

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS  
OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30**

1. REQUISITION NO. PAGE 1 OF 48

2. CONTRACT NO.	3. AWARD/EFFECTIVE DATE	4. ORDER NO.	5. SOLICITATION NUMBER VA-261-07-RP-0128	6. SOLICITATION ISSUE DATE
7. FOR SOLICITATION INFORMATION CALL:	a. NAME	b. TELEPHONE NO. (No Collect Calls)	8. OFFER DUE DATE/LOCAL TIME 06-07-2007 2:00pm EST	

9. ISSUED BY VA Palo Alto Health Care System Attn: 90/CCA Lupe Arroyo 3801 Miranda Ave Palo Alto CA 94304	CODE	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> EMERGING SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input type="checkbox"/> 8(A) NAICS: 621111 SIZE STANDARD: \$9.0 Million
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11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE	12. DISCOUNT TERMS N/A	13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <input type="checkbox"/>	13b. RATING N/A	14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP
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5. DELIVER TO "See Delivery Schedule"	CODE	16. ADMINISTERED BY VA Palo Alto Health Care System Attn: 90/CCA Lupe Arroyo 3801 Miranda Ave Palo Alto CA 94304	CODE
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7a. CONTRACTOR/OFFEROR CODE	FACILITY CODE	18a. PAYMENT WILL BE MADE BY Department of Veterans Affairs FMS-VA-2(101) Financial Services Center PO Box 149971 Austin TX 78714-8971	CODE
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<input type="checkbox"/> 17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER	<input type="checkbox"/> 18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM
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19. ITEM NO.	20. See CONTINUATION Page SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
1.	Services to be provided by the Contractor comprise all elements of psychiatric acute inpatient care.	12	MO		
(Use Reverse and/or Attach Additional Sheets as Necessary)					

25. ACCOUNTING AND APPROPRIATION DATA See CONTINUATION Page	26. TOTAL AWARD AMOUNT (For Govt. Use Only)
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<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 type="checkbox"/> ARE <input checked="" 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 type="checkbox"/> 28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN <u>1</u> 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: REF. _____ 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) Lupe Arroyo	31c. DATE SIGNED

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**CONTINUATION BLOCK**

**B.1 CONTRACT ADMINISTRATION DATA**

(continuation from Standard Form 1449, block 18A.)

1. Contract administration matters will be handled by:

a. CONTRACTOR'S NAME/ADDRESS/CITY-STATE-ZIP (please print or type):

\_\_\_ El Dorado County Mental Health \_\_\_

\_\_\_ Psychiatric Health Facility \_\_\_

\_\_\_ 935 B Spring Street \_\_\_

\_\_\_ Placerville, CA 95667 \_\_\_

Point of Contact Name/Title \_\_ Marlene Hensley, PHF Manager \_\_

Telephone Number \_\_\_ 530-621-6219 \_\_\_

Fax Number \_\_\_ 530-295-2594 \_\_\_

Email \_\_\_ mmhensley@co.el-dorado.ca.us \_\_\_

DUNS Number \_\_\_\_\_ [See FAR 52.212-1 Instructions... (j) Data Universal Numbering System (DUNS) Number]

Tax Identification Number \_\_\_\_\_ (as applicable for contractor who may not need to fill out 52.212-3 Reqs & Certs)

b. GOVERNMENT:

Contracting Officer (CCA/90) Consolidated Contracting Activity, VISN 21 VA Palo Alto Health Care System 3801 Miranda Avenue Palo Alto, CA 94304 (650) 493-5000 extension 64698 Fax (650) 849-0332

2. CONTRACTOR REMITTANCE ADDRESS: Effective January 1, 1999 all payments by the Government to the contractor will be made in accordance with Federal Acquisition Regulation (FAR) Clause 52. 232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration (31 U.S.C. 3332).

2.1 CONTRACTOR REMITTANCE ADDRESS: All payments by the Government to the contractor should be mailed to the following address:

3. GOVERNMENT INVOICE ADDRESS: All invoices from the contractor shall be mailed to the following address:

Department of Veterans Affairs VA Palo Alto Health Care System Neurology Service (127/640)  
3801 Miranda Avenue Palo Alto CA 94304

3.1 INVOICES: Invoices shall be submitted in arrears:

- a. Quarterly
- b. Semi-Annually
- c. Other  [Monthly]

OFFERORS MUST COMPLETE AND RETURN ALL INFORMATION DESIGNATED IN 52.212-1, INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS, PARAGRAPH b, PRIOR TO THE TIME SPECIFIED IN BLOCK 8 OF SF 1449 IN ORDER TO BE CONSIDERED FOR AWARD.

ACKNOWLEDGMENT OF AMENDMENTS: The offeror acknowledges receipt of amendments to the Solicitation numbered and dated as follows:

AMENDMENT NO	DATE
_____	_____
_____	_____
_____	_____

End of Contract Administration Data

**PRICING SCHEDULE**

**BASE YEAR : 1 October 2008 thru 30 September 2009**

<b>Line Item</b>	<b>Description</b>	<b>Est. Qty.</b>	<b>Unit</b>	<b>Unit Cost</b>	<b>Total Cost</b>
1.	Inpatient psychiatric services services shall be reimbursed based on a rate per bed day of care (BDOC). First day of admission, up to 24 hours.	50	BDOC	\$ 900.00	\$ 45,000
2.	Second and subsequent days of care.	150	BDOC	\$ 700.00	\$ 105,000
3.	Partial hospitalization program	N/A	BDOC		
4.	Medical history and physical	50	Episode	Included	
5.	Seclusion and restraint physician fee	N/A	Episode	Included	
6.	Inpatient or outpatient electro. convulsive therapy (ECT)	N/A	Episode	Included	

**Option Period One: 1 October 2009 through 30 September 2010**

<b>Line Item</b>	<b>Description</b>	<b>Est. Qty.</b>	<b>Unit</b>	<b>Unit Cost</b>	<b>Total Cost</b>
1.	Inpatient psychiatric services services shall be reimbursed based on a rate per bed day of care (BDOC). First day of admission, up to 24 hours.	50	BDOC	\$ 900.00	\$ 45,000
2.	Second and subsequent days of care.	150	BDOC	\$ 700.00	\$ 105,000
3.	Partial hospitalization program	N/A	BDOC		
4.	Medical history and physical	50	Episode	Included	
5.	Seclusion and restraint physician fee	N/A	Episode	Included	
6.	Inpatient or outpatient electro. convulsive therapy (ECT)	N/A	Episode	Included	

## B.2 SPECIAL CONTRACT REQUIREMENTS

Under the authority of Public Law 104-262 and 38 USC 8153, the contractor agrees to provide Health Care Resources in accordance with the terms and conditions stated herein, to furnish to and at the Department of Veterans Affairs Medical Center, VA Palo Alto, the services and prices specified in the Section entitled Schedule of Supplies/Services of this contract.

### 1. SERVICES:

a. The services specified in the Sections entitled Schedule of Supplies/Services and Special Contract Requirements may be changed by written modification to this contract. The modification will be prepared by the VA Contracting Officer and, prior to becoming effective, shall be approved by the VA Under Secretary for Health or his/her designee.

b. Other necessary personnel for the operation of the services contracted for at the VA will be provided by the VA at levels mutually agreed upon which are compatible with the safety of the patient and personnel and with quality medical care programming.

c. The services to be performed by the contractor will be performed in accordance with VA policies and procedures and the regulations of the medical staff by laws of the VA facility.

d. The services to be performed by the contractor will be under the direction of the Chief of Staff, and the Chief.

### 2. TERM OF CONTRACT:

This contract is effective one year from date of award plus four (1) one-year options that may be exercised by the VA. The contract is subject to the availability of funds. The contractor shall perform no services after September 30 of any year until the Contracting Officer authorizes such services in writing.

### 3. QUALIFICATIONS:

Personnel assigned by the Contractor to perform the services covered by this contract shall be licensed in a State, Territory, or Commonwealth of the United States or the District of Columbia. All licenses held by the personnel working on this contract shall be full and unrestricted licenses.

### 4. WORK HOURS:

a. The services covered by this contract shall be furnished by the contractor as defined herein. The contractor will not be required, except in case of emergency, to furnish such services during off-duty hours as described below.

b. The following terms have the following meanings:

(1) Work hours: Monday through Friday, 8:00 a.m. - 4:30 p.m.

(2) National Holidays: The 10 holidays observed by the Federal Government are:

New Years Day  
Martin Luther Kings Birthday

Presidents  
Memorial Day  
Independence Day  
Labor Day  
Columbus Day  
Veterans Day  
Thanksgiving  
Christmas AND

any other day specifically declared by the President of the United States to be a national holiday.

(3) Off-Duty hours: Friday through Monday, 4:30 p.m. - 8:00 a.m.

#### 5. PERSONNEL POLICY:

The contractor shall be responsible for protecting the personnel furnishing services under this contract. To carry out this responsibility, the contractor shall provide the following for these personnel:

- workers compensation
- professional liability insurance
- health examinations
- income tax withholding, and
- social security payments.

The parties agree that the contractor, its employees, agents and subcontractors shall not be considered VA employees for any purpose.

#### 6. RECORD KEEPING:

The VA Medical Center, VA Palo Alto shall establish and maintain a record keeping system that will record the hours worked by the contractor employee(s). Contractor's employee(s) shall report to Administrative Officer, or designee upon arrival at the VA Palo Alto.

#### 7. CONTRACT PERFORMANCE MONITORING:

Monitoring of contractors time shall be demonstrated through sign-in/ sign-out sheets. The contractor shall be required to sign an attendance log upon reporting to work and departing from work. , shall be the VA official responsible for verifying contract compliance. After contract award, any incidents of contractor noncompliance as evidenced by the monitoring procedures shall be forwarded immediately to the Contracting Officer.

#### 8. KEY PERSONNEL AND TEMPORARY EMERGENCY SUBSTITUTIONS:

The Contractor shall assign to this contract the following key personnel:

a. During the first ninety (90) days of performance, the Contractor shall make NO substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer, in writing, within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) below. After the initial 90-day period of the contract, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least 15 days prior to making any permanent substitutions.

b. The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes shall have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on the proposed substitutes. The contract will be modified to reflect any approved changes of key personnel.

c. For temporary substitutions where the key person will not be reporting to work for three (3) consecutive work days or more, the Contractor will provide a qualified replacement for the key person. This substitute shall have comparable qualifications to the key person. Any period exceeding two weeks will require the procedure as stated above.

### COMPLIANCE AND BUSINESS INTEGRITY (CBI) TRAINING

1. **Awareness Training:** Contractor employees shall complete initial compliance awareness training within 30 days of commencing work under this contract as well as complete annual compliance awareness refresher training. At a minimum, CBI awareness training will include the following topics: (a) the revenue cycle, (b) seven elements of an effective compliance program, (c) definition of high risk areas, and (d) definition of compliance concerns and how to address a compliance concern. This requirement can be fulfilled by completing the training module available via the following Internet Site [www.visn21.med.va.gov/CBI.asp](http://www.visn21.med.va.gov/CBI.asp)
2. **Remedial Training:** When notified, contract employees must complete remedial training and education to address any detected compliance exceptions.
3. **Proof of Training:** Contract employees are responsible for submitting proof of awareness and remedial training completed to the Contracting Officer's Technical Representative (COTR) for this contract. The COTR will retain proof of training in accordance with applicable Records Control Schedule.

### STATEMENT OF WORK

#### PSYCHIATRIC SERVICES

1. The contractor shall provide all technical, professional, and clerical support to provide acute and urgent inpatient mental health care services and locked psychiatric bed services to beneficiaries referred by VANCHCS. Inpatient services shall include but are not limited to psychiatrist services, clinical psychological services, nursing services, rehabilitation services, health record services, restraint, seclusion, pharmaceutical services, use of outside resources, and agreement with general acute care hospitals.
2. The CONTRACTOR'S facility will be staffed 24 hours per day, 7 days per week, with psychiatrists available on-site or on-call at all times. CONTRACTOR shall provide a staff of mental health professionals to provide telephone assistance, consultation to VANCHCS staff, psychiatric and substance abuse evaluations, treatment recommendations, assistance in admitting patients to inpatient units, referrals, coordination of outpatient follow-up care, in-house dietary services, in-house pharmacy services, laboratory services, physical examinations, group therapy, educational activities, and any other service normally provided to its other patients.



3. For medical situations requiring emergency medical consultation or an emergency room, patients will be transported to a VA facility or VA contract facility. VANCHCS or the patient will be responsible for transportation using its own vehicles, or VANCHCS ambulances or contract services. Upon contract award, VANCHCS will provide CONTRACTOR with a list of VA facilities or VA contract facilities.
4. During evenings and weekends, CONTRACTOR will maintain a log of all telephone contacts with VANCHCS patients and will forward the information concerning such patients to VANCHCS on the morning of the following business day.
5. Locked Beds: CONTRACTOR shall provide services to VANCHCS patients requiring care in a designated locked unit. The per diem rate for locked bed services will include all medications, nursing services, including close supervision, use of quiet rooms, meals, assistance with hygiene, toiletries, linens, group activities, therapies provided by CONTRACTOR'S staff, and any other service required for care of the patient.
6. Seclusion and Restraint: when the use of seclusion or restraint is required after normal working hours or on weekends, CONTRACTOR shall charge VANCHCS the rate listed in the Fee Schedule.
7. CONTRACTOR may also provide Partial hospitalization to patients referred under this contract. All determinations to refer VANCHCS patients to this lower level of care shall be made after consultation with the VANCHCS UR Coordinator.
8. Electro Convulsive Therapy (ECT): inpatient or outpatient ECT may be provided under the terms of this agreement; however, CONTRACTOR shall not perform such services without first consulting with and obtaining the written approval of an authorized VANCHCS psychiatrist.
9. CONTRACTOR will not provide discharge medications under this agreement. Upon discharge of a patient from CONTRACTOR'S facility, the attending physician may either provide discharge instructions with a recommendation for medications to be prescribed, or they may write a prescription. Prescriptions written by CONTRACTOR'S staff shall not be filled in a private pharmacy. Patient will be required to hand-carry the prescription to an authorized VANCHCS Mental Health Clinic physician who will rewrite the prescription to be filled at a VA pharmacy. Prescriptions written by CONTRACTOR'S staff shall be in quantities sufficient to last until the patient's follow-up appointment at the VA (if known), or for the recommended course of treatment, not to exceed 30 (thirty) days.

#### **REFERRALS, RECORDS MANAGEMENT, SCHEDULING AND DOCUMENTATION PROCEDURES**

1. Patients will initially be referred by telephone by an authorized VANCHCS staff member of the VANCHCS Mental Health Clinic or VA Medical Center, Mather, California. All telephone referrals will be confirmed with a written referral as indicated in Attachment 1. All weekday admissions and discharges (Monday-Friday from 8:00 am to 4:30 pm) must be approved by the VANCHCS attending physician or resident psychiatrist. Admissions during evenings and weekends shall be at the discretion of CONTRACTOR and shall be subject to the admission and utilization criteria established by VANCHCS and described herein. Payment for services provided to patients who present for treatment without prior referral from VANCHCS may not be covered under this contract.
2. CONTRACTOR shall maintain a treatment record as otherwise specified herein, and provide the VANCHCS referring office access to all records for patients referred under this contract.

3. CONTRACTOR staff shall maintain a log of all telephone contacts and forward patient information from such contacts to VANCHCS staff the morning of the following business day.

4. Reimbursement Rates: the reimbursement rates for inpatient psychiatric, locked bed and partial hospitalization will be inclusive of all costs for the treatment of the patient to include Admitting and attending physician fees, routine lab, routine medical testing and pharmacy. The reimbursement rates will not include the cost for Medical History and Physical, CT scans, MRI, psychological testing and outpatient medical services at an emergency department.

**CONTRACT CLAUSES**

**C.1 52.212-4 CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (FEB 2007)**

(a) Inspection/Acceptance. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights-

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) Assignment. The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) Disputes. This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) Definitions. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) Excusable delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) Invoice.

(1) The Contractor shall submit an original invoice and three copies(or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include-

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (vi) Terms of any discount for prompt payment offered;
- (vii) Name and address of official to whom payment is to be sent;
- (viii) Name, title, and phone number of person to notify in event of defective invoice; and
- (ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.
- (x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer-- Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer--Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) Patent indemnity. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) Payment.-

(1) Items accepted. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) Prompt payment. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) Electronic Funds Transfer (EFT). If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) Discount. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(j) Risk of loss. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) Taxes. The contract price includes all applicable Federal, State, and local taxes and duties.

(l) Termination for the Government's convenience. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) Termination for cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) Title. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) Limitation of liability. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) Other compliances. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) Compliance with laws unique to Government contracts. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C 3701, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistle blower protections; 49 U.S.C 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) Order of precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause.

(3) The clause at 52.212-5.

(4) Addenda to this solicitation or contract, including any license agreements for computer software.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments

(9) The specification.

(t) Central Contractor Registration (CCR).

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one

business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

(End of Clause)

## **C.2 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (MAR 2007)**

(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 items:

(1) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).

(2) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Pub. L. 108-77, 108-78)

(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 items:

(1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

(2) 52.219-3, Notice of Total HUBZone Set-Aside (Jan 1999) (15 U.S.C. 657a).

(3) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (July 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).[

(4) Reserved]

(5)(i) 52.219-6, Notice of Total Small Business Set-Aside (June 2003) (15 U.S.C. 644).

- (ii) Alternate I (Oct 1995) of 52.219-6.
- (iii) Alternate II (Mar 2004) of 52.219-6.
- (6)(i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).
- (ii) Alternate I (Oct 1995) of 52.219-7.
- (iii) Alternate II (Mar 2004) of 52.219-7.
- (7) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)).
- (8)(i) 52.219-9, Small Business Subcontracting Plan (Sept 2006) (15 U.S.C. 637(d)(4)).
- (ii) Alternate I (Oct 2001) of 52.219-9.
- (iii) Alternate II (Oct 2001) of 52.219-9.
- (9) 52.219-14, Limitations on Subcontracting (Dec 1996) (15 U.S.C. 637(a)(14)).
- (10) 52.219-16, Liquidated Damages--Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- (11)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Sept 2005) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).
- (ii) Alternate I (June 2003) of 52.219-23.
- (12) 52.219-25, Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting (Oct 1999) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (13) 52.219-26, Small Disadvantaged Business Participation Program--Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- (14) 52.219-27, Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside (May 2004).
- (15) 52.222-3, Convict Labor (June 2003) (E.O. 11755).
- (16) 52.222-19, Child Labor--Cooperation with Authorities and Remedies (Jan 2006) (E.O. 13126).
- (17) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
- (18) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).
- (19) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212).
- (20) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).



(21) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212).

(22) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).

(23)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Aug 2000) (42 U.S.C. 6962(c)(3)(A)(ii)).

(ii) Alternate I (Aug 2000) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)).

(24) 52.225-1, Buy American Act--Supplies (June 2003) (41 U.S.C. 10a-10d).

(25)(i) 52.225-3, Buy American Act--Free Trade Agreements-- Israeli Trade Act (Nov 2006) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, Pub. L 108-77, 108-78, 108-286, 109-53 and 109-169).

(ii) Alternate I (Jan 2004) of 52.225-3.

(iii) Alternate II (Jan 2004) of 52.225-3.

(26) 52.225-5, Trade Agreements (Nov 2006) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).

(27) 52.225-13, Restrictions on Certain Foreign Purchases (Feb 2006) (E.o.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

(28) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (42 U.S.C. 5150).

(29) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (42 U.S.C. 5150).

(30) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

(31) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

(32) 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration (Oct 2003) (31 U.S.C. 3332).

(33) 52.232-34, Payment by Electronic Funds Transfer--Other than Central Contractor Registration (May 1999) (31 U.S.C. 3332).

(34) 52.232-36, Payment by Third Party (May 1999) (31 U.S.C. 3332).

(35) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

(36)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

(ii) Alternate I (Apr 2003) 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 items:

(1) 52.222-41, Service Contract Act of 1965, as Amended (July 2005) (41 U.S.C. 351, et seq.).

(2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

(3) 52.222-43, Fair Labor Standards Act and Service Contract Act--Price Adjustment (Multiple Year and Option Contracts) (Nov 2006) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

(4) 52.222-44, Fair Labor Standards Act and Service Contract Act--Price Adjustment (Feb 2002) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

(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, 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 paragraphs (i) through (vii) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause--

(i) 52.219-8, Utilization of Small Business Concerns (May 2004) (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 \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) (38 U.S.C. 4212).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793).

(v) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004) (E.O. 13201).

(vi) 52.222-41, Service Contract Act of 1965, as Amended (July 2005), flow down required for all subcontracts subject to the Service Contract Act of 1965 (41 U.S.C. 351, et seq.).

(vii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) 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 items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of Clause)

**C.3 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://www.acquisition.gov/far/index.html>
- <http://www.va.gov/oamm/oa/ars/policyreg/vaar/index.cfm>

(End of Clause)

52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER	AUG 2000
52.204-6	DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER	OCT 2003
52.204-7	CENTRAL CONTRACTOR REGISTRATION	JUL 2006
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL	NOV 2006
52.224-1	PRIVACY ACT NOTIFICATION	APR 1984
52.224-2	PRIVACY ACT	APR 1984
52.237-2	PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION	APR 1984
52.233-4	APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM	OCT 2004
52.228-5	INSURANCE--WORK ON A GOVERNMENT INSTALLATION	JAN 1997
52.232-18	AVAILABILITY OF FUNDS	APR 1984
52.232-34	PAYMENT BY ELECTRONIC FUNDS TRANSFER-- OTHER THAN CENTRAL CONTRACTOR REGISTRATION	MAY 1999

52.237-3  
852.270-4

CONTINUITY OF SERVICES  
COMMERCIAL ADVERTISING

JAN 1991  
NOV 1984

#### **C.4 52.216-18 ORDERING (OCT 1995)**

(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 the effective date of the contract through the end of the effective period.

(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) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(End of Clause)

#### **C.5 52.216-19 ORDER LIMITATIONS (OCT 1995)**

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than \$100.00, 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 \$150.00;

(2) Any order for a combination of items in excess of \$250.00; or

(3) A series of orders from the same ordering office within 1 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 1 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.

(End of Clause)

#### **C.6 52.216-22 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 the effective period.

(End of Clause)

**C.7 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)**

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 60 days.

(End of Clause)

**C.8 52.217-9 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 60 days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 30 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 two (2) years.

(End of Clause)

**C.9 52.232-19 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR (APR 1984)**

Funds are not presently available for performance under this contract beyond the fiscal year. 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 the fiscal year, 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)

**C.10 VAAR 852.237-7 INDEMNIFICATION AND MEDICAL LIABILITY  
INSURANCE (OCT 1996)**

(a) It is expressly agreed and understood that this is a nonpersonal services contract, as defined in Federal Acquisition Regulation (FAR) 37.101, under which the professional services rendered by the Contractor or its health-care providers are rendered in its capacity as an independent contractor. The Government may evaluate the quality of professional and administrative services provided but retains no control over professional aspects of the services rendered, including by example, the Contractor's or its health-care providers' professional medical judgment, diagnosis, or specific medical treatments. The Contractor and its health-care providers shall be liable for their liability-producing acts or omissions. The Contractor shall maintain or require all health-care providers performing under this contract to maintain, during the term of this contract, professional liability insurance issued by a responsible insurance carrier of not less than the following amount(s) per specialty per occurrence: \$1,000,000. However, if the Contractor is an entity or a subdivision of a State that either provides for self-insurance or limits the liability or the amount of insurance purchased by State entities, then the insurance requirement of this contract shall be fulfilled by incorporating the provisions of the applicable State law.

(b) An apparently successful offeror, upon request of the Contracting Officer, shall, prior to contract award, furnish evidence of the insurability of the offeror and/or of all health-care providers who will perform under this contract. The submission shall provide evidence of insurability concerning the medical liability insurance required by paragraph (a) of this clause or the provisions of State law as to self-insurance, or limitations on liability or insurance.

(c) The Contractor shall, prior to commencement of services under the contract, provide to the Contracting Officer Certificates of Insurance or insurance policies evidencing the required insurance coverage and an endorsement stating that any cancellation or material change adversely affecting the Government's interest shall not be effective until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer. Certificates or policies shall be provided for the Contractor and/or each health-care provider who will perform under this contract.

(d) The Contractor shall notify the Contracting Officer if it, or any of the health-care providers performing under this contract, change insurance providers during the performance period of this contract. The notification shall provide evidence that the Contractor and/or health-care providers will meet all the requirements of this clause, including those concerning liability insurance and endorsements. These requirements may be met either under the new policy, or a combination of old and new policies, if applicable.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts for health-care services under this contract. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraph (a) of this clause.

(End of Clause)

**C.11 VAAR 852.237-70 CONTRACTOR RESPONSIBILITIES (APR 1984)**

The contractor shall obtain all necessary licenses and/or permits required to perform this work. He/she shall take all reasonable precautions necessary to protect persons and property from injury or damage during the performance of this contract. He/she shall be responsible for any injury to himself/herself, his/her employees, as well as for any damage to personal or public property that occurs during the performance of this contract that is caused by his/her employee's fault or negligence, and shall maintain personal liability and property damage insurance having coverage for a limit as required by the laws of the State of California . Further, it is agreed that any negligence of the Government, its officers, agents, servants and employees, shall not be the responsibility of the contractor hereunder with the regard to any claims, loss, damage, injury and liability resulting therefrom.

(End of Clause)

**C.12 VAAR 852.270-1 REPRESENTATIVES OF CONTRACTING OFFICERS (APR 1984)**

The contracting officer reserves the right to designate representatives to act for him/her in furnishing technical guidance and advice or generally supervise the work to be performed under this contract. Such designation will be in writing and will define the scope and limitations of the designee's authority. A copy of the designation shall be furnished the contractor.

(End of Provision)

**C.13 VAAR 852.271-70 NONDISCRIMINATION IN SERVICES PROVIDED BENEFICIARIES (APR 1984)**

The contractor agrees to provide all services specified in this contract for any person determined eligible by the Chief Medical Director, or designee, regardless of the race, color, religion, sex, or national origin of the person for whom such services are ordered. The contractor further warrants that he/she will not resort to subcontracting as a means of circumventing this provision.

(End of Clause)

## SOLICITATION PROVISIONS

### E.1 52.212-1 INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS (SEPT 2006)

(a) North American Industry Classification System (NAICS) code and small business size standard. The NAICS code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.

(b) Submission of offers. Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show --

(1) The solicitation number;

(2) The time specified in the solicitation for receipt of offers;

(3) The name, address, and telephone number of the offeror;

(4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;

(5) Terms of any express warranty;

(6) Price and any discount terms;

(7) "Remit to" address, if different than mailing address;

(8) A completed copy of the representations and certifications at FAR 52.212-3 (see FAR 52.212-3(k) for those representations and certifications that the offeror shall complete electronically);

(9) Acknowledgment of Solicitation Amendments;

(10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and

(11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

(c) Period for acceptance of offers. The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

(d) Product samples. When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall



be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.

(e) Multiple offers. Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

(f) Late submissions, modifications, revisions, and withdrawals of offers.

(1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

(2)(i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and--

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or

(B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(C) If this solicitation is a request for proposals, it was the only proposal received.

(ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

(g) Contract award (not applicable to Invitation for Bids). The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

(h) Multiple awards. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

(i) Availability of requirements documents cited in the solicitation.

(1)(i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to--

GSA Federal Supply Service Specifications Section Suite 8100 470 East L'Enfant Plaza, SW,  
Washington, DC 20407

Telephone (202) 619-8925 Facsimile (202) 619-8978.

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

(2) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST websites:

(i) ASSIST (<http://assist.daps.dla.mil>).

(ii) Quick Search (<http://assist.daps.dla.mil/quicksearch>).

(iii) ASSISTdocs.com (<http://assistdocs.com>).

(3) Documents not available from ASSIST may be ordered from the Department of Defense Single Stock Point (DoDSSP) by?

(i) Using the ASSIST Shopping Wizard (<http://assist.daps.dla.mil/wizard>);

(ii) Phoning the DoDSSP Customer Service Desk (215) 697-2179, Mon-Fri, 0730 to 1600 EST; or

(iii) Ordering from DoDSSP, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697-2667/2179, Facsimile (215) 697-1462.

(4) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(j) Data Universal Numbering System (DUNS) Number. (Applies to all offers exceeding \$3,000, and offers of \$3,000 or less if the solicitation requires the Contractor to be registered in the Central Contractor Registration (CCR) database. The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address. The DUNS +4 is the DUNS number plus a 4-character suffix that may be assigned at the discretion of the offeror to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see FAR Subpart 32.11) for the same parent concern. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. An offeror within the United States may contact Dun and Bradstreet by calling 1-866-705-5711 or via the internet at <http://www.dnb.com>. An offeror located outside the United States must contact the local Dun and Bradstreet office for a DUNS number.

(k) Central Contractor Registration. Unless exempted by an addendum to this solicitation, by submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance and through final payment of any contract resulting from this solicitation. If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror. Offerors may obtain information on registration and annual confirmation requirements via the Internet at <http://www.ccr.gov> or by calling 1-888-227-2423 or 269-961-5757.

(l) Debriefing. If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

(1) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

(2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.

(3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.

(4) A summary of the rationale for award;

(5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

(End of Provision)

## **E.2 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS-- COMMERCIAL ITEMS (NOV 2006)**

An offeror shall complete only paragraph (k) of this provision if the offeror has completed the annual representations and certifications electronically at <http://orca.bpn.gov>. If an offeror has not completed the annual representations and certifications electronically at the ORCA website, the offeror shall complete only paragraphs (b) through (j) of this provision.

(a) Definitions. As used in this provision--

Emerging small business means a small business concern whose size is no greater than 50 percent of the numerical size standard for the NAICS code designated.

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.

Manufactured end product means any end product in Federal Supply Classes (FSC) 1000-999, except--

(1) FSC 5510, Lumber and Related Basic Wood Materials;

(2) Federal Supply Group (FSG) 87, Agricultural Supplies;

(3) FSG 88, Live Animals;

(4) FSG 89, Food and Related Consumables;

(5) FSC 9410, Crude Grades of Plant Materials;

(6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;

(7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;

(8) FSC 9610, Ores;

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

(10) FSC 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.

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 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.

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 small business concern means a small business concern--

(1) 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 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 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.

(b) 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 a central contractor registration database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (b)(3) through (b)(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: 94-6000511

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 CFR 1.6049-4;

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

(5) Common parent.

Offeror is not owned or controlled by a common parent;

Name and TIN of common parent:

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

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

(c) Offerors must complete the following representations when the resulting contract will be performed in the United States or its outlying areas. 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, for general statistical purposes, 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.

Note: Complete paragraphs (c)(6) and (c)(7) only if this solicitation is expected to exceed the simplified acquisition threshold.

(6) 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.

(7) 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:

(8) Small Business Size for the Small Business Competitiveness Demonstration Program and for the Targeted Industry Categories under the Small Business Competitiveness Demonstration Program. [Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.]

(i) [Complete only for solicitations indicated in an addendum as being set-aside for emerging small businesses in one of the designated industry groups (DIGs).] The offeror represents as part of its offer that it [ ] is, [ ] is not an emerging small business.

(ii) [Complete only for solicitations indicated in an addendum as being for one of the targeted industry categories (TICs) or designated industry groups (DIGs).] Offeror represents as follows:

(A) Offeror's number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or

(B) Offeror's average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

(Check one of the following):

Number of Employees	Average Annual Gross Revenues
<input type="checkbox"/> 50 or fewer	<input type="checkbox"/> \$1 million or less
<input type="checkbox"/> 51--100	<input type="checkbox"/> \$1,000,001--\$2 million
<input type="checkbox"/> 101--250	<input type="checkbox"/> \$2,000,001--\$3.5 million

- |                                     |   |
|-------------------------------------|---|
| <input type="checkbox"/> 251--500   | <input type="checkbox"/> \$3,500,001--\$5 million   |
| <input type="checkbox"/> 501--750   | <input type="checkbox"/> \$5,000,001--\$10 million  |
| <input type="checkbox"/> 751--1,000 | <input type="checkbox"/> \$10,000,001--\$17 million |
| <input type="checkbox"/> Over 1,000 | <input type="checkbox"/> Over \$17 million          |

(9) [Complete only if the solicitation contains the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, or FAR 52.219-25, Small Disadvantaged Business Participation Program--Disadvantaged Status and Reporting, and the offeror desires a benefit based on its disadvantaged status.]

(i) General. The offeror represents that either--

(A) It  is,  is not certified by the Small Business Administration as a small disadvantaged business concern and identified, on the date of this representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net), and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

(B) It  has,  has not submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(ii)  Joint Ventures under the Price Evaluation Adjustment for Small Disadvantaged Business Concerns. The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(9)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. [The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: \_\_\_\_\_.]

(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 change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It  is,  is not a 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 the HUBZone small business concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: \_\_\_\_\_.] Each HUBZone small business concern participating in the 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 U.S.C. 1352). (Applies only if the contract is expected to exceed \$100,000.) 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.

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

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products. The terms "component," "domestic end product," "end product," "foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American Act--Supplies."

(2) Foreign End Products:

Line Item No	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

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

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms "Bahrainian end product," "component," "domestic end product," "end product," "foreign end product," "Free Trade Agreement country," and "United States" are defined in the clause of this solicitation entitled "Buy American Act-Free Trade Agreements- Israeli Trade Act."

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

Free Trade Agreements Country End Products (Other than Bahrainian or Moroccan End Products) or Israeli End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[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 Act--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:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(2) Buy American Act--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 Act--Free Trade Agreements--Israeli Trade Act":

Canadian End Products:

Line Item No.

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(List as necessary)

(3) Buy American Act--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 Act--Free Trade Agreements--Israeli Trade Act":

Canadian or Israeli End Products:

Line Item No.	Country of Origin
---------------	-------------------


[List as necessary]

(4) 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)(4)(ii) of this provision, is a U.S.-made, 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:

Line Item No.	Country of Origin
---------------	-------------------

--	--

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

[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 Act. 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 Debarment, Suspension or Ineligibility for Award (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; and

(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, or receiving stolen property; and

(3)  Are,  are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

(i) Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126).

(1) Listed end products.

Listed End Product

Listed Countries of Origin

(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)(1) Annual Representations and Certifications. Any changes provided by the offeror in paragraph (k)(2) of this provision do not automatically change the representations and certifications posted on the Online Representations and Certifications Application (ORCA) website.

(2) The offeror has completed the annual representations and certifications electronically via the ORCA website at <http://orca.bpn.gov>. After reviewing the ORCA database 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 Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs .

(End of Provision)

### **E.3 52.216-1 TYPE OF CONTRACT (APR 1984)**

The Government contemplates award of a (Firm Fixed Price, Indefinite Quantity) contract resulting from this solicitation.

(End of Provision)

### **E.4 VAAR 852.273-73 EVALUATION - HEALTH-CARE RESOURCES (JAN 2003)**

(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 information or factors shall be used to evaluate offers: past performance and price.

(b) Except when it is determined not to be in the Government's best interest, 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 materially unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) If this solicitation is a request for proposals (RFP), 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)

**BUSINESS ASSOCIATE AGREEMENT BETWEEN THE DEPARTMENT OF  
VETERANS AFFAIRS, VETERANS HEALTH ADMINISTRATION AND**

1. Whereas, El Dorado County Mental Health provides psychiatric acute inpatient care services to the Department of Veterans Affairs (VA) Veterans Health Administration (VHA) (Covered Entity), and

Whereas, in order for Business Associate to provide psychiatric acute inpatient care services to the Covered Entity, the Covered Entity discloses to the Business Associate Protected Health Information (PHI) and Electronic Protected Health Information (EPHI) that is subject to protection under regulations issued by the Department of Health and Human Services, as mandated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Title 45 Code of Federal Regulations (CFR) Parts 160 and 164, Subparts A and E, the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule"), and 45 CFR Parts 160 and 164, Subparts A and C, the Security Standard ("Security Rule"); and

Whereas, the VA VHA is a "Covered Entity" as that term is defined in the HIPAA implementing regulations, 45 CFR 160.103, and

Whereas, El Dorado County Mental Health, as a recipient of PHI from Covered Entity in order to provide psychiatric acute inpatient care services to Covered Entity, is a "Business Associate" of Covered Entity as the term "Business Associate" is defined in the HIPAA implementing regulations, 45 CFR 160.103; and

Whereas, pursuant to the Privacy and Security Rules, all Business Associates of Covered Entities must agree in writing to certain mandatory provisions regarding the use and disclosure of PHI and EPHI; and

Whereas, the purpose of this Business Associate Agreement (BAA) is to comply with the requirements of the Privacy and Security Rules, including, but not limited to, the BAA requirements at 45 CFR 164.308(b), 164.314(a), 164.502(e), and 164.504(e), and as may be amended.

2. NOW, THEREFORE, the Covered Entity and Business Associate agree as follows:

a. Definitions. Unless otherwise provided in this BAA, capitalized terms and phrases that are defined in the Privacy and Security Rules have the same meanings as set forth in the Privacy and Security Rules. When the phrase "Protected Health Information" and the abbreviation "PHI" are used in this BAA, they include the phrase "Electronic Protected Health Information" and the abbreviation "EPHI."

b. Ownership of PHI. PHI provided by Covered Entity to Business Associate and its agents and subcontractors, or gathered by them on behalf of the Covered Entity, under this BAA are the property of Covered Entity.

c. Scope of Use and Disclosure by Business Associate of PHI

(1) The Business Associate is permitted to make Use and Disclosure of PHI that is disclosed to it by Covered Entity, or received by Business Associate on behalf of Covered Entity, as necessary to perform

its obligations under all applicable agreements and this BAA with covered entity, provided that the Covered Entity may make such Use or Disclosure under the Privacy and Security Rules, and the Use or Disclosure complies with the Covered Entity's minimum necessary policies and procedures.

(2) Unless otherwise limited herein, in addition to any other Uses and/or Disclosures permitted or authorized by this BAA or Required by Law, Business Associate may:

(a) Use the PHI in its possession for its proper management and administration and to fulfill any legal responsibilities of Business Associate.

(b) Make a Disclosure of the PHI in its possession to a third-party for the purpose of the Business Associate's proper management and administration or to fulfill any legal responsibilities of the Business Associate; provided, however, that the Disclosure is permitted by the Privacy Rule if made by the Covered Entity, or Required by Law; and provided further that where the Disclosure is not permitted by the Privacy Rule, or required by law, the Business Associate has received from the third-party written assurances that:

1. The information will be held confidentially and Used or further Disclosed only as Required By Law or for the purposes for which it was disclosed to the third-party; and

2. The third-party will notify the Business Associate of any instances of which it becomes aware in which the confidentiality of the information has been breached.

(c) Engage in Data Aggregation activities, consistent with the Privacy Rule.

(d) De-identify any and all PHI created or received by the Business Associate under this BAA; provided that the de-identification conforms to the requirements of the Privacy Rule.

d. Obligations of the Business Associate. In connection with its Use and Disclosure of PHI under this BAA, the Business Associate agrees that it will:

(1) Use or make further Disclosure of PHI only as permitted or required by the Privacy Rule, or this BAA, or as Required by Law.

(2) Ensure any employee of the Business Associate, contractor, subcontractor, or agent of the Business Associate receives at least annual privacy training that conforms to the requirements of VHA Privacy Training.

(3) Ensure any employee of the Business Associate, contractor, subcontractor, or agent of the Business Associate, receives at least annual security awareness training that conforms to the requirements of the Department of Veterans Affairs (VA) Office of Cyber and Information Security Training.

(4) Use reasonable and appropriate safeguards to prevent Use or Disclosure of PHI other than as provided by this BAA.

(5) To the extent practicable, mitigate any harmful effect of a Use or Disclosure of PHI by the Business Associate in violation of this BAA that is known to the Business Associate.

(6) Maintain a system or process to account for any Security Incident, Privacy Incident, or Use or Disclosure of PHI not provided for by this BAA of which the Business Associate becomes aware.

(7) Within 24 hours of the Business Associate first becoming aware of a HIPAA Electronic Transactions and Code Sets, Privacy, Security or Standard Identifier Incident, or Use or Disclosure of PHI not provided for by this BAA, the Business Associate must notify the Covered Entity and promptly provide a report to Covered Entity.

(a) An incident is considered any physical, technical, or personal activity or event that increases the Covered Entity's risk to inappropriate or unauthorized use or disclosure of PHI or causes the Covered Entity to be considered non-compliant with the Administrative Simplification provisions of HIPAA as determined by the Department of Health and Human Services.

(b) Notification must be made by the Business Associate to the responsible contracting officer and to the Director, VHA HIPAA Program Management Office (PMO) (by telephone, 202-254-0385, or secure fax ) of any HIPAA Electronic Transactions and Code Sets, Privacy, Security or Standard Identifier Incident, or Use or Disclosure of PHI not provided for by this BAA.

(c) Within 10 business days of an initial notification of such incident, a written report of the incident is to be submitted to the VHA HIPAA PMO. This documentation must include a detailed description of the incident, the mitigation procedures that were implemented to lessen its impact, and the processes (reasonable and appropriate safeguards) that were established to prevent the incident from reoccurring. This report is to be documented as a letter, and is to be sent to:

Director, VHA HIPAA PMO Department of Veterans Affairs - Veterans Health Administration Chief Business Office (16) 810 Vermont Avenue, NW, Mailstop 161 Washington, DC 20420 Phone: 202-254-0385 Fax: 202-254-0396 Hipaa.pmo@va.gov

(8) Require contractors, subcontractors, or agents to whom the Business Associate provides PHI received from the Covered Entity to agree to the same restrictions and conditions that apply to the Business Associate pursuant to this BAA, including implementation of reasonable and appropriate safeguards to protect PHI.

(9) Make available to the Secretary of Health and Human Services, the Business Associate's internal practices, books and records, including policies and procedures, relating to the Use or Disclosure of PHI for purposes of determining Covered Entity's compliance with the Privacy and Security Rules, subject to any applicable legal privileges.

(10) If the Business Associate maintains PHI in a Designated Record Set, maintain the information necessary to document the Disclosures of PHI sufficient to make an accounting of those Disclosures as required under the Privacy rule and the Privacy Act, Title 5 United States Code (U.S.C.) 552a, and within 10 days of receiving a request from Covered Entity, make available the information necessary for the Covered Entity to make an accounting of Disclosures of PHI about an individual in the Designated Record Set or Covered Entity's Privacy Act System of Records.

(11) If the Business Associate maintains PHI in a Designated Record Set or Privacy Act System of Records, within 10 days of receiving a written request from Covered Entity, make available PHI in the Designated Record Set or System of Records necessary for Covered Entity to respond to individuals' requests for access to PHI about them that is not in the possession of Covered Entity.

(12) If the Business Associate maintains PHI in a Designated Record Set or Privacy Act System of Records, within 10 days of receiving a written request from the Covered Entity, incorporate any amendments or corrections to the PHI in the Designated Record Set, or System of Records in accordance with the Privacy Rule and Privacy Act;



(13) Not make any Uses or Disclosures of PHI that the Covered Entity would be prohibited from making.

(14) Utilize only contractors, subcontractors, or agents who are physically located within a jurisdiction subject to the laws of the United States. The Business associate must ensure that it does not use or disclose PHI received from Covered Entity in any way that will remove the PHI from such jurisdiction.

(15) When the Business Associate is uncertain whether it may make a particular Use or Disclosure of PHI in performance of this BAA, consult with the Covered Entity before making the Use or Disclosure.

(16) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality and integrity, and availability of the PHI that the Business Associate receives, maintains, or transmits on behalf of the Covered Entity as required by the Privacy and Security Rules.

(17) Provide satisfactory assurances that the confidentiality, integrity, and availability of the PHI, which it receives, creates, transmits or maintains, is reasonably and appropriately protected.

(18) Provide satisfactory assurances that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect the data.

(19) Upon completion of the applicable contract(s) or agreement(s), return or destroy the PHI gathered, created, received, or processed during the performance of the contract(s) or agreement(s), and that no data will be retained by the Business Associate, or any agents or subcontractors of the Business Associate. The Business Associate must ensure that all PHI has been returned to the Covered Entity or destroyed. If immediate return or destruction of all data is not possible, the Business Associate must ensure that all PHI retained is safeguarded to prevent unauthorized Uses or Disclosures. Until the Business Associate has assurance, the Covered Entity may withhold 15 percent of the final payment of the contract(s) or agreement(s).

e. Obligations of Covered Entity. The Covered Entity agrees that it:

(1) Has obtained, and will obtain, from Individuals any consents, authorizations, and other permissions necessary or required by laws applicable to the Covered Entity for the Business Associate and the Covered Entity to fulfill their obligations under this BAA.

(2) Will promptly notify the Business Associate in writing of any restrictions on the Use and Disclosure of PHI about Individuals that the Covered Entity has agreed to, which may affect the Business Associate's ability to perform its obligations under this BAA;

(3) Will promptly notify the Business Associate in writing of any change in, or revocation of, permission by an Individual to use or disclose PHI, if such a change or revocation may affect the Business Associate's ability to perform its obligations under this BAA.

f. Material Breach of the BAA. Upon the Covered Entity's determination of a material breach of this BAA by the Business Associate, the Covered Entity must provide an opportunity for the Business Associate to cure the breach; and if a cure is not possible, the Covered Entity must report the violation to the Secretary of Health and Human Services.

g. Termination

(1) Termination for Cause. Upon the Covered Entity's knowledge of a material breach by the Business Associate, the Covered Entity must:

(a) Provide an opportunity for the Business Associate to cure the breach, or if the Business Associate does not cure the breach or end the violation within the time specified by Covered Entity, then terminate this Agreement and underlying contract(s).

(b) Immediately terminate this Agreement and underlying contract(s) if the Business Associate has breached a material term of this Agreement and cure is not possible.

(c) If neither termination nor cure is feasible, the Covered Entity must report the violation to the Secretary of Health and Human Services.

(d) Terminate this BAA, if appropriate, upon review as defined in subparagraph 2m of this BAA.

(2) Automatic Termination. This Agreement will automatically terminate upon completion of the Business Associate's duties under all underlying agreements. or by mutual written agreement to terminate underlying agreements.

(3) Effect of Termination. Termination of this Agreement will result in cessation of activities by the Business Associate, and any agents or subcontractors of the Business Associate involving PHI under this Agreement.

h. Amendment. The Business Associate and the Covered Entity agree to take such action as is necessary to amend this BAA for the Covered Entity to comply with the requirements of the Privacy and Security Rules, or other applicable law.

i. No Third-party Beneficiaries. Nothing expressed or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.

j. Other Applicable Law. This BAA does not, and is not intended to, abrogate any responsibilities of the parties under any other applicable law.

k. Effect of Agreement. With respect solely to the subject matter herein, in the case of any conflict in terms between this BAA and any other previous agreement or addendum between the parties, the terms of this BAA control, supersede, and nullify any conflicting terms as they relate to the parties in a business associate relationship.

l. Effective Date. This BAA becomes effective on October 1, 2008.

m. Review Date. The provisions of this BAA will be reviewed by the Covered Entity after substantive changes to the underlying agreement to determine the applicability of the agreement based on the relationship of the parties at the time of review.

Department of Veterans Affairs  
Veterans Health Administration

El Dorado County Mental Health

By :  
Name :

By : \_\_\_\_\_  
Name : \_\_\_\_\_

Title:  
Date :

Title: \_\_\_\_\_  
Date : \_\_\_\_\_

Whereas, El Dorado County Mental Health (Business Associate) provides psychiatric acute inpatient care services to the Department of Veterans Affairs Veterans Health Administration (Covered Entity), and

Whereas, in order for Business Associate to provide psychiatric acute inpatient care services to the Covered Entity, Covered Entity discloses to Business Associate Protected Health Information (PHI) and Electronic Protected Health Information (EPHI) that is subject to protection under regulations issued by the Department of Health and Human Services, as mandated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 45 CFR Parts 160 and 164, Subparts A and E, the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule"), and 45 CFR Parts 160 and 164, Subparts A and C, the Security Standard ("Security Rule"); and

Whereas, Department of Veterans Affairs Veterans Health Administration is a "Covered Entity" as that term is defined in the HIPAA implementing regulations, 45 CFR 160.103, and

Whereas, El Dorado County Mental Health, as a recipient of PHI from Covered Entity in order to provide psychiatric acute inpatient care services to Covered Entity, is a "Business Associate" of Covered Entity as the term "Business Associate" is defined in the HIPAA implementing regulations, 45 CFR 160.103; and

Whereas, pursuant to the Privacy and Security Rules, all Business Associates of Covered Entities must agree in writing to certain mandatory provisions regarding the Use and Disclosure of PHI and EPHI; and

Whereas, the purpose of this Business Associate Agreement (BAA) is to comply with the requirements of the Privacy and Security Rules, including, but not limited to, the Business Associate Agreement requirements at 45 CFR 164.308(b), 164.314(a), 164.502(e), and 164.504(e), and as may be amended.

NOW, THEREFORE, the Covered Entity and Business Associate agree as follows:

1. Definitions. Unless otherwise provided in this BAA, capitalized terms and phrases that are defined in the Privacy and Security Rules have the same meanings as set forth in the Privacy and Security Rules. When the phrase "Protected Health Information" and the abbreviation "PHI" are used in this BAA, they include the phrase "Electronic Protected Health Information" and the abbreviation "EPHI".
2. Ownership of PHI. PHI provided by Covered Entity to Business Associate and its agents and subcontractors, or gathered by them on behalf of the Covered Entity, under this BAA are the property of Covered Entity.
3. Scope of Use and Disclosure by Business Associate of Protected Health Information
  - A. Business Associate is permitted to make Use and Disclosure of PHI that is disclosed to it by Covered Entity, or received by Business Associate on behalf of Covered Entity, as

necessary to perform its obligations under all applicable agreements and this BAA with covered entity, provided that the Covered Entity may make such Use or Disclosure under the Privacy and Security Rules, and the Use or Disclosure complies with the Covered Entity's minimum necessary policies and procedures.

B. Unless otherwise limited herein, in addition to any other Uses and/or Disclosures permitted or authorized by this BAA or Required by Law, Business Associate may:

(1) Use the PHI in its possession for its proper management and administration and to fulfill any legal responsibilities of Business Associate;

(2) Make a Disclosure of the PHI in its possession to a third party for the purpose of Business Associate's proper management and administration or to fulfill any legal responsibilities of Business Associate; provided, however, that the Disclosure is permitted by the Privacy Rule if made by the Covered Entity, or Required by Law; and provided further that where the Disclosure is not permitted by the Privacy Rule, or Required by Law, Business Associate has received from the third party written assurances that (a) the information will be held confidentially and Used or further Disclosed only as Required By Law or for the purposes for which it was disclosed to the third party; and (b) the third party will notify the Business Associate of any instances of which it becomes aware in which the confidentiality of the information has been breached;

(3) Engage in Data Aggregation activities, consistent with the Privacy Rule; and

(4) De-identify any and all PHI created or received by Business Associate under this BAA; provided that the de-identification conforms to the requirements of the Privacy Rule.

4. Obligations of Business Associate. In connection with its Use and Disclosure of PHI under this BAA, Business Associate agrees that it will:

- A. Use or make further Disclosure of PHI only as permitted or required by the Privacy Rule, or this BAA or as Required by Law;
- B. Ensure any employee of BA, contractor, subcontractor or agent of BA receives at least annual privacy training that conforms to the requirements of VHA Privacy Training;
- C. Ensure any employee of BA, contractor, subcontractor or agent of BA, receives at least annual security awareness training that conforms to the requirements of the Department of Veterans Affairs Office of Cyber and Information Security Training;
- D. Use reasonable and appropriate safeguards to prevent Use or Disclosure of PHI other than as provided by this BAA;
- E. To the extent practicable, mitigate any harmful effect of a Use or Disclosure of PHI by Business Associate in violation of this BAA that is known to Business Associate;

- F. Maintain a system or process to account for any Security Incident, Privacy Incident, or Use or Disclosure of PHI not provided for by this BAA of which Business Associate becomes aware
- G. Within 24 hours of Business Associate first becoming aware of a HIPAA Electronic Transactions and Code Sets, Privacy, Security or Standard Identifier Incident, or Use or Disclosure of PHI not provided for by this BAA, notify the Covered Entity and promptly provide a report to Covered Entity.

(1) An incident will be considered any physical, technical or personal activity or event that increases the Covered Entity's risk to inappropriate or unauthorized use or disclosure of PHI or causes the Covered Entity to be considered non-compliant with the Administrative Simplification provisions of HIPAA as determined by the Department of Health and Human Services.

(2) Notification will be made by Business Associate to the Director, VHA HIPAA – Program Management Office (PMO) by telephone, 202-254-0385 or secure fax of any HIPAA Electronic Transactions and Code Sets, Privacy, Security or Standard Identifier Incident, or Use or Disclosure of PHI not provided for by this BAA.

(3) A written report of the incident, submitted to the VHA HIPAA – PMO within ten (10) business days after initial notification, will document specifics surrounding the incident, what mitigation procedures were implemented to lessen the impact of the incident and what processes have been established to prevent the incident from occurring in the future (reasonable and appropriate safeguards). This report should be documented as a letter and sent to:

Director, VHA HIPAA PMO  
Department of Veterans Affairs – Veterans Health Administration  
Chief Business Office  
810 Vermont Avenue, Mailstop 161  
Washington, DC 20420  
Phone: 202-254-0385  
Fax: 202-254-0396  
[Hipaa.pmo@va.gov](mailto:Hipaa.pmo@va.gov)

- H. Require contractors, subcontractors or agents to whom Business Associate provides PHI received from the CE to agree to the same restrictions and conditions that apply to Business Associate pursuant to this BAA, including implementation of reasonable and appropriate safeguards to protect PHI;
- I. Make available to the Secretary of Health and Human Services Business Associate's internal practices, books and records, including policies and procedures, relating to the Use or Disclosure of PHI for purposes of determining Covered Entity's compliance with the Privacy and Security Rules, subject to any applicable legal privileges;
- J. If the Business Associate maintains PHI in a Designated Record Set, maintain the information necessary to document the Disclosures of PHI sufficient to make an accounting of those Disclosures as required under the Privacy rule and the Privacy Act, 5 USC 552a, and within ten (10) days of receiving a request from Covered Entity, make available the information necessary for Covered Entity to make an accounting of

Disclosures of PHI about an individual in the Designated Record Set or Covered Entity's Privacy Act System of Records;

- K. If the Business Associate maintains PHI in a Designated Record Set or Privacy Act System of Records, within ten (10) days of receiving a written request from Covered Entity, make available PHI in the Designated Record Set or System of Records necessary for Covered Entity to respond to individuals' requests for access to PHI about them that is not in the possession of Covered Entity;
  - L. If the Business Associate maintains PHI in a Designated Record Set or Privacy Act System of Records, within ten (10) days of receiving a written request from Covered Entity, incorporate any amendments or corrections to the PHI in the Designated Record Set or System of Records in accordance with the Privacy Rule and Privacy Act;
  - M. Not make any Uses or Disclosures of PHI that Covered Entity would be prohibited from making.
  - N. Utilize only contractors, subcontractors, or agents who are physically located within a jurisdiction subject to the laws of the United States. Business associate will ensure that it does not use or disclose PHI received from Covered Entity in any way that will remove the PHI from such jurisdiction.
  - O. When Business Associate is uncertain whether it may make a particular Use or Disclosure of PHI in performance of this BAA, the Business Associate will consult with the Covered Entity before making the Use or Disclosure.
  - P. The Business Associate will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality and integrity, and availability of the PHI that Business Associate receives, maintains, or transmits on behalf of the Covered Entity as required by the Privacy and Security Rules.
  - Q. The BA will provide satisfactory assurances that the confidentiality, integrity, and availability of the PHI, which it receives, creates, transmits or maintains, is reasonably and appropriately protected.
  - R. The BA will provide satisfactory assurances that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect the data.
  - S. Upon completion of the applicable contract(s) or agreement(s), the Business Associate shall return or destroy the PHI gathered, created, received or processed during the performance of the contract(s) or agreement(s), and no data will be retained by the Business Associate, or any agents or subcontractors of the Business Associate. The Business Associate shall assure that all PHI has been returned to the Covered Entity or destroyed. If immediate return or destruction of all data is not possible, the Business Associate shall assure that all PHI retained will be safeguarded to prevent unauthorized Uses or Disclosures. Until the Business Associate provides assurance, Covered Entity may withhold 15% of the final payment of the contract(s) or agreement(s).
5. Obligations of Covered Entity. Covered Entity agrees that it:

- A. Has obtained, and will obtain, from Individuals any consents, authorizations and other permissions necessary or required by laws applicable to Covered Entity for Business Associate and Covered Entity to fulfill their obligations under this BAA.
  - B. Will promptly notify Business Associate in writing of any restrictions on the Use and Disclosure of PHI about Individuals that Covered Entity has agreed to that may affect Business Associate's ability to perform its obligations under this BAA;
  - C. Will promptly notify Business Associate in writing of any change in, or revocation of, permission by an Individual to use or disclose PHI, if such change or revocation may affect Business Associate's ability to perform its obligations under this BAA.
6. Material Breach of the BAA. Upon Covered Entity's determination of a material breach of this BAA by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach; and if cure is not possible, Covered Entity shall report the violation to the Secretary of Health and Human Services.
7. Termination.
- A. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
    - (1) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and underlying contract(s) if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
    - (2) Immediately terminate this Agreement and underlying contract(s) if Business Associate has breached a material term of this Agreement and cure is not possible;
    - (3) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary of Health and Human Services.
    - (4) This BAA may be terminated by the Covered Entity, if appropriate, upon review as defined in Section 13 of this BAA.
  - B. Automatic Termination. This Agreement will automatically terminate upon completion of the Business Associate's duties under all underlying agreements or by mutual written agreement to terminate underlying agreements.
  - C. Effect of Termination. Termination of this Agreement will result in cessation of activities by the Business Associate, and any agents or subcontractors of it involving PHI under this Agreement.
8. Amendment. Business Associate and Covered Entity agree to take such action as is necessary to amend this BAA for Covered Entity to comply with the requirements of the Privacy and Security Rules or other applicable law.

9. No Third Party Beneficiaries. Nothing expressed or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
10. Other Applicable Law. This BAA does not, and is not intended to, abrogate any responsibilities of the parties under any other applicable law.
11. Effect of Agreement. With respect solely to the subject matter herein, in the case of any conflict in terms between this BAA and any other previous agreement or addendum between the parties, the terms of this BAA shall control and supersede and nullify any conflicting terms as it relates to the parties in a business associate relationship.
12. Effective Date. This BAA shall be effective on October 1, 2008.
13. Review Date. The provisions of this BAA will be reviewed by the Covered Entity every two years from Effective Date to determine the applicability of the agreement based on the relationship of the parties at the time of review.



**Department of Veterans Affairs  
Veterans Health Administration**

**El Dorado County Mental Health**

**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

