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Section D - Statement of Work (SOW)

VA261-15-R-0925

Workers Compensation ID and Collection

D.1.0 Statement of Work

D.1.1 Purpose: The Department of Veterans Affairs requires the services of a contractor to identify California workers' compensation cases in which the VA, as a self-procured medical lien claimant under the California Labor Code, may obtain reimbursement for medical care provided to an injured worker. The Contractor shall identify such cases and take all necessary steps under California Labor Code and the WCAB Rules of Practice and Procedure to affect recovery on behalf of the VA.

D.1.2 Limitation: This contract applies only to VA claims arising under the workers' compensation laws of California.

D.1.3 Background: The Department of Veterans Affairs provides medical care and treatment to eligible veterans. On occasion, the VA also pays for treatment by private health care providers. 38 U.S.C. § 1729 authorizes the VA to recover the reasonable cost of treatment incurred incident to a veteran's employment that is covered by a workers' compensation law or plan providing for payment of health care costs. The VA Regional Counsel, with offices in San Francisco and Los Angeles, has responsibility to assert medical care cost recovery claims arising from medical care rendered by VA hospitals and clinics, or paid for by the VA, in cases arising within its jurisdiction.

D.1.4 Scope of Work: The Contractor shall maintain computerized access to a database which provides filing information on California workers' compensation claims and will utilize this information to identify claims involving medical treatment by the VA. When patient data is provided by VA, Contractor shall compare such data with this database in an effort to further identify claims in cases where VA has provided care. It will notify the VA of all cases so that VA employees may produce bills for medical care related to the claimed industrial injury. In Contractor-identified cases and in any cases identified independently by the VA and referred to the Contractor at the VA's discretion, the Contractor shall: perform all tasks required to prepare, file, and assert liens as provided by California law, including negotiation with workers' compensation insurers and appearance at Workers' Compensation Appeals Board conferences and hearings; collect on said liens; and remit all collections to the VA through VA Regional Counsel. In addition, to the extent authorized by VA Regional Counsel, the Contractor shall prepare and answer Petitions for Reconsideration before the Workers' Compensation Appeals Boards and prepare and respond to requests for Writs of Review by the California Court of Appeals, when necessary to perfect and recover a workers' compensation lien or award. This contract does not include services in any civil action.

D.2.0 Management

D.2.1 The Contractor shall attempt to discover any and all California workers' compensation claims by individuals receiving care from the VA. The Contractor shall notify each appropriate California VA facility that its patient has made a claim regarding an industrial injury or occupational disease, enabling the facility to generate workers' compensation billing. Upon receipt of VA bills, the Contractor shall pursue reimbursement from the injured worker's employer or its workers' compensation insurer.

D.2.1.1 The Contractor shall identify workers' compensation cases filed by VA patients by means of the case filings at the California Workers' Compensation Appeals Board (WCAB) and patient data provided by VA, as well as by any other sources of information available to it. The Contractor shall employ a computerized system for matching Social Security numbers ("SSN") of WCAB applicants to the unique identifiers of VA patients.

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D.2.1.2 The Contractor shall provide each appropriate VA facility the name and SSN of the patient/injured worker, the date of injury, a description of the injury (specifying injured body parts), and all relevant WCAB case numbers.

D.2.1.3 If requested by an individual VA facility, the Contractor shall send its employees to that facility periodically, but not less than bimonthly, to assist in identifying and printing the records of treatment for which VA employees will generate billing according to the Department of Veterans Affairs schedule of charges. (This service may also be performed via remote access to the VA electronic chart. Contractor employees shall be subject to a background investigation prior to being given access to the VA computer system.)

D.2.1.4 Upon receipt of VA bills and medical records, the Contractor shall establish a case file that will contain all documentation pertaining to the collection case, including but not limited to: VA bills and medical reports; correspondence with the VA and with other parties to the WCAB case; memos of telephone contacts; pleadings generated, filed, and served by the Contractor, including but not limited to the Notice of Lien; pleadings, settlement documents, medical reports, and hearing notices received from other parties; and all notices, orders, and other documents received from the WCAB. The case file shall contain the names and addresses of all parties to the WCAB case and the WCAB numbers of any related cases filed by the VA patient.

D.2.1.5 The Contractor shall document all case actions as they transpire and maintain this documentation chronologically by date in the file as a "Case File History." The Contractor shall also gather and maintain employer information within the "Case File History." This includes at least the employer's name and address, the employer's compensation carrier's name and address and the policy number.

D.2.1.6 The Contractor shall file an initial standard WCAB form Notice and Request for Allowance of Lien on behalf of the VA with the WCAB within 10 working days of receiving the VA's bills and records and shall timely serve all parties as they are identified. The Notice of Lien shall be accompanied by all documentation required by the WCAB Rules of Practice and Procedure to perfect the lien, including but not limited to, the VA's bills and medical records. Upon receipt of supplemental VA billing and records, the Contractor shall file and serve amended Notice(s) of Lien, with accompanying documentation within 10 working days. (To the extent required by the WCAB, liens shall be filed electronically.)

D.2.1.7 The Contractor shall provide VA Regional Counsel with a copy of each Notice of Lien filed, with its transmittal cover letter and service sheet, at the time of filing. At the same time, the Contractor shall send VA Regional Counsel a list itemizing each VA bill submitted with the Notice of Lien, including each bill's amount, date(s) of service, and diagnosis code with its verbal description, and a summary total of those bills.

D.2.1.8 The Contractor shall attend hearings, settlement conferences, and lien trials at the WCAB as necessary to vigorously assert the VA's claim for reimbursement.

D.2.1.8.1 In advance of scheduled hearings, settlement conferences, and lien trials, and periodically otherwise, the Contractor shall request supplemental billing from the VA.

D.2.1.9 The Contractor may negotiate a proposed compromise of the VA's claim with the employer and/or its insurer, but no final agreement may be entered into without prior VA Regional Counsel authorization. If the Contractor's employee receives a proposal while attending a hearing or conference at the WCAB, he or she shall attempt to contact VA Regional Counsel for authority at that time. The VA's decision to compromise or waive a claim shall be final, binding on the Contractor, and not subject to dispute by the Contractor. In settling cases whose dollar amount exceeds Regional Counsel authority, Contractor shall prepare a worksheet for the Office of General Counsel to be forwarded by Regional Counsel along with its recommendation to the Office of General Counsel for approval.

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D.2.1.10 With the advance concurrence of VA Regional Counsel, the Contractor may pursue recovery through the appellate levels of the California workers' compensation system. In suitable cases, this may include filing a Request for Reconsideration with the WCAB, responding to another party's Request for Reconsideration, or filing or responding to a Petition for a Writ of Review by the California Court of Appeal.

D.2.1.10.1 The Contractor must forward to VA Regional Counsel in a timely manner any WCAB order which, if not objected to, would result in a diminution or denial of the VA's lien claim.

D.2.1.10.2 The Contractor may not litigate any non-workers' compensation matter nor appear in any forum outside the California workers' compensation system.

D.2.2 Recovery from Other Sources: The Contractor shall not attempt to recover payment of VA charges from non-workers' compensation sources.

D.2.2.1 If, while pursuing a workers' compensation recovery, the Contractor becomes aware of other sources of VA recovery, it shall refer this information to VA Regional Counsel immediately.

D.2.3 Case Collection Constraints: The Contractor shall initiate collection activity no later than one week after receiving the VA's initial bills and medical records. Collection action may include, but is not limited to, filing a Notice of Lien with the WCAB and serving the parties, demanding payment, developing case data, and filing objections or petitions with the WCAB.

D.2.3.1 If a case is uncollectible after reasonable collection attempts have been made, the Contractor may return the file to VA Regional Counsel. No fee will be paid to the Contractor in these cases. The VA may pursue further collection in such cases without incurring a fee obligation to the Contractor.

D.2.3.2 The Contractor shall demand of the employer or its workers' compensation insurer payment of the entire outstanding balance. The Contractor must obtain advance approval from VA Regional Counsel prior to accepting a compromise offer or any other disposition short of full recovery.

D.2.3.3 The Contractor's failure to take collection action within 30 days, resulting in lost revenue to the VA, will entitle the VA to damages against the Contractor to the extent of the claim.

D.2.4 Collection Standards: The Collector shall ensure that all attempts to recover on VA claims are fair and reasonable and do not involve harassment, intimidation, or misleading representations. The Contractor shall avoid unnecessary communication concerning VA claims with persons other than the employer or its workers' compensation insurer. It shall not release information other than as required by the California WCAB Rules of Practice and Procedure and as permitted by Federal privacy statutes. Other requests for information concerning a VA patient shall be referred to VA Regional Counsel. In addition to these specific requirements, the Contractor shall also ensure compliance with all applicable Federal and State laws relating to debt collection practices. In no case is the veteran to be considered a debtor.

D.3.0 Contractor Responsibilities

D.3.1 Deliverables: The Contractor shall deliver the following in accordance with the schedule set forth below:

D.3.1.1 Remittances: Monies collected shall be remitted on a regular basis. Exact schedules will depend upon the volume

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and nature of workloads. Under no circumstances will this period exceed 21 days, except by prior arrangement with VA Regional Counsel.

D.3.1.2 Interest: Interest accrued on any escrow account will be remitted monthly by certified check with a copy of the bank statement for each escrow account.

D.3.1.3 Reports: The Contractor shall provide a separate quarterly list of pending cases for each VA facility, alphabetized by patient's name, and including: each patient's name and SSN, the date the Contractor received the case, the dollar amount outstanding, and an annotation regarding current case status. The Contractor shall also provide a quarterly report of cases closed with recovery, including: patient's name and SSN, the VA facility from which the case originated, the dates the case was opened and closed, the amount the VA's charges, the amount collected, the amount of the Contractor's fee, the net amount to the VA, and the reason for any compromise. The Contractor shall provide a separate quarterly list of cases closed without recovery, including: patient's name and SSN, the VA facility from which the case originated, the dates the case was opened and closed, the amount of the VA's charges, and the reason these charges were uncollectible. Each of the three quarterly reports shall also include a cumulative total of the dollar amounts listed under the individual cases.

D.3.1.4 Pending Bill Lists: As requested, the Contractor shall provide a quarterly list of all pending bills by medical center showing VA bill number and the name of the patient. This data shall be provided in Microsoft Excel format or in a format that can be readily loaded into a Microsoft Excel spreadsheet

D.3.2.0 Contractor Performance

D.3.2.1 Quality Program: The Contractor shall perform its services under this contract in accordance with the best commercial practices of the collection agency profession.

D.3.2.2 Quality Control: Upon discovery of any errors by the Contractor, the Contractor will notify the VA and take immediate corrective action. Errors may include, but are not limited to, interpretation or application of appropriate codes, policy, or arithmetic, or omissions. The Contractor holds the Government harmless for any loss resulting from such errors. The error must be corrected to the satisfaction of the VA within 30 days from the date of discovery or notification. Notice of correction is to include, but is not limited to, the date and nature of the error, the date it was discovered, the date it was corrected, projected impact on the VA caused by the error, and the Contractor's calculation of any assessable damages. This data is subject to verification by the VA. The Contractor must correct the error retroactively if possible. Any damages incurred as a result of error shall be the responsibility of the Contractor. If the damage is related to a matter for which the Contractor has received a fee for services, that amount of damages shall be remitted to the Government within 15 workdays of the reimbursement notification.

D.3.2.3 Physical Security: The Contractor shall be responsible for safeguarding all VA records in its work area. At the close of each work period, facilities and equipment shall be secured. The Contractor, upon delivery to it of any Government-furnished records, assumes the risk of, and shall be responsible for, any loss thereof or damage thereto.

D.3.3 Personnel: The Contractor shall maintain sufficient offices in Northern and Southern California to enable its employees to attend hearings at all California WCABs and to send employees to any VA facility to assist the billing staff, as described at 3.6.3.

D.3.3.1 Project Manager: The Contractor shall provide a project manager who shall be responsible for the competent performance of the work. The project manager shall have full authority to act for the collection agency in all matters relating to performance. The project manager is considered the key to successful initiation of the collection in that

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his/her identification of a potential VA case begins the collection process outlined in Section D-2, Statement of Work (SOW). The project manager, at all times during performance and until the case is completed and accepted, shall give his/her personal attention to same. The project manager or alternate representative shall meet with Government personnel designated by the Contracting Officer (CO) to discuss immediate problems within 24 hours. The Contractor shall provide the telephone number of the person(s) to call should the need arise. The project manager shall be able to read, write, speak, and understand English.

D.3.3.2 Employees: Services are to be performed by competent personnel, experienced and highly qualified to provide the required services in accordance with the best commercial practices, without unnecessary delays. The Contractors shall employ such California-licensed attorneys as are required to perform work under this contract. Contractor shall not subcontract without prior approval by Regional Counsel.

D.3.4 Training of Employees: The Contractor shall establish procedures within which its employees shall operate while performing the level of collection activity specified in the agreement. These procedures shall include the required training of employees by the Contractor. Specifically, all employees shall receive training on the, allowing subjects:

D.3.4.1 The Privacy Act of 1974.

D.3.4.2 The Fair Debt Collection Practices Act of 1977.

D.3.4.3 The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and Department of Health and Human Services regulations implementing it

D.3.4.4 The confidentiality of certain medical records under 38 U.S.C. § 7332

D.3.4.5 Standards for the Administrative Collection of Claims, 4 C.F.R. § 102.5

D.3.4.6 Other applicable Federal and State laws, and regulations pertaining to debt collection practices

D.3.4.7 Specific collection practices and procedures to be followed in the performance of this agreement -

D.3.4.8 Contracted employees having access to VA confidential patient information shall receive annual VA-mandated privacy training. Contractor's employees having access to the VA electronic chart shall receive annual VA Cyber Security Training.

D.3.5.0 – Security Matters

D.3.5 Data Systems: The Contractor shall establish and maintain data systems which are capable of performing the data comparisons and providing the reports required by the contract.

D.3.6 Confidentiality: The Contractor shall insure that access to data regarding any VA account shall be restricted solely to persons who are employed in the specific collection activity within the Contractor's organization which is responsible for the VA accounts.

D.3.6.1 The Contractor shall establish procedures to insure the privacy and confidentiality of the VA beneficiary records in accordance with the Privacy Act of 1974 and HIPAA.

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D.3.6.2 With respect to any identifiable information concerning a VA patient under this agreement that is obtained by the Contractor, the Contractor: (1) is covered by and must conform to 5 U.S.C. § 552a(m), 38 U.S.C. § 5701, and 38 U.S.C. § 7332; (2) shall not use any such information for any purpose other than carrying out the express terms of this agreement; (3) shall not disclose, except as otherwise specifically permitted by this agreement or authorized by the patient, any such information to any entity other than the patient's workers' compensation attorney, the employer(s), the employer's insurer(s), or the WCAB without the VA Regional Counsel's prior written authorization specifying that the information is releasable. Any disclosure shall be made only in accordance with 38 U.S.C. § 3301, the Privacy Act of 1974, and HIPAA. The Contractor shall, for any such disclosure, maintain a disclosure accounting as required by 5 U.S.C. § 552a(c), which accounting shall include the name and address of each person or agency to whom disclosure was made, and the date, nature, and purpose of each disclosure. It shall be the responsibility of the VA to ensure that records whose release is barred under 38 U.S.C. § 7332 are not transmitted to the Contractor. If the Contractor inadvertently receives such records, it shall not disclose them under any circumstances, but shall return them to VA Regional Counsel immediately.

D.3.6.3 At the discretion of an individual VA facility and for the purpose of assisting VA facility's billing staff in selecting appropriate episodes of treatment for billing and in copying treatment records, the Contractor's employees may be allowed direct access to the records of a patient that the Contractor has identified as having a pending workers' compensation case.

D.3.7.0 Invoicing Procedures

D.3.7.0 Refunds: The Contractor shall submit to the Department of Veterans Affairs complete documentation of all cases where a refund by VA of payments received is recommended. Minimum data to be submitted by the Contractor are:

D.3.7.1 Proof of payment

D.3.7.2 Date of payment

D.3.7.3 Payee

D.3.7.4 Payor

D.3.7.5 Reason for Overpayment

D.3.7.6 Amount of overpayment

D.3.7.7 Recipient name

D.3.7.8 Employer name

D.3.7.9 VA claim number.

D.3.7.10 Gross lien and net lien computation

D.3.7.11 All patient history itemizations

D.3.8.0 Accounting - The Contractor shall maintain an accounting system for this contract with provides for:

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D.3.8.1 Accounting on the accrual basis

D.3.8.2 Full accountability over all Contractor collections for and remittances of money to the VA

D.3.8.3 Full accountability for all accounts receivable to include, by patient, the amount claimed, amount collected and balance due

D.3.8.4 No accounts receivable to be assigned by the Contractor

D.3.8.5 Subsequent to the agreement termination date or the expiration of any authorized extensions, originals of all claim files, as deemed necessary by the VA, will be turned over to the VA within 30 days. Additionally, the VA may require that the Contractor provide copies or originals of claim files at any time prior to the termination of the agreement within 30 days after notice. All required copies of claim files will be maintained and delivered to the VA, and organized in a manner enabling easy access alphabetically by patient's name. The Contractor will bear the cost of reproduction.

D.3.8.6 Claim files being maintained in alphabetical order by patient's name.

D.3.9 Litigation Assistance: The Contractor shall appear on behalf of the VA at hearings before judges of the WCAB and before the Appeals Board itself upon a Petition of Reconsideration. Upon written authorization by VA Regional Counsel, the Contractor may file a Petition for a Writ of Review with the California Court of Appeal regarding a recovery claim that it has pursued before the WCAB.

D.3.10 Pre-agreement Cases: This contract shall not cover any cases currently being handled by an existing contractor pursuant to any prior contract.

D.3.11 Request for Bills: In cases other than those identified through computer-matching, as described in 2.1.1, the Contractor shall direct a request for bills through VA Regional Counsel and bills will be forwarded to the Contractor by the VA facility through VA Regional Counsel. In cases identified through computer matching the VA facility shall send bills directly to the Contractor, with a copy to VA Regional Counsel.

D.3.11.1 Prior to finalizing any claim, the Contractor shall ensure that VA bills for all treatment related to the industrial injury have been obtained.

D.3.12 Labor Materials, Equipment and Facilities: The Contractor shall furnish all labor, materials, equipment, and facilities necessary for completion of the work as defined in the SOW except those specifically identified as to be furnished by the VA.

D.3.13 Reorganization or Merger: The Contractor shall submit in writing to the CO all proposed reorganization or merger plans for VA approval prior to entering into said reorganization or merger

D.4.0 Government Responsibilities

D.4.1 Deliverables: The VA will provide the following:

D.4.1.1 Documentation: The VA shall furnish without cost to the Contractor bills and medical records for each billable case identified by the Contractor and for any case identified by the VA and referred to the Contractor at the VA Regional Counsel's discretion. VA may also provide patient data in a format compatible with Contractor's computer systems for

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use in matching patient data with California workers compensation filings.

D.4.1.2: The VA shall provide a billing liaison at each VA facility. In addition, the VA Regional Counsel will identify the appropriate VA Regional Counsel contact for each case under this contract.

D.4.1.3 Reorganization or Merger: The VA shall review and accept or reject in writing proposals by the Contractor to enter into a reorganization or merger.

D.4.1.4 Printed Materials: The VA shall review and approve or disapprove in writing the form and content of all printed material or releases pertaining to this agreement (informational and instructional).

D.4.1.5 VA Hospital Billing Rates: For all workers' compensation billing for care subsequent to 9/1/1999, the VA generates bills according to an itemized system of Reasonable Charges published in the Federal Register. The Contractor may obtain these rates from the Federal Register via the Internet. VA Regional Counsel will provide a copy of the all-inclusive rates prior to 9/1/1999, as requested by the Contractor.

D.4.1.6 Witnesses: The VA shall furnish, without cost to the Contractor, medical or other witnesses, or written statements from such witnesses, necessary to prosecute contested cases before the WCAB.

D.4.2 Claim Disputes: The VA retains all rights to compromise claims or terminate collection activity. All requests for compromise or waiver must be referred to VA Regional Counsel for decision. The decision of VA Regional Counsel shall be final, binding on the Contractor, and not subject to appeal by same. The VA reserves the right to terminate collection action on any claim at any time without further obligation to the Contractor. The Government's decision to terminate collection action shall be final, binding on the Contractor, and not subject to appeal by the Contractor.

D.5.0 Definitions

D.5.1 Award: Amount allowed to VA by the WCAB. It may be equal to or less than the claim and may include an award of interest.

D.5.2 Bill: A statement of charges created according to rates published in the Federal Register in the case of VA-provided care, or the amount paid by the VA for private care.

D.5.3 Case File History: A summary of events and actions kept as they transpire, listed chronologically by date on a separate piece of paper within the case file.

D.5.4 Claim: Any amount subject to recovery by the VA. A claim is considered "opened" when it is initiated by the Contractor, "closed/collected" on the date final payment has been received by the VA and "closed/uncollected" on the date it is forwarded to VA by the Contractor.

D.5.5 Contracting Officer (CO): Any person who, either by virtue of his/her position or by appointment in accordance with procedures prescribed by the Federal Acquisition Regulation, is currently a CO with the authority to enter into and administer this contract and make determinations and findings with respect thereto, or with any part of such authority.

D.5.6 Contracting Officer's Representative (COR): A person delegated by the CO to generally monitor the work performed under this contract and to furnish technical guidance and advice.

D.5.7 Debtor: Insurance carrier/employer. In no case is the patient (veteran) to be considered a debtor under the

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purpose of this contract.

D.5.8 Industrial Injury: A condition arising out of employment and occurring in the course of employment, including continuous trauma, occupational disease, and industrial aggravation of a pre-existing condition.

D.5.9 Lien: A VA lien filed in a Worker's Compensation Appeals Board (WCAB) action, as provided in the California Labor Code and WCAB Rules of Practice and Procedure.

D.5.10 Litigation / Civil Action: Proceedings in a court of law not before the WCAB, an administrative body.

D.5.11 Notice of Lien: WCAB Form DWC-6 Notice and Request for Allowance of Lien or electronic equivalent mandated by the WCAB.

D. 5.12 No Cost: As defined in this agreement, the cost of performance under this agreement is not due or payable to the Contractor by the VA by any other means than the fee for collection defined herein.

D.5.13 Patient: An eligible person who, as a result of a work-related-injury, including but not limited to chronic conditions or diseases incident to the person's employment, has received or will receive hospital, medical, surgical, or dental care or treatment, including prostheses and medical appliances, provided or paid for by the VA.

D.5.14 Quality Assurance: Those actions taken by the VA to evaluate services required under the agreement to determine that they meet the requirements of the SOW.

D.5.15 Quality Control: Those actions taken by a Contractor to control the provision of services so that they will meet the requirement of the SOW.

D.5.16 Unique Identifier: The patient's Social Security Number, by which the patient's medical records are kept at a VA facility.

D.5.17 VA Charges: For care provided at VA facilities, VA charges are determined by reference to the schedule published in the Federal Register. For care paid directly out of appropriated funds, they are the amount actually paid to the health care provider. For care provided under a sharing agreement pursuant to 38 U.S.C. § 8111 or § 8153, they are the cost of such care as provided for in the sharing agreement.

D. 5.18 VA Facility: Medical facilities operated by the VA at which the VA billing function is performed.

D.5.19 WCAB Rules of Practice and Procedures: Those portions of the California Code of Regulations commencing at 8CCR § 10300, that deal with claims arising from industrial injury.

D.6.0 Contract Closeout

D.6.1 All accounts are to be returned to the appropriate VA Regional Counsel Office upon termination of collection activity.

D.6.2 The Contractor shall retain the case file 5 years or 36 months from the expiration of the contractual periods described in F-3 (above). At such time paper records shall be destroyed by shredding, or if requested by VA Regional Counsel, returned to the Office of Regional Counsel. If any patient information is contained on a computerized system, the information shall be erased or otherwise destroyed. Violations of these requirements may subject the Contractor to

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penalties specified in the Privacy Act of 1974.

D.6.3 Payment Due Date: Payments to the VA under this contract will be due on a regular basis not to exceed 21 days after receipt, except by prior arrangement with Regional Counsel.

D.7 Qualifications: Inspection personnel shall be California State certified as a Hazardous Material Manager. Copies of certifications shall be provided by the awardee.

D.8 Modifications: Only those services specified within are authorized under the contract. Any modification to the contract shall be in writing. The modification will be prepared by the CO prior to becoming effective. The Contractor is cautioned that only the CO may authorize services and that reimbursement will not be made unless this prior authorization is obtained.

D.9 Designation of Contracting Officer's Representative (COR): The COR will be delegated by the CO to represent the CO in furnishing technical guidance and advice. The foregoing is not to be construed as authorization to Interpret or furnish advice and information to Contractor relative to the financial or legal aspects of the contract. Those matters are the responsibility of the CO and shall not be delegated.