunities for Indian organizations and Indian-owned economic enterprises to receive a preference in the awarding of subcontracts. In this connection, the Contractor shall perform the following:

(1) Designate a liaison officer who will maintain liaison with the Government and the Tribe(s) on Indian preference matters; supervise compliance with the provisions of this clause; and administer the Contractor’s Indian preference program.

(2) Advise its recruitment sources in writing and include a statement in all employment advertisements that Indian applicants receive preference in employment and training incident to such employment.

(3) Not more than 20 calendar days after award of the contract, post a written notice setting forth the Contractor’s employment needs and related training opportunities in the tribal office of any reservations on or near the contract work location. The notice shall include the approximate numbers and types of employees needed; the approximate dates of employment; any experience or special skills required for employment; training opportunities available; and other pertinent information necessary to

advise prospective employees of any other employment requirements. The Contractor shall also request the tribe(s) on or near whose reservation(s) the Contractor will perform contract work to provide assistance filling its employment needs and training opportunities. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to contact regarding the posting of notices and requests for Tribal assistance.

[Back to top](#)

(4) Establish and conduct a subcontracting program which gives preference to Indian organizations and Indian-owned economic enterprises as subcontractors (including suppliers) under this contract. The Contractor shall give public notice of existing subcontracting opportunities and, to the extent feasible and consistent with the efficient performance of this contract, shall solicit bids or proposals from Indian organizations or Indian-owned economic enterprises only. The Contractor shall request assistance and information on Indian firms qualified as subcontractors (including suppliers) from the Tribe(s) on or near whose reservation(s) the Contractor will perform contract work. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to contact regarding the request for assistance and information. Public notices and solicitations for existing subcontracting opportunities shall provide an equitable opportunity for Indian firms to submit bids or proposals by including—

(i) A clear description of the supplies or services required, including quantities, specifications, and delivery schedules that facilitate the participation of Indian firms;

(ii) A statement indicating that Indian organizations and Indian-owned economic enterprises will receive preference in accordance with section 7(b) of **Pub. L. 93–638**; 88 Stat. 2205; **25 U.S.C. 450e(b)**;

(iii) Definitions for the terms “Indian organization” and “Indian-owned economic enterprise” prescribed under the “Indian Preference” clause of this contract;

(iv) A statement that the bidder or offeror shall complete certifying that it is an Indian organization or Indian-owned economic enterprise; and

(v) A closing date for receipt of bids or proposals which provides sufficient time for preparation and submission of a bid or proposal. If, after soliciting bids or proposals from Indian organizations and Indian-owned economic enterprises, the Contractor receives no responsive bid or acceptable proposal, the Contractor shall comply with the requirements of paragraph (d) of the “Indian Preference” clause of this contract. If the Contractor receives one or more responsive bids or conforming proposals, the Contractor shall award the contract to the low, responsive, responsible bidder or conforming offer from a responsible offeror if the price is reasonable. If the Contractor determines the low responsive bid or conforming proposal’s price is unreasonable, the Contractor shall attempt to negotiate a reasonable price and award a subcontract. If parties cannot agree on a reasonable price, the Contractor shall comply with the requirements of paragraph (d) of the “Indian Preference” clause of this contract.

(5) Maintain written records under this contract which demonstrate—

(i) The numbers of Indians seeking employment for each employment position available under this contract;

- (ii) The number and types of positions filled by Indians and non-Indians;
  - (iii) The total number of Indians employed under this contract;
  - (iv) For those positions having both Indian and non-Indian applicants, and a non-Indian is selected for employment, the reason(s) why the Contractor did not select the Indian applicant;
  - (v) Actions taken to give preference to Indian organizations and Indian-owned economic enterprises for subcontracting opportunities which exist under this contract;
  - (vi) Reasons why Indian subcontractors and or suppliers did not receive preference for each requirement where the Contractor determined that such preference was inconsistent with efficient contract performance; and
  - (vii) The number of Indian organizations and Indian-owned economic enterprises contacted, and the number receiving subcontract awards under this contract.
- (6) Submit to the Contracting Officer for approval a quarterly report summarizing the Contractor's Indian preference program and indicating the number and types of available positions filled by Indians and non-Indians, and the dollar amounts of all subcontracts awarded to Indian organizations and Indian-owned economic enterprises, and to all other firms.
- (7) Maintain records pursuant to this clause and keep them available for review by the Government for one year after final payment under this contract, or for such longer period in accordance with requirements of any other clause of this contract or by applicable law or regulation.
- (b) For purposes of this clause, the following definitions of terms shall apply:
- (1) The terms **Indian**, **Indian tribe**, **Indian organization**, and **Indian-owned economic enterprise** are defined in the clause of this contract entitled **Indian Preference**.
  - (2) **Indian reservation** includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688; **43 U.S.C. 1601 et seq.**)
  - (3) **On or near an Indian reservation** means on a reservation or reservations or within that area surrounding an Indian reservation(s) where a person seeking employment could reasonably expect to commute to and from in the course of a work day.
- (c) Nothing in the requirements of this clause shall preclude Indian tribes from independently developing and enforcing their own Indian preference requirements. Such requirements must not conflict with any Federal statutory or regulatory requirement dealing with the award and administration of contracts.
- (d) The Contractor agrees to include the provisions of this clause, including this paragraph (d), in each subcontract awarded at any tier under this contract and to notify the Contracting Officer of such subcontracts.

(e) In the event of noncompliance with this clause, the Contracting Officer may terminate the contract in whole or in part or may pursue any other remedies authorized by law or by other provisions of the contract.

(End of clause)

### **352.237-70 Pro-Children Act.**

As prescribed in [HHSAR 337.103\(d\)\(1\)](#), the Contracting Officer shall insert the following clause:

#### **Pro-Children Act (December 18, 2015)**

(a) Public Law 103-227, Title X, Part C, also known as the **Pro-Children Act of 1994** (Act), 20 U.S.C. 7183, imposes restrictions on smoking in facilities where certain federally funded children's services are provided. The Act prohibits smoking within any indoor facility (or portion thereof), whether owned, leased, or contracted for, that is used for the routine or regular provision of: (i) kindergarten, elementary, or secondary education or library services or (ii) health or day care services that are provided to children under the age of 18. The statutory prohibition also applies to indoor facilities that are constructed, operated, or maintained with Federal funds.

(b) By acceptance of this contract or order, the Contractor agrees to comply with the requirements of the Act. The Act also applies to all subcontracts awarded under this contract for the specified children's services. Accordingly, the Contractor shall ensure that each of its employees, and any subcontractor staff, is made aware of, understands, and complies with the provisions of the Act. Failure to comply with the Act may result in the imposition of a civil monetary penalty in an amount not to exceed \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. Each day a violation continues constitutes a separate violation.

### **352.237-71 Crime Control Act—Reporting of Child Abuse.**

As prescribed in [HHSAR 337.103\(d\)\(2\)](#), the Contracting Officer shall insert the following clause:

#### **Crime Control Act of 1990—Reporting of Child Abuse (December 18, 2015)**

(a) Public Law 101-647, also known as the Crime Control Act of 1990 (Act), imposes responsibilities on certain individuals who, while engaged in a professional capacity or activity, as defined in the Act, on Federal land or in a federally-operated (or contracted) facility, learn of facts that give the individual reason to suspect that a child has suffered an incident of child abuse.

(b) The Act designates “covered professionals” as those persons engaged in professions and activities in eight different categories including, but not limited to, teachers, social workers, physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, alcohol or drug treatment personnel, psychologists, psychiatrists, mental health professionals, child care workers and administrators, and commercial film and photo processors. The Act defines the term “child abuse” as the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child.



(c) Accordingly, any person engaged in a covered profession or activity under an HHS contract or subcontract, regardless of the purpose of the contract or subcontract, shall immediately report a suspected child abuse incident in accordance with the provisions of the Act. If a child is suspected of being harmed, the appropriate State Child Abuse Hotline, local child protective services (CPS), or law enforcement agency shall be contacted. For more information about where and how to file a report, the Childhelp USA, National Child Abuse Hotline (1-800-4-A-CHILD) shall be called. Any covered professional failing to make a timely report of such incident shall be guilty of a Class B misdemeanor.

(d) By acceptance of this contract or order, the Contractor agrees to comply with the requirements of the Act. The Act also applies to all applicable subcontracts awarded under this contract. Accordingly, the Contractor shall ensure that each of its employees, and any subcontractor staff, is made aware of, understands, and complies with the provisions of the Act.

(End of clause)

### **352.237-72 Crime Control Act—Requirement for Background Checks.**

As prescribed in [HHSAR 337.103\(d\)\(3\)](#), the Contracting Officer shall insert the following clause:

Crime Control Act of 1990—Requirement for Background Checks (December 18, 2015)

(a) Public Law 101-647, also known as the Crime Control Act of 1990 (Act), requires that all individuals involved with the provision of child care services to children under the age of 18 undergo a criminal background check. “Child care services” include, but are not limited to, social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), and rehabilitative programs. Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be grounds for denying employment or for dismissal of an employee providing any of the services listed above.

(b) The Contracting Officer will provide the necessary information to the Contractor regarding the process for obtaining the background check. The Contractor may hire a staff person provisionally prior to the completion of a background check, if at all times prior to the receipt of the background check during which children are in the care of the newly-hired person, the person is within the sight and under the supervision of a previously investigated staff person.

(c) By acceptance of this contract or order, the Contractor agrees to comply with the requirements of the Act. The Act also applies to all applicable subcontracts awarded under this contract. Accordingly, the Contractor shall ensure that each of its employees, and any subcontractor staff, is made aware of, understands, and complies with the provisions of the Act.

(End of clause)

### **352.237-73 Indian Child Protection and Family Violence Act.**

As prescribed in [HHSAR 337.103\(d\)\(4\)](#) the Contracting Officer shall insert the following clause:

Indian Child Protection and Family Violence Act (December 18, 2015)



(a) This contract is subject to the Indian Child Protection and Family Violence Act, Pub. L. 101-630 (25 U.S.C. 3201 *et seq.*) The duties and responsibilities required by this contract may involve regular contact with or control over Indian children. Pub. L. 101-630 prohibits employment, including Personal Service Contracts, with anyone who has been convicted of any crime of violence. Any such conviction should immediately be brought to the attention of the Contracting Officer. The contractor will be subject to a character investigation, conducted by the Indian Health Service, Office of Human Resources. Until such time as the contractor has been notified of completion of the investigation, the contractor shall have no unsupervised contact with Indian children. In order to initiate this background investigation, the contractor must provide information as required in this contract or as directed by the Contracting Officer.

(b) As a prerequisite to providing services under this contract, the Contractor is required to complete and sign the declaration found in Section J of this contract.

(End of clause)

### **352.237-74 Non-Discrimination in Service Delivery.**

As prescribed in [HHSAR 337.103\(e\)](#), the Contracting Officer shall insert the following clause in solicitations and contracts:

#### **Non-Discrimination In Service Delivery (December 18, 2015)**

It is the policy of the Department of Health and Human Services that no person otherwise eligible will be excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of HHS programs and services based on non-merit factors such as race, color, national origin, religion, sex, gender identity, sexual orientation, or disability (physical or mental). By acceptance of this contract, the contractor agrees to comply with this policy in supporting the program and in performing the services called for under this contract. The contractor shall include this clause in all sub-contracts awarded under this contract for supporting or performing the specified program and services. Accordingly, the contractor shall ensure that each of its employees, and any sub-contractor staff, is made aware of, understands, and complies with this policy.

(End of clause)

### **352.232-71 Electronic Submission of Payment Requests**

(a) *Definitions.* As used in this clause—

*Payment request* means a bill, voucher, invoice, or request for contract financing payment with associated supporting documentation. The payment request must comply with the requirements identified in FAR 32.905(b), “Content of Invoices” and the applicable Payment clause included in this contract.

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests electronically using the Department of Treasury Invoice Processing Platform (IPP) or successor system. Information regarding IPP, including IPP Customer Support contact information, is available at [www.ipp.gov](http://www.ipp.gov) or any successor site.

- (c) The Contractor may submit payment requests using other than IPP only when the Contracting Officer authorizes alternate procedures in writing in accordance with HHS procedures.
- (d) If alternate payment procedures are authorized, the Contractor shall include a copy of the Contracting Officer's written authorization with each payment request.

(End of Clause)

## Appendix\_\_ : Business Associate Agreement

---

### I. Authority:

Pursuant to 45 C.F.R. § 164.502(e), the Indian Health Service (IHS), as a covered entity, is required to enter into an agreement with a “business associate,” as defined by 45 C.F.R. § 160.103, under which the business associate must agree to appropriately safeguard Protected Health Information (PHI) that it will use and disclose when performing functions, activities or services pursuant to its contract with the IHS. By signing Contract No. \_\_\_\_\_ (Contract), \_\_\_\_\_ agrees that it is a Business Associate and will comply with the terms below, in addition to other applicable Contract terms and conditions, and applicable law, relating to the safekeeping, use, and disclosure of PHI. This Appendix comprises the Business Associate Agreement (Agreement).

### II. Definitions:

The following terms shall have the same meaning as those terms in 45 C.F.R. Part 160 and Part 164, which are the federal regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended: Breach, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, PHI, Required by Law, Secretary, Security Incident, Subcontractor, Unsecured PHI, and Use.

- A. Business Associate. “Business Associate” shall generally have the same meaning as the term “business associate” at 45 C.F.R. § 160.103, and in reference to the party to this Agreement shall mean \_\_\_\_\_.
- B. Covered Entity. “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 C.F.R. § 160.103, and in reference to the party to this Agreement, shall mean the IHS.
- C. HIPAA Rules. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Part 160 and Part 164.
- D. Master Patient Index (MPI). The “Master Patient Index” or “MPI” is composed of a unique list of patients and a current list of medical centers where each patient has been seen. This enables the sharing of patient data between operationally and regionally diverse systems. Each record (or index entry) on the MPI contains a small amount of patient data used to identify individual entries.

The mission of the MPI is to uniquely identify a patient and to “link” that patient’s data throughout the IHS facilities using the Integration Control Number (ICN). The MPI is the authoritative source of a patient’s ICN, the enterprise-wide identifier for IHS facilities and the key to accessing a patient’s record. The

## Appendix\_\_: Business Associate Agreement

---

accuracy of patient information and patient identification directly affects clinical, administrative, billing, and interdepartmental processes.

### III. Obligations and Activities of Business Associate:

- A. Compliance:** Business Associate agrees not use or disclose PHI other than as authorized by the Agreement or as required by law. Business Associate acknowledges that it is directly liable under the HIPAA Rules and subject to civil and, in some cases, criminal penalties for making uses and disclosures of PHI that are not authorized by the Agreement or required by law. Business Associate agrees that it will require all of its agents, employees, subsidiaries, and affiliates, to whom Business Associate provides PHI, or who create or receive PHI on behalf of Business Associate for Covered Entity, to comply with the HIPAA Rules and to enter into written agreements with Business Associate that provide the same restrictions, terms, and conditions as set forth in the Agreement.
- B. Subcontractors:** In accordance with 45 C.F.R. §§ 164.502(e)(1)(ii) and 164.308(b)(2), which govern relations with subcontractors, Business Associate agrees to ensure that any subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate agree to the same restrictions, terms, and conditions that apply to Business Associate with respect to such PHI.
- C. Safeguarding PHI:** Business Associate shall develop and use appropriate procedural, physical, and electronic safeguards to protect against the use or disclosure of PHI in a manner not authorized by this Agreement or required by law. Business Associate will limit any use, disclosure, or request for use or disclosure of PHI to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request.
- D. Safeguarding Electronic PHI:** Business Associate agrees to use appropriate safeguards, as set forth in Subpart C of 45 C.F.R. Part 164 with respect to electronic PHI, to prevent use or disclosure of electronic PHI other than as authorized by this Agreement or required by law.
- E. Reporting Use or Disclosures Not Authorized By this Agreement or Required by Law:** Business Associate agrees to report to Covered Entity any use or disclosure of PHI not authorized by this Agreement or required by law within thirty (30) days of discovering the use or disclosure, or any security incident of which it becomes aware. In addition, Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of the use, disclosure, or security incident.
- F. Reporting of Breach:** In accordance with the policy of the Department of Health and Human Services, Business Associate will report, within one hour of discovery, all suspected or confirmed breaches to Covered Entity.

## Appendix\_\_: Business Associate Agreement

---

**G. Notification of Breach of Unsecured PHI:** In addition to the above, Business Associate shall notify Covered Entity of a breach, as set forth in 45 C.F.R. § 164.410, of the security of any unsecured PHI that Business Associate received from, or created or received on behalf of, Covered Entity within thirty (30) calendar days after the discovery of the breach by Business Associate, its employees, officers, and/or other agents, unless notification is specifically excepted by 45 C.F.R. § 164.412.

1. Requirements of Notice. Such notice shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such breach; a brief description of the circumstances of the breach of security, including the date of the breach and the date of Business Associate's discovery of the breach; and the type of unsecured PHI involved in the breach. Business Associate agrees to provide any other available information that Covered Entity is required to include in notification to the individual under 45 §164.404(c). In the event notification is delayed, evidence demonstrating the necessity of the delay shall accompany the notification.

**H. Individual Access to PHI:** Business Associate shall maintain a designated record set for each individual for whom it maintains PHI. In accordance with an individual's right to access his or her PHI, Business Associate shall make available all PHI in the individual's designated record set to the individual to whom that information pertains, or, upon the request of the individual, to that individual's authorized representative, as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.524. Availability to access PHI shall be made within five (5) calendar days of receipt of a valid request.

**I. Accounting of Disclosures:** Business Associate shall maintain records of PHI received from, or created or received on behalf of, Covered Entity and shall document subsequent uses and disclosures of such information by Business Associate. Business Associate shall, within five (5) calendar days after receiving a request from Covered Entity, provide to Covered Entity such information as Covered Entity may require to fulfill its obligations to account for disclosures of PHI pursuant to 45 C.F.R. § 164.528.

**J. Amendment of PHI:** Business Associate shall, within five (5) calendar days of a request by Covered Entity, make PHI available to Covered Entity for Covered Entity to fulfill its obligations under 45 C.F.R. § 164.526 to amend PHI and shall, as directed by Covered Entity, within five (5) calendar days of receipt of such direction, incorporate any amendments into PHI held by Business Associate. In addition, Business Associate shall ensure incorporation of any such amendments into PHI held by its agents or subcontractors within ten (10) days of such direction, and shall notify Covered Entity within five (5) calendar days of when

## Appendix\_\_ : Business Associate Agreement

---

those agents or subcontractors have completed the incorporation of the amendments. Business Associate shall forward to Covered Entity all requests to amend PHI that it receives directly from individuals within five (5) calendar days of its receipt of a request.

**K. Carrying out Covered Entity's Obligations:** To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate agrees to comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).

**L. Disclosures for Verifying Compliance:** Upon request, Business Associate shall permit access by the Secretary and Covered Entity during normal business hours to its facilities, books, records, accounts, and any other sources of information, including PHI and any agreements that it has with subcontractors, vendors, and/or other agents relating to the use and disclosure of PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, for purposes of determining both Business Associate's and Covered Entity's compliance with the HIPAA Rules.

### IV. Permitted Uses and Disclosures by Business Associate:

- A. Business Associate shall not use or disclose PHI except to perform functions, activities, or services on behalf of Covered Entity as provided for in the Contract, this Agreement, the HIPAA Rules, or other applicable law.
- B. Business Associate agrees that it may use or disclose PHI on behalf of Covered Entity only:
  - 1. Upon obtaining the authorization of the individual to whom the PHI pertains;
  - 2. For the purposes of treatment, payment or health care operations unless Covered Entity has agreed to a restriction pursuant to 45 C.F.R. § 164.520(b)(iv)(A) or 45 C.F.R. § 164.522; or
  - 3. Without an authorization or consent, if in accordance with 45 C.F.R. § 164.510, 45 C.F.R. § 164.512, 45 C.F.R. § 164.514(e), 45 C.F.R. § 164.514(f), or 45 C.F.R. § 164.514(g).
- C. Business Associate shall use and disclose PHI in compliance with each applicable requirement of 45 C.F.R. § 164.504(e), which section is fully incorporated herein.
- D. Business Associate agrees to make uses, disclosures, and requests for PHI consistent with Covered Entity's minimum necessary policies and procedures.
- E. It is anticipated that Business Associate will have access to the MPI.

## Appendix\_\_ : Business Associate Agreement

---

F. Business Associate may not use or disclose PHI in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific uses and disclosures set forth below.

1. Business Associate may disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

V. Obligations of Covered Entity:

- A. Covered Entity shall provide Business Associate with its Notice of Privacy Practices and any changes to the Notice.
- B. Covered Entity shall notify Business Associate of any limitation(s) in Covered Entity's Notice of Privacy Practices under 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- C. Covered Entity shall notify Business Associate of any change in, or revocation of, the permission by an individual to use or disclose his or her PHI to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- D. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- E. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except as provided in Part IV, Subpart F, Section 1.

VI. Termination:

- A. **Term:** The Term of this Agreement shall be effective as of the date Business Associate signs the underlying Contract and shall terminate when the Contract ends or on the date covered entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.
- B. **Termination for Cause:** Business Associate authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate

## Appendix\_\_ : Business Associate Agreement

---

has violated a material term of the Agreement and Business Associate has not ended the violation within the time specified by Covered Entity.

C. **Obligations of Business Associate Upon Termination:** Upon termination of this Agreement for any reason, Business Associate, with respect to PHI received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:

1. Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
2. Return to Covered Entity, or, if agreed to by Covered Entity, destroy, the remaining PHI that Business Associate does not need to continue its proper management and administration or to carry out its legal responsibilities;
3. Continue to use appropriate safeguards, in compliance with Subpart C of 45 C.F.R. Part 164, with respect to electronic PHI to prevent use or disclosure of electronic PHI, other than as provided for in this Part, for as long as Business Associate retains the PHI;
4. Not use or disclose PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out above, at Part IV, Subpart F, Section 1 of the Agreement which applied prior to termination;
5. Return to Covered Entity, or, if agreed to by Covered Entity, destroy, the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities; and
6. If Business Associate or its agent or subcontractor destroys any PHI, Business Associate will provide Covered Entity with documentation evidencing such destruction within thirty (30) days of completion of destruction.

D. **Survival:** The obligations of Business Associate under this Part shall survive the termination of this Agreement.

### VII. Indemnification:

In the event Business Associate is investigated and/or becomes a party to a civil or criminal cause of action in any forum relating to its failure to comply with the HIPAA Rules, Business Associate shall reimburse Covered Entity all reasonable costs and expenses Covered Entity may incur relating to such investigation and/or cause of action, and will otherwise hold Covered Entity harmless for any and all reasonable costs and expenses relating to the foregoing.

### VIII. Miscellaneous:



## Appendix\_\_ : Business Associate Agreement

---

- A. **Incorporation:** This Agreement is attached to and fully incorporated into the Contract.
- B. **Notices:** All notices under this Agreement shall be provided by certified mailing, and shall require proof of date of receipt.
- C. **Regulatory References:** A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- D. **Amendment:** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.
- E. **Interpretation:** Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.
- F. **Successors and Assigns:** This Agreement shall be binding upon, inure to the benefit of and be enforceable by and against the Parties and their successors and assigns.
- G. **Severability:** If a court of competent jurisdiction deems any provision of this Agreement unenforceable, such provision shall be severed from this Agreement and every other provision of the Agreement shall remain in full force and effect.

## ***HHS Residual Standards of Conduct***

These Standards were published in a booklet entitled "Standards of Conduct" on March 30, 1989 (45 CFR Part 73). Since then the Office for Government Ethics (OGE) published the ethics regulations, [5 C.F.R. Parts 2600 to 2641](#), applicable to all Executive Branch employees in 1992.

The regulations became effective on February 3, 1993. Subsequently, HHS published the Supplemental Standards Of Ethical Conduct For Employees Of The Department Of Health And Human Services (HHS), 5 C.F.R Part [5501](#) And Supplemental Financial Disclosure Requirements For Employees Of HHS, 5 C.F.R Part [5502](#) which supplement the OGE ethics rules and regulations. Therefore, only the following subparts and sections of the HHS Standards of Conduct remain in effect. [Please consult with the Office of General Counsel prior to taking any action based on any of these subpart/sections. Revised by OGC Ethics Division, 5/19/2015.]

### **[§ 73.735-301 -- Courtesy and consideration for others](#)**

### **[§ 73.735-302 -- Support of department programs](#)**

### **[§ 73.735-305 -- Conduct in Federal buildings](#)**

### **[§ 73.735-306 -- Sexual harassment](#)**

### **[§ 73.735-508\(e\) -- Government decisions Outside Official channels](#)**

### **[§ 73.735-805 -- Advice and guidance on conflicts matters](#)**

### **[Subpart F -- Political Activity and USPHS Officers – \(§§ 73.735-601 -- §73.735-603\)](#)**

### **[Subpart L -- Disciplinary Action \(§ 73.735-1201\)](#)**

### **[Subpart M -- Reporting Violations \(§§ 73.735-1301 -- 73.735-1304\)](#)**

### **[Appendix to Part 73 -- List of Some Offenses for Which Disciplinary Action May be Taken](#)**

---

#### **§ 73.735-301 Courtesy and consideration for others.**

(a) An employee's conduct on the job is, in all respects, of concern to the Federal government. Courtesy, consideration, and promptness in dealing with the public must be shown in carrying out official responsibilities, and actions which deny the dignity of individuals or conduct which is disrespectful to others must be avoided. Employees must recognize that inattention to matters of common courtesy can adversely affect the quality of service the Department is responsible for providing. Where appropriate, courtesy to the public should be included in the standards for employee performance.

(b) Of equal importance is the requirement that courtesy be shown in day-by-day interaction with co-workers. Employees shall be polite to and considerate of other employees, and shall respect their needs and concerns in the work environment.

#### **§ 73.735-302 Support of department programs.**

(a) When a Department program is based on law, Executive Order or regulation, every employee has a positive obligation to make it function as efficiently and economically as possible and to support it as long as it is a part of recognized public policy. An employee may, therefore, properly make an address explaining and interpreting such a program, citing its achievements, defending it against uninformed or unjust criticism, or soliciting views for improving it.

(b) An employee shall not, either directly or indirectly, use appropriated funds to influence, or attempt to influence, a Member of Congress to favor or oppose legislation. However, when authorized by his or her supervisor, an employee is not prohibited from: (1) Testifying, on request, as a representative of the Department on pending legislation or proposals before Congressional Committees; or (2) Assisting Congressional Committees in drafting bills or reports on

request, when it is clear that the employee is serving solely as a technical expert under the direction of committee leadership.

(c) All employees shall be familiar with regulations and published instructions that relate to their official duties and responsibilities and shall comply with those directives. This includes carrying out proper orders from officials authorized to give them.

(d) Employees are required to assist the Inspector General and other investigative officials in the performance of their duties or functions. This requirement includes the giving of statements or evidence to investigators of the Inspector General's office or other HHS investigators authorized to conduct investigations into potential violations.

#### **§ 73.735-305 Conduct in Federal buildings.**

(a) An employee shall not participate while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

(b) An employee shall not while in or on Government-owned or leased property or while on duty for the Government solicit alms and contributions, engage in commercial soliciting and vending, display or distribute commercial advertisements, or collect private debts.

(c) The prohibitions in paragraphs (a) and (b) of this section do not preclude: (1) Activities necessitated by an employee's law enforcement duties; (2) Participation in Federally sponsored fund-raising activities conducted pursuant to Executive Order 10927, or similar HHS approved activities; or (3) Buying a lottery ticket at an authorized State lottery outlet for a lottery authorized by State law and conducted by an agency of a State within that State.

(d) General Services Administration regulations on "Conduct on Federal Property" apply to all property under the control of the General Services Administration, and they are also applicable to all buildings and space under the control of this Department. These regulations prohibit, among other things, gambling, being intoxicated, and possession, distribution, or use of narcotic or dangerous drugs on the premises. The GSA regulations are found in Subpart 101-20.3 of the GSA Regulations, 41 CFR 101-20.3.

#### **§ 73.735-306 Sexual harassment.**

Sexual harassment is deliberate unsolicited verbal comments, gestures, or physical contact of a sexual nature which are unwelcome. Sexual harassment is unacceptable conduct and is expressly prohibited. In addition, supervisors and managers are prohibited from taking or promising personnel actions in exchange for sexual favors, or failing to take an action because an employee or applicant for employment, refuses to engage in sexual conduct. This same prohibition applies to relationships between Department personnel who take or recommend action on a grant or contract and the grantee or contractor. Those employees who wish to file a complaint of sexual harassment should contact the Office of Equal Employment Opportunity (EEO) within their respective agencies for guidance. (Time frames for pursuing a charge alleging sexual harassment are the same as for any other complaint based on allegations of sex discrimination.)

#### **§ 73.735-508(e) Other prohibitions.**

Employees shall avoid any action whether or not specifically prohibited by this part, which might result in or create the appearance of:

(e) Making a Government decision outside official channels

#### **§ 73.735-805 Advice and guidance on conflicts matters.**

(a) Whenever an employee has a question about the appropriate course of conduct to be followed in a matter that may involve an actual or apparent conflict of interest, he or she should immediately consult with his or her supervisor or a deputy ethics counselor, or both. If a supervisor who is consulted determines that the matter warrants further

consideration, he or she may, in conjunction with the employee, submit the details of the matter, in writing, to the appropriate deputy ethics counselor. These details should include a description of:

- (1) The activity, relationship, or interest giving rise to the question posed by the employee;
- (2) The duties or official responsibilities of the employee(s) involved;
- (3) The nature of the actual or apparent conflict of interest; and
- (4) Any other information that may be helpful in reviewing the problem.

(b) Upon receiving the submission of an employee or a supervisor, the deputy ethics counselor will develop any additional information about the matter as necessary, and will confer with the Department Ethics Counselor as appropriate. The Department Ethics Counselor and the head of the principal operating component or his or her designee will be informed of any serious violation of the standards of this subpart or any other conflict of interest law. Questions of first impression or other unusual matters shall be brought to the attention of the Department Ethics Counselor and the head of the principal operating component or his or her designee.

(c) On the basis of all information gathered including, where appropriate, the advice of the Department Ethics Counselor, the deputy ethics counselor will:

- (1) Decide that there is no violation or potential violation of the standards of this subpart or any other law and so notify the employee and his or her supervisor in writing; or
- (2) Decide that a violation or potential violation of the standards of this subpart or other law has occurred or may occur, and that the employee involved shall take one or more of the steps set forth in § 731.735-904 to resolve the problem and notify the employee and his or her supervisor in writing; or
- (3) Decide that, although no violation of this subpart or other law has occurred, the nature of the matter is such that the employee should periodically report any additional information that would require reconsideration of the initial submission.

#### **Subpart F -- Political Activity and USPHS Officers – (§§ 73.735-601 -- §73.735-603)**

##### **§73.735-601 Applicability.**

(a) All employees in the Executive Branch of the Federal Government, including non-career employees, are subject to basic political activity restrictions in subchapter III of chapter 73 of title 5, United States Code (the former Hatch Act) and Civil Service Rule IV. Employees are individually responsible for refraining from prohibited political activity. Ignorance of a prohibition does not excuse a violation. This subpart summarizes provisions of law and regulation concerning political activity of employees. The Federal Personnel Manual and other publications of the Office of Personnel Management contain more detailed information on this subject. These may be reviewed in Department personnel offices, or will be made available by the Ethics Counselor, or the deputy counselor for the employee's organizational component.

(b) The Secretary and Under Secretary are exempt from the prohibitions concerning active participation in political management and political campaigns. Also exempt are other officials of the Department, except the Inspector General and Deputy Inspector General, who are appointed by the President by and with the advice and consent of the Senate, and who determine policies to be pursued by the United States in the nationwide administration of Federal laws.

(c) Intermittent employees are subject to the restrictions when in active duty status only and for the entire 24 hours of any day of actual employment.

(d) Employees on leave, on leave without pay, or on furlough even though an employee's resignation has been accepted, are subject to the restrictions. Separated employees who have received a lump-sum payment for annual leave are not subject to the restriction during the period covered by the lump-sum payment or thereafter, provided they do not return to Federal employment during that period. Employees are not permitted to take a leave of absence to work with a political candidate, committee, or organization or to become a candidate for office with the understanding that they will resign their position if nominated or elected.

(e) Employees are accountable for political activity by another person acting as their agent or under the employee's direction or control, if they are thus accomplishing indirectly what they may not lawfully do directly and openly.

(f) Though officers in the Public Health Service Commissioned Corps are not subject to the restrictions in Subchapter III of Chapter 73 of Title 5, United States Code, the provisions of this subpart apply to them.

#### §73.735-602 Permissible activities.

(a) Section 7324 of Title 5, United States Code, provides that employees have the right to vote as they please and to express their opinions on political subjects and candidates. Generally, however, employees are prohibited from taking an active part in political management or political campaigns or using official authority or influence to interfere with an election or affect its results. There are some exemptions from the restrictions of the statute:

(1) Employees may engage in political activity in connection with any question not specifically identified with a national or State political party. They also may engage in political activity in connection with an election, if none of the candidates represents a party any of whose candidates for presidential elector received votes at the last preceding election at which presidential electors were selected.

(2) An exception relates to political campaigns within, or in communities adjacent to, the District of Columbia, or in communities the majority of whose voters are employees of the Federal government. Communities to which the exception applies are specifically designated by the Office of Personnel Management. Information regarding the localities and the conditions under which the exceptions are granted may be obtained from personnel offices or the Department Counselor or deputy counselors.

(b) A covered employee is permitted to:

(1) Register and vote in any election;

(2) Express his or her opinion as an individual citizen privately and publicly on political subjects and candidates;

(3) Display a political picture, sticker, badge or button;

(4) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization;

(5) Be a member of a political party or other political organization and participate in its activities to the extent consistent with law;

(6) Attend a political convention, rally, fund raising function; or other political gathering;

(7) Sign a political petition as an individual citizen;

(8) Make a financial contribution to a political party organization;

(9) Take an active part, as an independent candidate, or support of an independent candidate, in a partisan election in localities identified as permissible for such activities by the Office of Personnel Management;

(10) Take an active part, as a candidate or in support of a candidate, in a nonpartisan election;

(11) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character;

(12) Serve as an election judge or clerk, or in a similar position to perform nonpartisan duties as prescribed by State or local law; and

(13) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise his or her efficiency or integrity as an employee or the neutrality, efficiency, or integrity of his or her agency.

(c) The head of a principal operating component may prohibit or limit the participation of an employee or class of employees of his or her component in an activity permitted by paragraph (b) of this section, if participation in the activity would interfere with the efficient performance of official duties, or create a conflict or apparent conflict of interest.

#### §73.735-603 Prohibited activities.

(a) The following are prohibited activities:

- (1) Serving as an officer of a political party, a member of a national, State or local committee of a political party, an officer or member of a committee of a partisan political club, or being a candidate for any of these positions;
- (2) Organizing or reorganizing a political party organization or political club;
- (3) Directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions, or other funds for a partisan political purpose or in connection with a partisan election;
- (4) Organizing, selling tickets to, seeking support for, or actively participating in a fund-raising activity of, a political party or political club;
- (5) Taking an active part in managing the political party campaign of a candidate for public office or political office;
- (6) Being a candidate for, or campaigning for, an elective public office, except as permitted in §73.735-602(b)(9);
- (7) Taking an active part in an organized solicitation of votes in support of or in opposition to a candidate for public office or political party office;
- (8) Acting as recorder, watcher, challenger, or similar officer at the polls on behalf of a political party or candidate in a partisan election;
- (9) Driving voters to the polls on behalf of a political party or a candidate in a partisan election;
- (10) Endorsing or opposing a candidate in a partisan election in a political advertisement, a broadcast, campaign literature, or similar material;
- (11) Serving as a delegate, alternate, or proxy to a political party convention;
- (12) Addressing a State or national convention or caucus, or a rally or similar gathering of a political party, in support of or in opposition to a candidate for public or political party office, or on a partisan political question; and
- (13) Initiating or circulating a nominating petition for a candidate in a partisan election.

(b) In addition, certain political activities are prohibited by Federal criminal law:

- (1) Officers and employees may not directly or indirectly solicit or receive, or be in any way involved in soliciting or receiving, any assessment, subscription or contribution for any political purpose whatever from another officer or employee. This prohibition extends to one who acts as a mere agent or messenger for the purpose of turning the contribution over to a political organization. 18 U.S.C. 602.
- (2) All persons, whether employees or not, are prohibited from soliciting in any manner, or receiving a contribution of, money or a thing of value, in any room or building occupied in the discharge of official duties by any officer or employee of the United States. 18 U.S.C. 603. This prohibition extends to the sending of a letter soliciting political contributions for delivery in a Government building.
- (3) No officer or employee may directly or indirectly give to any other officer, employee or person in the service of the United States, any money or other thing of value to be applied to the promotion of any political objective. 18 U.S.C. 607.
- (4) Discrimination for giving or withholding any contribution for any political purpose and discrimination based on political influence or recommendations is prohibited.

(c) Various other laws prohibit certain activities in connection with political campaigns and elections. They include:

- (1) Intimidating, threatening, or coercing voters in Federal elections (18 U.S.C. 594).
- (2) Using official authority in interfering with a Federal election by a person employed in any administrative position by the United States or by any department, independent establishment, or agency of the United States or by any State, agency, or political subdivision thereof in connection with any activity financed in whole or in part by Federal funds (18 U.S.C. 595).
- (3) Promising Federal employment, compensation, or any benefit from Federal funds, in return for political activity or support (18 U.S.C. 600).
- (4) Depriving anyone of employment, compensation, or any benefit derived from Federal relief or work relief funds on account of race, creed, color, or political activity (18 U.S.C. 601).
- (5) Soliciting, assessing, or receiving subscriptions or contributions for political purpose from anyone on Federal relief or work relief (18 U.S.C. 604).

## **Subpart L -- Disciplinary Action (§ 73.735-1201)**

§ 73.735-1201 General provisions.

(a) Violations of the regulations contained in the Part may be cause for disciplinary action which could be in addition to any penalty prescribed by law. (For a list of some offenses for which disciplinary action may be taken and "The Code of Ethics for Government Service," the violation of which may also result in disciplinary action, see Appendixes A and B of this Part).

(b) The type of disciplinary action to be taken must be determined in relation to the specific violation. Those responsible for recommending and for taking disciplinary action must apply judgment to each case, taking into account the general objectives of meeting any requirements of law, deterring similar offenses by the employee and other employees, and maintaining high standards of employee conduct and public confidence. Some types of disciplinary action which may be considered are:

- (1) Admonishment
- (2) Written reprimand
- (3) Reassignment
- (4) Suspension
- (5) Demotion
- (6) Removal

(c) Suspension, demotion, and removal are adverse actions; and when such actions are taken, applicable laws, regulations, and policies must be followed. [46 FR 7369, Jan. 23, 1981, as amended at 53 FR 4409, Feb. 16, 1988]

## **Subpart M--Reporting Violations**

§ 73.735-1301 Responsibility for reporting possible criminal violations. An employee who has information which he or she reasonably believes indicates a possible offense against the United States by an employee of the Department, or any other individual working on behalf of the Department, shall immediately report such information to his or her supervisor, any management official, or directly to the Office of the Inspector General. Offenses covered by the preceding sentence include, but are not limited to, bribery, fraud, perjury, conflict of interest, misuse of funds, equipment, or facilities, and other conduct by a government officer or employee, grantee, contractor or other person which is prohibited by title 18 of the United States Code. Employees and supervisors should refer to chapter 5-10 of the Department's General Administration Manual for procedures regarding the reporting and handling of such information.

## **APPENDIX A TO PART 73--LIST OF SOME OFFENSES FOR WHICH DISCIPLINARY ACTION MAY BE TAKEN**

Following is a list of some offenses for which disciplinary action may be taken under this Part. When a statute applies specifically to a particular offense, either wholly or in part, the statute is cited. Neither the list of offenses nor the statutory citations are all-inclusive. The "Code of Ethics for Government Service" is not cited because of its general applicability but is published in its entirety in Appendix B.

### **A. Concerning Efficiency of Operations in General.**

1. Engaging in wasteful actions or behavior in the performance of assigned duties; conducting non-Government business during official work hours; or participating in a strike (18 U.S.C. 1918), work stoppage, slowdown, sickout, or other similar action.
2. Absence without leave, failure to adhere to the rules and regulations for requesting and obtaining leave, or improper use of sick leave.
3. Deliberate insubordination or refusal to carry out lawful orders or assignments given.
4. Disruptive behavior, such as:

- a. Inflicting or threatening or attempting to inflict bodily injury on another (except for necessary defense of self or others) while on the job or on Federal premises.
  - b. Discourtesy, disreputable conduct, or use of insulting, abusive or obscene language to or about other individuals while on the job.
5. Sexual harassment of employees or members of the public.
6. Failure to observe precautions for safety, such as failure to use safety equipment when it is provided or ignoring signs, posted rules or regulations, or written or verbal safety instructions.
7. Unauthorized use, possession, or distribution of alcoholic beverages (5 U.S.C. 7352) or controlled substances (e.g., hallucinogens, such as LSD; stimulants, such as cocaine and amphetamines; sedatives, such as barbiturates; narcotics and other drugs or substances, such as hashish and other cannabis substances).
8. Unauthorized gambling; or canvassing, soliciting, or peddling on Government premises.
9. Failure to carry or show proper identification or credentials as required by competent authority; misuse of identification cards or investigative or identification credentials or badges.
10. Failure to disclose (i.e., report) information, when such disclosure is not specifically prohibited by law or Executive Order, that involves (a) violation of law, rule, or regulation, (b) mismanagement or gross waste of funds or abuse of authority, or (c) posing a substantial and specific danger to public health or safety; failure to cooperate in an official Department inquiry.
11. Failure to pay just debts, including taxes to and loans from governmental sources.
12. Deceit or interference in a Civil Service examination (18 U.S.C. 1917) or in connection with a Government personnel action.
13. Fraud or false statements in a Government matter. (18 U.S.C. 1001 through 1003.)
14. Supervisory failure to initiate disciplinary or corrective action when the facts are known and disciplinary or corrective action is warranted.
15. Employment of a member of an organization that advocates the overthrow of our constitutional form of government. (5 U.S.C. 7311; 50 U.S.C. 784.)

B. Concerning Government Funds, Property, Documents, and Records.

1. Actual or attempted embezzlement or theft of Government or personal money or property either directly or through use of Government documents, automated equipment, or other means; actual or attempted embezzlement or theft of the money or property of another person in the possession of an employee by reason of his or her employment. (18 U.S.C. 641 and 654.)
2. Failure to account for public money. (18 U.S.C. 643.)
3. Deliberate falsifying of official time and attendance records; improper use of official travel or forging, counterfeiting, or otherwise falsifying official Government travel records or documents. (18 U.S.C. 508.)
4. False record entries or false reports of money or securities. (18 U.S.C. 2073.)
5. Loss or misuse of or damage to Government property or endangering persons or Government property through carelessness or by willful malicious conduct.
6. Mutilating, destroying, or concealing public records. (18 U.S.C. 2071.)
7. Misuse of penalty (postal) privilege. (18 U.S.C. 1719.)



8. Failure to safeguard administratively confidential, financial, and trade secrets information.
9. Unauthorized use of documents presented or used to procure the payment of money from or by the Government. (18 U.S.C. 285.)
10. Unauthorized use of a Government vehicle; serious or repeated violations of traffic regulations while driving a Government vehicle or a vehicle rented or leased for official Government purposes; reckless driving or improper operation of any Government owned, rented, or leased motor vehicle. (31 U.S.C. 1349[b].)
11. Violations of the Privacy Act, including:
  - a. Willful prohibited disclosure of individually identifiable information in violation of 5 U.S.C. 552a.
  - b. Willfully maintaining a system of records without meeting the notice requirements of the Privacy Act as required by 5 U.S.C. 552a.
12. Violation of regulations concerning the release of classified information, confidential, or security and investigative information. (18 U.S.C. 798 and 1905; 21 U.S.C. 331j; and 50 U.S.C. 783.)

C. Concerning Conflicts of Interest and Related Unethical Conduct:

1. Violations of 18 U.S.C. Chapter 11: Bribery, Graft, and Conflicts of Interest, including:
  - a. Having a direct or indirect financial interest (includes employee ownership of stocks, bonds, or partnership interests in an entity or employment of the employee, his or her spouse, or dependent child) that conflicts with one's Government duties because such entity is either regulated by, has or seeks to do business with the agency, or has any other particular matter with or pending before the agency that may give rise to either an actual conflict or the appearance thereof. (18 U.S.C. 208.)
  - b. Bribery of a public official; soliciting or accepting directly or indirectly anything of monetary value, including gifts, gratuities, favors, entertainment, or loans either as compensation for governmental services or from individuals who are seeking contractual or other business or financial relations with the Department, are conducting operations or activities that are regulated by the Department, or have interests that may be substantially affected by the performance or nonperformance of the employee's official duties; receiving salary or any contribution to or supplementation of salary from a private source as compensation for services for the Government. (18 U.S.C. 201 and 209.)
  - c. Acting as the agent of a foreign principal registered under the Foreign Agents Registration Act. (18 U.S.C. 219.)
2. Engaging, directly or indirectly, in a financial transaction as a result of or primarily relying on information that is obtained through one's official duties and would not be available were the employee not an employee of the Federal Government.
3. Soliciting a contribution from another employee for a gift to an official superior, making a donation as a gift to an official superior, or accepting a gift from an employee receiving less pay than oneself. (5 U.S.C. 7351.)
4. Engaging, without required permission, in outside activities that result in or create the appearance of a conflict of interest.
5. Teaching, lecturing, or writing that depends in specific information obtained as a result of one's Government employment when that information is not otherwise available to the public.
6. Failure to obtain required clearance of an official speech or article.
7. Lobbying with appropriated funds. (18 U.S.C. 1913.)

8. Representation before a Federal agency (other than in the proper discharge of one's official duties) as an agent or attorney in a claim against the United States (or receiving any gratuity or share in any such claim in consideration for assistance given) or as an agent or attorney for anyone before any department, agency, court, or otherwise in connection with any proceeding, application, request for a ruling, or claim on any other particular matter in which the United States is a party or has a direct and substantial interest. (18 U.S.C. 205.) (Note: This section notwithstanding, an employee may, if not in-consistent with the performance of his or her official duties, act without compensation as an agent or attorney for another person who is the subject of any disciplinary or other administrative proceeding or as an agent or attorney for one's parent, spouse, child, or any person or estate for whom or which he or she serves as personal fiduciary except in those matters in which the employee has participated personally and substantially.)

#### D. Concerning Prohibited Political and Election Activities.

1. Activities prohibited by 5 U.S.C. Chapter 73, Subchapter III, including:
  - a. Section 7323, "Political contributions; prohibition."
  - b. Section 7324, "Influencing elections; taking part in political campaigns; prohibitions; exceptions."
2. Activities prohibited by 18 U.S.C. Chapter 29, including:
  - a. Section 594, "Intimidation of voters."
  - b. Section 597, "Expenditures to influence voting."
  - c. Section 598, "Coercion by means of relief appropriations."
  - d. Section 600, "Promise of employment or other benefit for political activity."
  - e. Section 601, "Deprivation of employment or other benefit for political contribution."
  - f. Section 602, "Solicitation of political contributions."
  - g. Section 604, "Solicitation from persons on relief."
  - h. Section 606, "Intimidation to secure political contributions."

#### E. Concerning Prohibited Personnel Practices.

1. Commission of a prohibited personnel practice (as defined in 5 U.S.C. 2302[b] [1-11]); that is, any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, commit any of the following practices:
  - a. Discriminate for or against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation.
  - b. Solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of (1) an evaluation of the work performance ability, aptitude, or general qualifications of such individual or (2) an evaluation of the character, loyalty, or suitability of such individual.
  - c. Coerce the political activity of any person (including the providing of any political contribution or service) or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity.
  - d. Deceive or willfully obstruct any person with respect to such person's right to compete for employment.

- e. Influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment.
- f. Grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.
- g. Appoint, employ, promote, advance, or advocate for appointment, employment, pro-motion, or advancement, in or to a civilian position any individual who is a relative (as defined in 5 U.S.C. 3110) when the civilian position is in the Department or under his or her jurisdiction or control.
- h. Take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for the lawful disclosure of information.
- i. Take or fail to take any personnel action against an employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation (including HHS Instructions and issuances).
- j. Discriminate for or against any employee or applicant for employment on the basis of conduct that does not adversely affect the performance of the employee or applicant or the performance of others (except criminal conviction in determining suit-ability or fitness).
- k. Take or fail to take any personnel action when the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning the merit system principles (as set forth in 5 U.S.C. 2301).

[53 FR 4410, Feb. 16, 1988]

*Updated: 5/20/15*

**Special General Memorandum 95-4**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Indian Health Service  
Rockville MD 20857

SGM 95-4

JUN 1, 1995

TO: Indian Health Service Employees  
FROM: Director  
SUBJECT: Workplace Violence

*I am fully committed to ensuring that the work environment for all Indian Health Service (IHS) employees is healthy, safe, and secure from acts or threats of violence. To accomplish this, I am establishing a zero tolerance policy on Workplace Violence (WPV) that applies equally to the behavior of all employees, contractors and others with whom we work.*

*Our work environment must be free from all forms of violence and acts of intimidation, including harassment, threats, altercations, or assault. You are reminded that such conduct by IHS employees will not be tolerated and known incidents should be reported immediately to management officials. I expect all employees to act in a manner that is respectful and courteous to the public, as well as to fellow employees.*

*The IHS is not a high-risk environment for WPV, but this Agency is not immune. Many of us work in environments where the risks for violence may be higher than in the traditional office setting. I have taken this position to heighten awareness and to assist in the prevention of violent incidents at all IHS facilities. To enforce this policy through Agency management officials, staff who commit or threaten violent acts or acts of intimidation in the workplace will be subject to governing policies and procedures for addressing employee misconduct. In addition, if warranted, misconduct will be referred to local police and legal authorities for possible action.*

*Agency collective bargaining officials (CBO) must provide a copy of this memorandum to unions and meet existing bargaining unit obligations before implementing WPV policy. I encourage CBOs to meet with existing bargaining unit representatives to develop a strong labor-management partnership to prevent WPV.*

*I urge you to join me and your co-workers in actively creating and supporting a work environment that is safe, supportive, and free from WPV. These are difficult and stressful times for many of us, so awareness and early intervention are critical steps in the prevention process. If you have any questions or need assistance, please contact your local human resources staff.*

/Michael Trujillo, MD, MPH/  
Michael H. Trujillo, M.D., M.P.H.  
Assistant Surgeon General



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

## Memorandum

Received  
JUN 16 1995

**JUN 12, 1995**

**FROM:** Assistant Secretary for Health  
**SUBJECT:** Violence in the Workplace  
**TO:** PHS Agency Heads  
Acting Surgeon General  
Deputy Assistant Secretaries for Health  
PHS Agency Executive Officers  
PHS Staff Office Directors  
PHS Regional Health Administrators

*The news media remind us almost daily that we live in an environment that is becoming increasingly more violent. Many of our employees have been exposed to violence or threats of violence in their daily lives, and a significant number are concerned about the potential for violence in the workplace. For these reasons, I believe it is important to set forth PHS policy on this subject.*

*Employees shall be protected as fully as possible from assaults, threats, intimidation, and harassment while at the work site. Thus, it is essential that we make clear to all PHS employees that violence, threats of violence, intimidating and otherwise similar disruptive behavior are unacceptable conduct that will not be tolerated. This policy also applies to contractors who are not employees but who work in PHS facilities.*

*In order to minimize the potential for violence in the workplace and to ensure that prompt corrective action can be taken when it does occur, anyone working in PHS facilities, who witnesses or becomes aware of threats or acts of violence from any source must immediately report what he/she has observed or learned to appropriate agency officials, as set forth below, and/or law enforcement authorities. Employees are also expected to cooperate fully in any subsequent investigations. We do not want employees to place themselves at unnecessary personal risk in dangerous situations; however, we expect them to make immediate contact with an agency official who can respond appropriately, such as a supervisor, security officer, EEO or human resource officials.*

*In turn, officials receiving these reports are required to immediately and appropriately act upon them.*

*If anyone observes a violent act or a threat posing imminent danger, his/her immediate response should be to call 911. Immediately thereafter, he/she should inform his/her supervisor and the appropriate security office.*

*Please distribute the attached policy statement to all employees in your organization and ensure that the issue of workplace violence and this policy are discussed in staff meetings so that any questions or concerns about implementation of the policy can be promptly addressed. The implementation of a comprehensive PHS Workplace Violence Prevention Program is a priority for me, and all employees, supervisors and managers are expected to support this initiative on a continuing basis. A PHS task force, comprised of representatives of a variety of disciplines from all PHS agencies, has been convened for this purpose. The task force will develop a plan of action to address this critical issue in detail.*

*Our intention is to make the workplace safe where dignity, respect, and fairness are basic human rights. PHS employees, who commit or threaten to commit violent acts or acts of intimidation against anyone in the workplace, will be disciplined in accordance with governing policies and procedures for addressing employee misconduct and/or referred for action as appropriate under local and state law.*

*Collective Bargaining Officials should provide a copy of the PHS policy statement and this memorandum to recognized unions. Any obligation to negotiate must be satisfied before distributing or implementing the policy within existing bargaining units.*

*/Phillip R. Lee/*

*Phillip R. Lee, M.D.*

*Attachment*

---

**U.S. PUBLIC HEALTH SERVICE  
POLICY STATEMENT ON VIOLENCE IN THE WORKPLACE**

*Threatening, intimidating, violent or similar disruptive behavior in the workplace is unacceptable conduct. It is the policy of the Public Health Service (PHS) that there will be zero tolerance for such acts. PHS will take appropriate action necessary to ensure that every employee has a work environment: free from threatening behavior and violence.*

*Date: JUN 12 1995*

*/Phillip R. Lee/  
Phillip R. Lee, M.D.  
Assistant Secretary for Health*

---

[Back To Top](#) | [Previous Page](#)

CPU: 15ms Clock: 0s



## DEPARTMENT OF HEALTH & HUMAN SERVICES

### MEMORANDUM

Aberdeen Area  
Indian Health Service  
Federal Building, Room 309  
115 4<sup>th</sup> Ave. SE  
Aberdeen, SD 57401

**AUG - 8 2013**

DATE:

TO: All Aberdeen Area Civil Service Employees and Commission Corps Officers  
All Contractors, Volunteers and Other Providers

FROM: Acting Area Director

SUBJECT: Courtesy and Respect in the Workplace Policy

The single most important thing we can offer our patients, customers and coworkers is courtesy and respect in our daily interactions.

No matter what your job title, grade, duties or responsibilities are, your number one job is to perform those duties and responsibilities in a manner that is consistent with the standards of conduct outlined in the Department's Standards of Conduct, Subpart C - Conduct on the Job, 73.735-301 Courtesy and consideration for others. This Subpart reads as follows:

- (a) An employee's conduct on the job is, in all respects, of concern to the Federal Government. Courtesy, consideration, and promptness in dealing with the public must be shown in carrying out official responsibilities, and actions which deny the dignity of individuals or conduct which is disrespectful to others must recognize that inattention to matters of common courtesy can adversely affect the quality of service the Department is responsible for providing.
- (b) Of equal importance is the requirement that courtesy is shown in daily interaction with coworkers. Employees shall be polite to and considerate of other employees and shall respect their needs and concerns in the work environment.

I expect each individual who works for the Aberdeen Area IHS to adhere to these requirements. I expect each supervisor and/or manager to hold their subordinates responsible for meeting this standard and taking appropriate corrective action when individuals violate it. I also expect management to take appropriate corrective action when first line supervisors fail to exercise their supervisory responsibilities.

While I am emphasizing only one of the sections under Subpart C, I expect each supervisor and manager to become familiar with the entire subpart. I also expect each supervisor to assure that anyone over whom they exercise supervisory control is knowledgeable of and adhere to all aspects of the Standards of Conduct. You may access a copy of the HHS Standards of Conduct by following this link: <http://ethics.od.nih.gov/lawreg/hhs-resid-std.htm#301>

I am issuing this policy memorandum to demonstrate my commitment to assuring courtesy, respect and dignity in the work place. Everyone from patients, clients, customers and employees have the right to expect a professional environment when they walk through the doors of any Aberdeen Area IHS facility.

This memorandum is to be distributed "desk to desk" with supervisors assuring that each employee, officer, contractor and/or volunteer has knowledge of it and initials a copy of the memorandum. Chief Executive Officer and Division Directors are to assure that this memorandum is posted in appropriate places in plain sight of anyone entering their work area.

If you have questions or need assistance, you may contact the Regional Human Resource Office, Employee /Labor Relations staff by calling (605) 226-7553.

A handwritten signature in dark ink, appearing to read 'Ron Cornelius', with a long horizontal flourish extending to the right.

Ron Cornelius





## Memorandum

To: Supervisor of child care covered position incumbent  
From: Human Resources/Personnel Security Office  
Subject: Child Care Position Provisional Authorization  
Date:

This is notice you will supervise a position that is covered by Public Laws (P.L.) 101-630, Indian Child Protection and Family Violence Prevention Act and 101-647, Crime Control Act. The Indian Health Service is required to compile a list of all authorized positions with duties and responsibilities that involve regular contact with or control over Indian children and investigate the character of each individual who is employed or is being considered for employment in such a position. The requirement is that the individual is to be under the supervision and in sight (chaperoned) of a previously investigated staff person (favorably adjudicated).

The position and individual identified below has been designated as a covered position and has been granted provisional authorization:

Name: \_\_\_\_\_  
Position title: \_\_\_\_\_

The following criteria must be met for the above mentioned individual:

- Pre-employment suitability has been favorably adjudicated prior to entrance on duty.
- Continue with processing of background investigation – Tier 1 with child care (minimum).
- Provide requested documentation/information as requested from the Personnel Security/HR Office.

Employee/Contractor/Affiliate **must be 100% chaperoned** at all times by a staff person and/or alternates who have at a minimum a favorably adjudicated Tier 1 with child care (Tier 1C) or CNACI investigation. The following individuals listed below agree and accept responsibility of the chaperone role.

Chaperone name: _____	Case type favorably adjudicated _____
Chaperone name: _____	Case type favorably adjudicated _____
Chaperone name: _____	Case type favorably adjudicated _____

I have verified a favorable investigation is on file for identified chaperones:

_____ Personnel Security/HR Office designee	_____ Date
--	---------------

Your signature indicates you are accepting responsibility, will comply with the above criteria, and will assure the above named individual will be chaperoned at times while on site.

_____ Department Supervisor/Designee	_____ Date
---	---------------

This provisional authorization is in effect until the favorably adjudicated certification of investigation is in place. I am aware that failure to comply with the above criteria could result in removal and termination of the granted provisional authorization.

_____ Employee/Contractor/Affiliate	_____ Date
--	---------------

# Declaration for Federal Employment\*

(\*This form may also be used to assess fitness for federal contract employment)

Form Approved:  
OMB No. 3206-0182

## Instructions

The information collected on this form is used to determine your acceptability for Federal and Federal contract employment and your enrollment status in the Government's Life Insurance program. You may be asked to complete this form at any time during the hiring process. Follow instructions that the agency provides. If you are selected, before you are appointed you will be asked to update your responses on this form and on other materials submitted during the application process and then to recertify that your answers are true.

All your answers must be truthful and complete. **A false statement on any part of this declaration or attached forms or sheets may be grounds for not hiring you, or for firing you after you begin work. Also, you may be punished by a fine or imprisonment (U.S. Code, title 18, section 1001).**

Either type your responses on this form or print clearly in dark ink. If you need additional space, attach letter-size sheets (8.5" X 11"). Include your name, Social Security Number, and item number on each sheet. We recommend that you keep a photocopy of your completed form for your records.

## Privacy Act Statement

The Office of Personnel Management is authorized to request this information under sections 1302, 3301, 3304, 3328, and 8716 of title 5, U. S. Code. Section 1104 of title 5 allows the Office of Personnel Management to delegate personnel management functions to other Federal agencies. If necessary, and usually in conjunction with another form or forms, this form may be used in conducting an investigation to determine your suitability or your ability to hold a security clearance, and it may be disclosed to authorized officials making similar, subsequent determinations.

Your Social Security Number (SSN) is needed to keep our records accurate, because other people may have the same name and birth date. Public Law 104-134 (April 26, 1996) asks Federal agencies to use this number to help identify individuals in agency records. Giving us your SSN or any other information is voluntary. However, if you do not give us your SSN or any other information requested, we cannot process your application. Incomplete addresses and ZIP Codes may also slow processing.

**ROUTINE USES:** Any disclosure of this record or information in this record is in accordance with routine uses found in System Notice OPM/GOVT-1, General Personnel Records. This system allows disclosure of information to: training facilities; organizations deciding claims for retirement, insurance, unemployment, or health benefits; officials in litigation or administrative proceedings where the Government is a party; law enforcement agencies concerning a violation of law or regulation; Federal agencies for statistical reports and studies; officials of labor organizations recognized by law in connection with representation of employees; Federal agencies or other sources requesting information for Federal agencies in connection with hiring or retaining, security clearance, security or suitability investigations, classifying jobs, contracting, or issuing licenses, grants, or other benefits; public and private organizations, including news media, which grant or publicize employee recognitions and awards; the Merit Systems Protection Board, the Office of Special Counsel, the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, the National Archives and Records Administration, and Congressional offices in connection with their official functions; prospective non-Federal employers concerning tenure of employment, civil service status, length of service, and the date and nature of action for separation as shown on the SF 50 (or authorized exception) of a specifically identified individual; requesting organizations or individuals concerning the home address and other relevant information on those who might have contracted an illness or been exposed to a health hazard; authorized Federal and non-Federal agencies for use in computer matching; spouses or dependent children asking whether the employee has changed from a self-and-family to a self-only health benefits enrollment; individuals working on a contract, service, grant, cooperative agreement, or job for the Federal government; non-agency members of an agency's performance or other panel; and agency-appointed representatives of employees concerning information issued to the employees about fitness-for-duty or agency-filed disability retirement procedures.

## Public Burden Statement

Public burden reporting for this collection of information is estimated to vary from 5 to 30 minutes with an average of 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to the U.S. Office of Personnel Management, Reports and Forms Manager (3206-0182), Washington, DC 20415-7900. The OMB number, 3206-0182, is valid. OPM may not collect this information, and you are not required to respond, unless this number is displayed.

# Declaration for Federal Employment\*

Form Approved:  
OMB No. 3206-0182

(\*This form may also be used to assess fitness for federal contract employment)

## General Information

**1. FULL NAME** (Provide your full name. If you have only initials in your name, provide them and indicate "Initial only". If you do not have a middle name, indicate "No Middle Name". If you are a "Jr.," "Sr.," etc. enter this under Suffix. First, Middle, Last, Suffix)

◆

**2. SOCIAL SECURITY NUMBER**

◆

**3a. PLACE OF BIRTH** (Include city and state or country)

◆

**3b. ARE YOU A U.S. CITIZEN?**

☐ YES ☐ NO (If "NO", provide country of citizenship) ◆

**4. DATE OF BIRTH** (MM / DD / YYYY)

◆

**5. OTHER NAMES EVER USED** (For example, maiden name, nickname, etc.)

◆

◆

**6. PHONE NUMBERS** (Include area codes)

Day ◆

Night ◆

## Selective Service Registration

If you are a male born after December 31, 1959, and are at least 18 years of age, civil service employment law (5 U.S.C. 3328) requires that you must register with the Selective Service System, unless you meet certain exemptions.

7a. Were you born a male after December 31, 1959?

☐ YES

☐ NO (If "NO", proceed to 8.)

7b. Have you registered with the Selective Service System?

☐ YES (If "YES", proceed to 8.)

☐ NO (If "NO", proceed to 7c.)

7c. If "NO," describe your reason(s) in item 16.

## Military Service

8. Have you ever served in the United States military?

☐ YES (If "YES", provide information below) ☐ NO

*If your only active duty was training in the Reserves or National Guard, answer "NO."*

*If you answered "YES," list the branch, dates, and type of discharge for all active duty.*

Branch	From (MM/DD/YYYY)	To (MM/DD/YYYY)	Type of Discharge

## Background Information

**For all questions, provide all additional requested information under item 16 or on attached sheets.** The circumstances of each event you list will be considered. However, in most cases you can still be considered for Federal jobs.

For questions 9, 10, and 11, your answers should include convictions resulting from a plea of *nolo contendere* (no contest), but omit (1) traffic fines of \$300 or less, (2) any violation of law committed before your 16th birthday, (3) any violation of law committed before your 18th birthday if finally decided in juvenile court or under a Youth Offender law, (4) any conviction set aside under the Federal Youth Corrections Act or similar state law, and (5) any conviction for which the record was expunged under Federal or state law.

9. During the last 7 years, have you been convicted, been imprisoned, been on probation, or been on parole? (Includes felonies, firearms or explosives violations, misdemeanors, and all other offenses.) *If "YES," use item 16 to provide the date, explanation of the violation, place of occurrence, and the name and address of the police department or court involved.* ☐ YES ☐ NO

10. Have you been convicted by a military court-martial in the past 7 years? *(If no military service, answer "NO.") If "YES," use item 16 to provide the date, explanation of the violation, place of occurrence, and the name and address of the military authority or court involved.* ☐ YES ☐ NO

11. Are you currently under charges for any violation of law? *If "YES," use item 16 to provide the date, explanation of the charges, place of occurrence, and the name and address of the police department or court involved.* ☐ YES ☐ NO

12. During the last 5 years, have you been fired from any job for any reason, did you quit after being told that you would be fired, did you leave any job by mutual agreement because of specific problems, or were you debarred from Federal employment by the Office of Personnel Management or any other Federal agency? *If "YES," use item 16 to provide the date, an explanation of the problem, reason for leaving, and the employer's name and address.* ☐ YES ☐ NO

13. Are you delinquent on any Federal debt? (Includes delinquencies arising from Federal taxes, loans, overpayment of benefits, and other debts to the U.S. Government, plus defaults of Federally guaranteed or insured loans such as student and home mortgage loans.) *If "YES," use item 16 to provide the type, length, and amount of the delinquency or default, and steps that you are taking to correct the error or repay the debt.* ☐ YES ☐ NO

# Declaration for Federal Employment\*

Form Approved:  
OMB No. 3206-0182

(\*This form may also be used to assess fitness for federal contract employment)

## Additional Questions

14. Do any of your relatives work for the agency or government organization to which you are submitting this form? (Include: father, mother, husband, wife, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, and half-sister.) If "YES," use item 16 to provide the relative's name, relationship, and the department, agency, or branch of the Armed Forces for which your relativeworks. ☐ YES ☐ NO
15. Do you receive, or have you ever applied for, retirement pay, pension, or other retired pay based on military, Federal civilian, or District of Columbia Government service? ☐ YES ☐ NO

## Continuation Space / Agency Optional Questions

16. Provide details requested in items 7 through 15 and 18c in the space below or on attached sheets. Be sure to identify attached sheets with your name, Social Security Number, and item number, and to include ZIP Codes in all addresses. If any questions are printed below, please answer as instructed (these questions are specific to your position and your agency is authorized to ask them).

## Certifications / Additional Questions

**APPLICANT:** If you are applying for a position and received a tentative/conditional job offer or have not yet been selected, carefully review your answers on this form and any attached sheets.

**APPOINTEE: If you are being appointed,** carefully review your answers on this form and any attached sheets, including any other application materials that your agency has attached to this form. If any information requires correction to be accurate as of the date you are signing, make changes on this form or the attachments and/or provide updated information on additional sheets, initialing and dating all changes and additions. When this form and all attached materials are accurate, read item 17, complete 17b, read 18, and answer 18a, 18b, and 18c as appropriate.

17. **I certify** that, to the best of my knowledge and belief, all of the information on and attached to this Declaration for Federal Employment, including any attached application materials, is true, correct, complete, and made in good faith. **I understand that a false or fraudulent answer to any question or item on any part of this declaration or its attachments may be grounds for not hiring me, or for firing me after I begin work, and may be punishable by fine or imprisonment.** I understand that any information I give may be investigated for purposes of determining eligibility for Federal employment as allowed by law or Presidential order. **I consent** to the release of information about my ability and fitness for Federal employment by employers, schools, law enforcement agencies, and other individuals and organizations to investigators, personnel specialists, and other authorized employees or representatives of the Federal Government. **I understand** that for financial or lending institutions, medical institutions, hospitals, health care professionals, and some other sources of information, a separate specific release may be needed, and I may be contacted for such a release at a later date.

17a. Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(MM / DD / YYYY)

17b. Appointee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(MM / DD / YYYY)

### Appointing Officer:

Enter Date of Appointment or Conversion  
MM / DD / YYYY

18. **Appointee (Only respond if you have been employed by the Federal Government before):** Your elections of life insurance during previous Federal employment may affect your eligibility for life insurance during your new appointment. These questions are asked to help your personnel office make a correct determination.

18a. When did you leave your last Federal job? \_\_\_\_\_ Date: \_\_\_\_\_  
(MM / DD / YYYY)

18b. When you worked for the Federal Government the last time, did you waive Basic Life Insurance or any type of optional life insurance? ☐ YES ☐ NO ☐ DO NOT KNOW

18c. If you answered "YES" to item 18b, did you later cancel the waiver(s)? If your answer to item 18c is "NO," use item 16 to identify the type(s) of insurance for which waivers were not canceled. ☐ YES ☐ NO ☐ DO NOT KNOW

**Addendum to Declaration for Federal Employment (OF 306)**  
**Indian Health Service**  
**Child Care & Indian Child Care Worker Positions**

=====

**Item 16. Agency Specific Questions**

**Name:** \_\_\_\_\_ **Social Security Number:** \_\_\_\_\_

(Please print)

**Job Title in Announcement:** \_\_\_\_\_ **Announcement Number:** \_\_\_\_\_

Section 231 of the Crime Control Act of 1990, Public Law (Pub. L.) 101-647, requires employment applications for individuals seeking employment in a position involved with the provision to children under the age of 18 of "child care services," as defined in 42 U.S.C. § 13041(a)(2), contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child and for the disposition of the arrest or charge. Under 42 U.S.C. § 13041(a)(2), the term "child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services. Individuals hired for such positions must undergo a criminal history background check.

Section 408 of the Indian Child Protection and Family Violence Prevention Act, Pub. L. 101-630, contains a related requirement for positions in the Department of Health and Human Services that involve regular contact with or control over Indian children. The agency must ensure that persons hired for these positions have not been found guilty of or pleaded nolo contendere or guilty to certain crimes. The law requires the agency conduct an investigation of the character of each individual who is being considered for employment in such a position and prescribe in regulations the "minimum standards of character" that must be met in order for an individual to fill such a position. The regulations specify that "[t]he minimum standards of character shall be considered met only after the individual has been the subject of a satisfactory background investigation," which includes a criminal history background check.

42 C.F.R. § 136.406.

To assure compliance with the above laws, the following questions are added to the Declaration for Federal Employment:

1. Have you ever been arrested for or charged with a crime involving a child?  
YES \_\_\_\_\_ NO \_\_\_\_\_

*[If "YES", provide the date, explanation of the violation, disposition of the arrest or charge, place of occurrence, and the name and address of the police department or court involved.]*

2. Have you ever been found guilty of, or entered a plea of nolo contendere (no contest) or guilty to, any felonious or misdemeanor offense under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons; or offenses committed against children?  
YES \_\_\_\_\_ NO \_\_\_\_\_

*[If “YES”, provide the date, explanation of the violation, disposition of the arrest or charge, place of occurrence, and the name address of the police department or court involved.]*

I certify that (1) my response to these questions is made under penalty of perjury, which is punishable by fine under title 18 of the U.S. Code, or imprisonment of not more than five years, or both; and (2) I have received notice that a criminal check will be conducted. I understand my right to obtain a copy of any criminal history report made available to the Indian Health Service and my right to challenge the accuracy and completeness of any information contained in the report.

\_\_\_\_\_  
**Applicant’s Signature (sign in ink)**

\_\_\_\_\_  
**Date**

*Public Burden Statement: In accordance with Paperwork Reduction Act [5 CFR § 1320.8 (b)(3)], a Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Respondents must be informed (on the reporting instrument, in instructions, or in a cover letter) the reasons for which the information will be collected; the way the information will be used to further the proper performance of the functions of the agency; whether responses to the collection of the information are voluntary, required to obtain a benefit (citing authority), or mandatory (citing authority); and the nature and extent of confidentiality to be provided, if any (citing authority). Public reporting burden for this collection of information is estimated to average 12 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the necessary data, and completing and reviewing the collection information. Send comments regarding the burden estimate or any other aspect of this collection of information to the IHS Information Collection Clearance Officer, Indian Health Service, Office of Management Services, Division of Regulatory Affairs, 5600 Fishers Lane, Rockville, Mail Stop 09E70, MD 20857. **Please do not send completed data collection instruments to this address.***

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Indian Health Service  
Rockville, Maryland 20857

Refer to: OPHS

INDIAN HEALTH SERVICE CIRCULAR NO. 2016-04

---

Effective Date: July 28, 2016

MANDATORY SEASONAL INFLUENZA IMMUNIZATIONS FOR THE CIVILIAN HEALTH  
CARE PERSONNEL

**Sec.**

1. [Purpose](#)
2. [Background](#)
3. [Policy](#)
4. [Definitions](#)
5. [Procedures](#)
6. [Compliance](#)
6. [Supersedure](#)
7. [Effective Date](#)

1. Purpose. This circular establishes the Indian Health Service (IHS) policy requiring mandatory seasonal influenza immunizations for civilian health care personnel working in IHS health care facilities.
2. Background. Influenza vaccination for health care facility staff and licensed independent practitioners is a major patient safety issue in the United States and is an important component of comprehensive infection control programs. Individuals who become infected are contagious at least one day before any signs or symptoms of influenza appear, and therefore these individuals can infect others without knowing they are contagious.
3. Policy. All Civil Service employees, contract staff, temporary employees, students, and volunteers who work in an IHS health care facility, must receive a seasonal influenza vaccination by October 31 of each year or have on file a valid medical or religious exemption. The vaccination deadline may be extended if seasonal influenza vaccine supply is inadequate or sufficiently protracted to preclude timely vaccination. Commissioned Corps Officers of the United States Public Health Service (PHS) are already required to obtain their annual seasonal influenza immunization (per Manual Circular - Commissioned Corps Personnel - PHS No. 377, Subchapter CC26.1 Instruction 8, PHS Readiness Standards).
4. Definitions.
  - A. Health Care Personnel. All Civil Service employees, contract staff, temporary employees, students, and volunteers whose duties and responsibilities require them to work permanently, temporarily or occasionally in an IHS health care facility are considered Health

Care Personnel (HCP) for the purposes of this policy, regardless of their job category or level of patient contact.

B. Health Care Facility. Any Federal IHS hospital, clinic, or health station.

5. Procedures.

A. Documentation. All HCP must provide acceptable documentation substantiating influenza vaccine receipt or request for exemption within 2 calendar weeks following issuance of this circular and by Oct. 31 annually in subsequent years. Personnel routinely charged with infection control and/or employee health responsibilities at the facility are responsible for maintaining records of employee vaccination, medical exemption, or religious exemption as part of the employee health record.

1. Receipt of Influenza Vaccine

a. Influenza Vaccine Administered Within IHS Facilities. Influenza vaccine will be offered free of charge to all HCP working in IHS health care facilities every influenza season. At the time of vaccination, the following information should be recorded in the employee health record: the date of administration, vaccine formulation (i.e., brand), vaccine manufacturer, dose volume, anatomic site of administration, vaccine lot and expiration date, and name of the provider administering the vaccine. Upon request, employees may be provided written documentation of the influenza vaccination.

b. Influenza Vaccine Administered Outside IHS Facilities. Any HCP who receive influenza vaccine elsewhere must provide written proof of vaccination that documents the date of vaccination, vaccine formulation (i.e., brand), and name of provider administering the vaccine. This information will be filed along with any additional documentary proof of vaccination as part of the employee health record.

2. Request for Exemption

a. Medical Exemption from Influenza Vaccination. A request for medical exemption from influenza vaccination may be approved for any person contraindicated to receive influenza vaccine as outlined by Advisory Committee on Immunization Practices (ACIP) recommendations (see link below). (<http://www.cdc.gov/flu/professionals/vaccination/index.htm>) Based on current recommendations, valid medical exemptions for influenza vaccines include a history of severe allergic reaction to any component of the influenza vaccine, including egg protein, or serious allergic reaction to a previous dose of influenza vaccine. History of Guillain-Barré Syndrome (GBS) onset within 6 weeks following a prior influenza vaccine is a precaution for influenza vaccination, and may be considered a valid medical exemption if a medical provider determines the influenza vaccination poses a risk to the patient.

i. Procedure for requesting a medical exemption. All HCP requesting medical exemption from influenza vaccination must provide documentation, signed by a licensed, independent health care practitioner, affirming that a valid medical contraindication exists that precludes influenza vaccination. Personnel routinely charged with infection control and/or employee health responsibilities at the facility will be designated to receive, review, approve/deny medical exemption requests in accordance with current ACIP recommendations, and maintain suitable records to document requests and outcomes. Employees whose request for medical exemption is denied will receive written justification for the denial and must receive influenza vaccination within 2 calendar weeks of the denial notification.

ii. Renewal. Employees with an approved medical exemption must provide a signed statement by October 31st annually reaffirming that the previously approved medical contraindication continues to



preclude vaccination. Such statements and other supporting documentation (e.g., statement from employee's medical provider) will be retained as part of the employee's health record.

- b. Religious Exemption from Influenza Vaccination. Any HCP who feel their religious beliefs preclude influenza immunization may request an exemption from influenza vaccination.

Procedure for requesting religious exemption. Any HCP who feel their religious beliefs preclude influenza immunization must submit a signed, written statement justifying the request by October 31st annually for review. Personnel routinely charged with infection control and/or employee health responsibilities at the facility will be designated to receive, review, approve/deny requests for religious exemption, and maintain suitable records to document requests and outcomes. Supporting statements and approval of religious exemption requests from influenza vaccination will be maintained as part of the employee health record.

- c. Appeal of denials.

- i. Medical exemption requests. Review and adjudication of appeals will be conducted by the facility Clinical Director or Service Unit Chief Medical officer. Secondary appeals can be made to the Area Chief Medical Officer. Third and final level of appeals can be made to the IHS Chief Medical Officer or their designee.
- ii. Religious exemption requests. Review and adjudication of appeals will be conducted by the facility's Chief Executive Officer. Secondary appeals can be made to the Area Director. Third and final level of appeals can be made to the IHS Chief Medical Officer or their designee.

- 3. Approved Exemption. Unvaccinated HCP with an approved medical or religious exemption must wear an IHS-provided surgical or similar mask when working in patient care areas or other areas frequented by patients in an IHS health care facility during the influenza season. Influenza season is typically defined as November through March, though may include other periods of increased levels of influenza activity as determined by the Centers for Disease Control and Prevention and/or state public health authorities. All HCP with an approved medical or religious exemption are required to receive annual instruction from appropriate infection control staff at the facility on the proper use of masks and other infection control measures relevant for preventing influenza infection.

- 6. Compliance. Health care personnel who refuse to comply with this policy and do not have an approved medical or religious exemption are subject to disciplinary action in accordance with Department of Health and Human Services and/or IHS policy and relevant sections of collective bargaining agreements as applicable. Employee refusal to comply with this policy will be documented and filed as part of the employee health record.
- 7. Superseding. This circular supersedes IHS SGM 2015-03, dated September 3, 2015.
- 8. Effective Date. This circular becomes effective on the date of signature.

/Mary Smith/  
Mary Smith  
Principal Deputy Director  
Indian Health Service

---

Distributed: IHS-wide  
Date: July 28, 2016