

Performance Work Statement for Onsite Psychiatry Services

1. GENERAL:

- 1.1. Services Provided: The Contractor shall provide Board Certified (or Board Eligible) Psychiatry Physician Services on site in accordance with the specifications contained herein to beneficiaries of the Department of Veterans Affairs (VA), the CPL Michael J Crescenzo VA Medical Center CMCVAMC, or any of its Community Based Outpatient Clinics (CBOCs).
- 1.2. Place of Performance - Any of the clinical sites/locations of the CMCVAMC based on clinical needs of the agency.
- 1.3. Authority: Title 38 USC 8153, Health Care Resources (HCR) sharing Authority.
- 1.4. Policy/Handbooks:
 - 1.4.1. VA Directive 1663: Health Care Resources Contracting - Buying http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=347
 - 1.4.2. VHA Directive 2006-041: "Veterans' Health Care Service Standards" (expired but still in effect pending revision) https://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1443
 - 1.4.3. VHA Handbook 1100.17: National Practitioner Data Bank Reports http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=2135
 - 1.4.4. VHA Handbook 1100.18: Reporting And Responding To State Licensing Boards http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1364
 - 1.4.5. VHA Handbook 1100.19: Credentialing and Privileging http://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=2910
 - 1.4.6. VHA Handbook 1907.01: Health Information Management and Health Records: http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=2791
 - 1.4.7. Privacy Act of 1974 (5 U.S.C. 552a): As amended http://www.justice.gov/oip/foia_updates/Vol_XVII_4/page2.htm
- 1.5. Definitions/Acronyms- Terms used in this contract shall be interpreted as follows unless the context expressly requires a different construction and/or interpretation. In case of a conflict in language between the Definitions and other sections of this contract, the language in this section shall govern.
 - 1.5.1. ABIM: American Board of Internal Medicine www.abim.org
 - 1.5.2. ACGME: Accreditation Council for Graduate Medical Education
 - 1.5.3. ACLS: Advanced Cardiac Life Support
 - 1.5.4. AOD: Admitting Officer of the Day
 - 1.5.5. BLS: Basic Life Support
 - 1.5.6. CCNE: Commission on Collegiate Nursing Education: www.aacn.nche.edu/accreditation
 - 1.5.7. CDC: Centers for Disease Control and Prevention
 - 1.5.8. CDR: Contract Discrepancy Report

- 1.5.9. CEU: Certified Education Unit
- 1.5.10. CME: Continuing Medical Education
- 1.5.11. CMS: Centers for Medicare and Medicaid Services
- 1.5.12. Contracting Officer (CO) – The person executing this contract on behalf of the Government with the authority to enter into and administer contracts and make related determinations and findings.
- 1.5.13. Contracting Officer's Representative (COR) – A person appointed by the CO to take necessary action to ensure the Contractor performs in accordance with and adheres to the specifications contained in the contract and to protect the interest of the Government. The COR shall report to the CO promptly any indication of non-compliance in order that appropriate action can be taken.
- 1.5.14. COS: Chief of Staff
- 1.5.15. CPARS: Contractor Performance Assessment Reporting System
- 1.5.16. CPRS: Computerized Patient Recordkeeping System- electronic health record system used by the VA.
- 1.5.17. Credentialing: Credentialing is the systematic process of screening and evaluating qualification and other credentials, including licensure, required education, relevant training and experience and current competence and health status.
- 1.5.18. DEA: Drug Enforcement Agency
- 1.5.19. ED: Emergency Department
- 1.5.20. FSMB: Federation of State Medical Boards
- 1.5.21. Full Time Equivalent (FTE): VA's definition for full time- working the equivalent of 80 hours every two weeks, 2080 hours per year. In calculating FTE, any hours not worked on national holidays shall not be included.
- 1.5.22. HHS: Department of Health and Human Services
- 1.5.23. HIPAA: Health Insurance Portability and Accountability Act
- 1.5.24. HR: Human Resources
- 1.5.25. ISO: Information Security Officer
- 1.5.26. Medical Emergency - a sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably result in: Permanently placing a patient's health in jeopardy, causing other serious medical consequences, causing impairments to body functions, or causing serious or permanent dysfunction of any body-organ or part.
- 1.5.27. MOD: Medical Officer of the Day
- 1.5.28. National Provider Identifier (NPI): NPI is a standard, unique 10-digit numeric identifier required by HIPAA. The Veterans Health Administration must use NPIs in all HIPAA-standard electronic transactions for individual (health care practitioners) and organizational entities (medical centers).
- 1.5.29. NLNAC: National League for Nursing Accrediting Commission. www.nlnac.org
- 1.5.30. Non-Contract Provider - any person, organization, agency, or entity that is not directly or indirectly employed by the Contractor or any of its subcontractors
- 1.5.31. NP: Nurse Practitioner

- 1.5.32. NPPES: National Plan and Provider Enumeration System
- 1.5.33. PA: Physician Assistant
- 1.5.34. PALS: Pediatric Advanced Life Support
- 1.5.35. POP: Period of Performance
- 1.5.36. PPD: Purified Protein Derivative
- 1.5.37. PWS: Performance Work Statement
- 1.5.38. Privileging (Clinical Privileging): Privileging is the process by which a practitioner, licensed for 8 independent practice; e.g., without supervision, direction, required sponsor, preceptor, mandatory collaboration, etc.; is permitted by law and the facility to practice independently, to provide specific medical or other patient care services within the scope of the individual's license, based upon the individual's clinical competence as determined by peer references, professional experience, health status, education, training and licensure. Clinical privileges must be facility-specific and provider-specific.
- 1.5.39. QASP: Quality Assurance Surveillance Plan.
- 1.5.40. Veterans Health Administration (VHA): The central office for administration of the VA medical centers through throughout the United States. The VHA is located in Washington, D.C.
- 1.5.41. Veterans Integrated Services Network (VISN): The regional oversight for the VA medical centers in Michigan and Indiana.
- 1.5.42. VISTA (Veterans Integrated Systems Technology Architecture): A PC based system that will capture and store clinical imagery, scanned documents and other non-textual data files and integrates them into patient's medical record and with the hospital information system.
- 1.5.43. VetPro: a federal web-based credentialing program for healthcare providers.
- 1.5.44. Veterans Affairs Medical Center (VAMC): Unless identified with the name of a different VA medical Center, for purposes of this contract, this term shall mean the CPL Michael J Crescenz Veterans Affairs Medical Center.
- 1.5.45. CPL Michael J Crescenz VA Medical Center CMCVAMC
- 1.5.46. Community Based Outpatient Clinic (CBOC)

2. QUALIFICATIONS:

2.1. Staff/Facility.

- 2.1.1. License - Contract physician(s) assigned by the Contractor to perform the services covered by this contract shall have a current license to practice medicine. To have Drug Enforcement Agency (DEA) registration, contract providers must have a medical license and be individually registered with the DEA in the state where they will provide services under the contract. All licenses held by the personnel working on this contract shall be full and unrestricted licenses. Contract physician(s) who have current, full and unrestricted licenses in one or more states, but who have, or ever had, a license restricted, suspended, revoked, voluntarily revoked, voluntarily surrendered pending action or denied upon application will not be considered for the purposes of this contract.

- 2.1.2. Board Certification – It is preferred, not required, that all contract physician(s) shall be board certified by the American Board of Psychiatry and Neurology. All continuing education courses required for maintaining certification must be kept up to date at all times. Documentation verifying current certification shall be provided by the Contractor to the VA COR on an annual basis for each year of contract performance.
- 2.1.3. Credentialing and Privileging –Credentialing and privileging is to be done in accordance with the provisions of VHA Handbook 1100.19 referenced above. The Contractor is responsible to ensure that proposed physician(s) possesses the requisite credentials enabling the granting of privileges. No services shall be provided by any contract physician(s) prior to obtaining approval by the CMCVAMC Professional Standards Board, Medical Executive Board and Medical Center Director. If a contract physician(s) is not credentialed and privileged or has credentials/privileges suspended or revoked, the Contractor shall furnish an acceptable substitute without any additional cost to the government.
- 2.1.4. Technical Proficiency - Contract physician(s) shall be technically proficient in the skills necessary to fulfill the government's requirements, including the ability to speak, understand, read and write English fluently. Contractor shall provide documents upon request of the CO/COR to verify current and ongoing competency, skills, certification and/or licensure related to the provision of care, treatment and/or services performed. Contractor shall provide verifiable evidence of all educational and training experiences including any gaps in educational history for all contract physician(s) and contract physician (s) shall be responsible for abiding by the Facility's Medical Staff By-Laws, rules, and regulations (referenced herein) that govern medical staff behavior.
- 2.1.5. Continuing Medical Education (CME)/ Certified Education Unit (CEU) Requirements: Contractor shall provide the COR copies of current CMEs as required or requested by the VAMC. Contract physician (s) registered or certified by national/medical associations shall continue to meet the minimum standards for CME to remain current. Contractor shall report CME hours to the credentials office for tracking. These documents are required for both privileging and re-privileging. Failure to provide shall result in loss of privileges for contract physician(s).
- 2.1.6. Training (BLS, CPRS and VA MANDATORY): Contractor shall meet all VA educational requirements and mandatory course requirements defined herein; all training must be completed by the contract physician (s) as required by the VA.
(http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1460) its updates or replacement directives, IG Guidance at 8994, Section II(C); Guidance at 4875, Section III (B)(4) Sentencing Guidelines, Section 8B2,1 (b)(4)(B) annual compliance training is to be provided to all contractors within the scope of their work.

<i>Training</i>	<i>Frequency</i>	<i>Annual Hours</i>
SUX-AHA BLS (Basic Life Support For Healthcare Providers)	1x yearly	1
V4 MRI Safety - Level One	1x yearly	1
VA Privacy and Information Security Awareness and Rules of Behavior	1x yearly	1
Annual Government Ethics Training	1x yearly	1
Suicide Risk Management Training For Clinicians	1x yearly	1
V4 HazMat and GEMS	1x yearly	1
Mental Health Environment of Care Checklist (MHEOCC)	1x yearly	1
Training for Clinical Staff	1x yearly	1
VA Core Values Training (I CARE Recommitment)	1x yearly	1
What Every VA Clinician & Resident Needs to Know About Consults	1x yearly	1
Hospice and Palliative Care for VA Clinicians	1x yearly	1
Service Connection and Special Authority for Providers	1x yearly	1
Privacy and HIPAA Focused Training	1x yearly	1

2.1.6.1. The medical center CORs are to coordinate the annual training with their respective Compliance and Business Integrity Officers.

2.1.6.2. VA Mandatory training is usually completed via computer. A copy of the documentation of the completed annual training is to be provided to the COR.

2.1.6.3. It is a policy of this Medical Center that all contract personnel to be employed under this contract must be Advanced and Basic Life Support (ACLS) (BLS) certified. ACLS and BLS must be provided by VHA accredited organization. As part of the credentialing process, the contractor ACLS and BLS certification must be sent to the Medical Staff Office. Failure to provide proof of certification to the Medical Staff Office may impact the contract personnel qualification under this requirement. No services will be provided by any contract personnel prior to obtaining approval by the CMCVAMC Professional Standards Board, Clinical Executive Board and Director. For all providers that will be utilizing moderate sedation, evidence of current ACLS (or equivalent) training is required. For providers that will not be utilizing moderate sedation, evidence of current BLS training (or equivalent to include CPR/AED training or VA Heart Saver Class) will be required. In addition the above training are other VA specific training courses which must be completed. These may be clinical

or administrative in nature. The COR will notify contractor of all required VA training. All training must be current to work.

2.1.6.4. Note: Training classes are offered at the VA at no cost to the contractor. Contact Employee Education, in collaboration with the COR, at the CMCVAMC for registration instructions. A certificate of training must be provided to the clinical service's Administrative Officer with a copy forwarded to the COR.

2.1.7. Standard Personnel Testing (PPD, etc.): Contractor shall provide proof of the following tests for physicians within five (5) calendar days after contract award and prior to the first duty shift to the COR and Contracting Officer. Tests shall be current within the past year.

2.1.7.1. TUBERCULOSIS TESTING: Contractor shall provide proof of a negative reaction to PPD testing for all contract physician(s). A negative chest radiographic report for active tuberculosis shall be provided in cases of positive PPD results. The PPD test shall be repeated annually.

2.1.7.2. RUBELLA TESTING: Contractor shall provide proof of immunization for all contract physician(s) for measles, mumps, rubella or a rubella titer of 1.8 or greater. If the titer is less than 1.8, a rubella immunization shall be administered with follow-up documentation to the COR.

2.1.7.3. OSHA REGULATION CONCERNING OCCUPATIONAL EXPOSURE TO BLOODBORNE PATHOGENS: Contractor shall provide generic self-study training for all contract physician(s); provide their own Hepatitis B vaccination series at no cost to the VA if they elect to receive it; maintain an exposure determination and control plan; maintain required records; and ensure that proper follow-up evaluation is provided following an exposure incident. The VAMC shall notify the Contractor of any significant communicable disease exposures as appropriate. Contractor shall adhere to current CDC/HICPAC Guideline for Infection Control in health care personnel (as published in American Journal for Infection Control- AJIC 1998; 26:289-354 <http://www.cdc.gov/hicpac/pdf/InfectControl98.pdf>) for disease control. Contractor shall provide follow up documentation of clearance to return to the workplace prior to their return.

2.1.8. National Provider Identifier (NPI): NPI is a standard, unique 10-digit numeric identifier required by HIPAA. The Veterans Health Administration must use NPIs in all HIPAA-standard electronic transactions for individual (health care practitioners) and organizational entities (medical centers). The Contractor shall have or obtain appropriate NPI and if pertinent the Taxonomy Code confirmation notice issued by the Centers for Medicare and Medicaid Services (CMS) National Plan and Provider Enumeration System (NPPES) be provided to the Contracting Officer with the proposal.

- 2.1.9. DEA - Contractor shall provide copy of current DEA certificate registered in the state in which services are being provided.
- 2.1.10. Conflict of Interest: The Contractor and all contract physician(s) are responsible for identifying and communicating to the CO and COR conflicts of interest at the time of proposal and during the entirety of contract performance. At the time of proposal, the Contractor shall provide a statement which describes, in a concise manner, all relevant facts concerning any past, present, or currently planned interest (financial, contractual, organizational, or otherwise) or actual or potential organizational conflicts of interest relating to the services to be provided. The Contractor shall also provide statements containing the same information for any identified consultants or subcontractors who shall provide services. The Contractor must also provide relevant facts that show how it's organizational and/or management system or other actions would avoid or mitigate any actual or potential organizational conflicts of interest. These statements shall be in response to the VAAR provision 852.209-70 Organizational Conflicts of Interest (Jan 2008) and fully outlined in response to the subject attachment in Section D of the solicitation document (see Attachment 3 – Organizational Conflict of Interest).
- 2.1.11. Citizenship related Requirements: The Contractor certifies that the Contractor shall comply with any and all legal provisions contained in the Immigration and Nationality Act of 1952, As Amended; its related laws and regulations that are enforced by Homeland Security, Immigration and Customs Enforcement and the U.S Department of Labor as these may relate to non-immigrant foreign nationals working under contract or subcontract for the Contractor while providing services to Department of Veterans Affairs patient referrals;
- 2.1.11.1. While performing services for the Department of Veterans Affairs, the Contractor shall not knowingly employ, contract or subcontract with an illegal alien; foreign national non-immigrant who is in violation their status, as a result of their failure to maintain or comply with the terms and conditions of their admission into the United States. Additionally, the Contractor is required to comply with all "E-Verify" requirements consistent with "Executive Order 12989" and any related pertinent Amendments, as well as applicable Federal Acquisition Regulations.
- 2.1.11.2. If the Contractor fails to comply with any requirements outlined in the preceding paragraphs or its Agency regulations, the Department of Veterans Affairs may, at its discretion, require that the foreign national who failed to maintain their legal status in the United States or otherwise failed to comply with the requirements of the laws administered by Homeland Security, Immigration and Customs Enforcement and the U.S Department of Labor, shall be prohibited from working at the Contractor's place of business that services Department of Veterans Affairs patient referrals; or other place where the Contractor provides services to

veterans who have been referred by the Department of Veterans Affairs; and shall form the basis for termination of this contract for breach.

2.1.11.3. This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under 18 U.S.C. 1001.

2.1.11.4. The Contractor agrees to obtain a similar certification from its subcontractors. The certification shall be made as part of the offeror's response to the RFP using the subject attachment in Section D of the solicitation document (see Attachment 2 – Immigration and Nationality Certification).

2.1.12. Annual Office of Inspector General (OIG) Statement: In accordance with HIPAA and the Balanced Budget Act (BBA) of 1977, the Department of Health and Human Services (HHS) Office of Inspector General (OIG) has established a list of parties and entities excluded from Federal health care programs. Specifically, the listed parties and entities may not receive Federal Health Care program payments due to fraud and/or abuse of the Medicare and Medicaid programs.

2.1.12.1. Therefore, Contractor shall review the HHS OIG List of Excluded Individuals/Entities on the HHS OIG web site at <http://oig.hhs.gov/exclusions/index.asp> to ensure that the proposed contract physicians (s) are not listed. Contractor should note that any excluded individual or entity that submits a claim for reimbursement to a Federal health care program, or causes such a claim to be submitted, may be subject to a Civil Monetary Penalty (CMP) for each item or service furnished during a period that the person was excluded and may also be subject to treble damages for the amount claimed for each item or service. CMP's may also be imposed against the Contractor that employ or enter into contracts with excluded individuals to provide items or services to Federal program beneficiaries.

2.1.12.2. By submitting their proposal, the Contractor certifies that the HHS OIG List of Excluded Individuals/Entities has been reviewed and that the Contractors are and/or firm is not listed as of the date the offer/bid was signed.

2.2. Clinical/Professional Direction: The qualifications of Contractor personnel are subject to review by VA Medical Center COS or his/her clinical designee and approval by the Medical Center Director as provided in VHA Handbook 1100.19. Clinical/Professional direction of all clinical personnel covered by this contract will be provided by the VAMC COS and/or the Chief of the Service or his designee. A clinical COR may be appointed, however, only the CO is authorized to consider any contract modification request and/or make changes to the contract during the administration of the resultant contract.

- 2.3. Non Personal Healthcare Services: The parties agree that the Contractor and all contract physician(s) shall not be considered VA employees for any purpose.
- 2.4. Inherent Government Functions: Contractor and Contract physician (s) shall not perform inherently governmental functions. This includes, but is not limited to, determination of agency policy, determination of Federal program priorities for budget requests, direction and control of government employees (outside a clinical context), selection or non-selection of individuals for Federal Government employment including the interviewing of individuals for employment, approval of position descriptions and performance standards for Federal employees, approving any contractual documents, approval of Federal licensing actions and inspections, and/or determination of budget policy, guidance, and strategy.
- 2.5. No Employee status: The Contractor shall be responsible for protecting Contract physician (s) furnishing services. To carry out this responsibility, the Contractor shall provide or certify that the following is provided for all their staff providing services under the resultant contract:
- 2.5.1. Workers' compensation
 - 2.5.2. Professional liability insurance
 - 2.5.3. Health examinations
 - 2.5.4. Income tax withholding, and
 - 2.5.5. Social security payments.
- 2.6. Tort Liability: The Federal Tort Claims Act does not cover Contractor or contract physician(s). When a Contractor or contract physician(s) has been identified as a provider in a tort claim, the Contractor shall be responsible for notifying their legal counsel and/or insurance carrier. Any settlement or judgment arising from a Contractor's (or contract physician(s)) action or non-action shall be the responsibility of the Contractor and/or insurance carrier.
- 2.7. Key Personnel:
- 2.7.1.1. The VA Full Time Equivalency (FTE) for the services required is depended upon CMCVAMC need. FTE is defined by VA as a minimum of 80 hours every two weeks and does not include holidays.
 - 2.7.1.2. The number of Board Certified (or Board Eligible) Psychiatry physicians required to be on site on a daily basis is dependent upon CMCVAMC need, as defined in paragraph 3 Hours of Operation in this section.
 - 2.7.1.3. The Contractor shall be responsible for providing coverage to the VA during periods of vacancies of the Contractor's personnel due to sick leave, personal leave, vacations and additional coverage as required.

2.7.2. Emergency Substitutions: During the first ninety (90) calendar 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 CO, in writing, within 15 calendar days after the occurrence of any of these events and provide the information required below. After 90 days, the Contractor shall submit the information required below to the CO at least 15 calendar days prior to making any permanent substitutions.

2.7.2.1. 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 CO. Proposed substitutes shall have comparable qualifications to those of the persons being replaced. The CO 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.

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

2.7.2.3. The Government reserves the right to refuse acceptance of any Contractor personnel at any time after performance begins, if personal or professional conduct jeopardizes patient care or interferes with the regular and ordinary operation of the facility. Breaches of conduct include intoxication or debilitation resulting from drug use, theft, patient abuse, dereliction or negligence in performing directed tasks, or other conduct resulting in formal complaints by patient or other staff members to designated Government representatives. Standards for conduct shall mirror those prescribed by current federal personnel regulations. Should the VA COS or designee show documented clinical problems or continual unprofessional behavior/actions with any contract physician (s), s/he may request, without cause, immediate replacement of said contract physician (s).

2.7.2.4. The CO and COR shall deal with issues raised concerning Contract physician (s) conduct. The final arbiter on questions of acceptability is the CO.

2.7.3. Contingency Plan: Because continuity of care is an essential part of VAMC's medical services, The Contractor shall have a contingency plan in place to be utilized if the contract physician (s) leaves Contractor's employment or is unable to continue performance in accordance with the terms and conditions of the resulting contract.

3. VA HOURS OF OPERATION/SCHEDULING

- 3.1. VA Business Hours: The outpatient clinics of Behavioral Health and Sciences (BH&S) Care Line are generally open Monday through Friday from 08:00 am to 04:30 pm excluding recognized Federal Holidays. Due to expanding clinical needs there are some evening and weekend hours at some locations.
- 3.2. Work Schedule: Work Schedule: Contractor shall be assigned to a daytime tour 8:00-4:30pm. However, if agency clinical needs dictate there may be evening hours assigned. The number of Board Certified (or Board Eligible) Psychiatrists required to be on site on a daily basis will be determined by CMCVAMC need, as defined in paragraph Hours of Operation in this section, unless leave has been approved by Supervisor.
- 3.2.1. The CMCVAMC reserves the right to accommodate schedule changes as workload demands. If any changes are needed the CMCVAMC will give notice prior to the change in shift.
- 3.2.2. Contract Physicians shall be available and present in clinic during normal CMCVAMC clinic hours, which will be established, and may be revised, as deemed appropriate for patient care by the Chief of Staff.
- 3.3. Federal Holidays: The following holidays are observed by the Department of Veterans Affairs:
- New Year's Day
 - President's Day
 - Martin Luther King's Birthday
 - Memorial Day
 - Independence Day
 - Labor Day
 - Columbus Day
 - Veterans Day
 - Thanksgiving
 - Any day specifically declared by the President of the United States to be a national holiday.
- 3.4. Cancellations: Continuity of Services: The Contractor shall ensure that qualified backup providers are available to provide coverage during scheduled and unscheduled absences of primary contract provider. Contractor will ensure that all backup providers participate in the Credentialing and Privileging and Training processes. Disaster/Emergency Coverage: The standard of care should be equal to that provided by the VA if the VA were capable of providing the services required at their location. The contractor shall provide competent, quality Psychiatry medicine services to all patients of the CMCVAMC, in the performance of contract requirements. Contractor shall provide all services specified in this contract for any VA beneficiary, 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 shall not resort to subcontracting as means of circumventing this provision.

3.5. Absences: The payment for any leave, including sick leave, holiday, or vacation time, in excess of authorized absences, is the responsibility of the contractor. Appropriate coverage must be provided in accordance with the contract terms and conditions and must be supplied by the contractor. The contractor's employee must be present at the CMCVAMC and must be actually performing the required services for the period specified in the contract. Backup coverage is required at all times. In the event a contracted physician does not come to work for a scheduled shift due to weather, illness, or other reasons the contractor must provide a replacement within 3 hours of the shift start.

3.6. State of Emergency: Unless a state of emergency has been declared, the Contractor shall be responsible for providing services.

4. CONTRACTOR RESPONSIBILITIES

4.1. Clinical Personnel Required: The Contractor shall provide contract physician (s) who are competent, qualified per this performance work statement and adequately trained to perform assigned duties.

4.1.1. Contract physician (s) shall be responsible for signing in and out when in attendance. Time sheets will be used by the COR to confirm hours/day and services provided against the contractor's invoices.

4.2. Standards of Care: The contract physician (s)' care shall cover the range of Psychiatry services as would be provided in a state-of-the-art civilian medical treatment facility and the standard of care shall be of a quality, meeting or exceeding currently recognized TJC, VA and national standards as established by:

4.2.1. VA Standards: VHA Directive 2006-041 "Veterans' Health Care Service Standards" (expired but still in effect pending

revision) https://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1443

4.2.2. The professional standards of the Joint Commission

(TJC) http://www.jointcommission.org/standards_information/standards.aspx

4.2.3. The standards of the American Hospital Association

(AHA) <http://www.hpoe.org/resources?show=100&type=8> and;

4.2.4. The requirements contained in this PWS

4.3. Medical Records

4.3.1. Authorities: Contract physician (s) providing healthcare services to VA patients shall be considered as part of the Department Healthcare Activity and shall comply with the

U.S.C.551a (Privacy Act), 38 U.S.C. 5701 (Confidentiality of claimants records), 5 U.S.C. 552 (FOIA), 38 U.S.C. 5705 (Confidentiality of Medical Quality Assurance Records) 38 U.S.C. 7332 (Confidentiality of certain medical records), Title 5 U.S.C. § 522a (Records Maintained on Individuals) as well as 45 C.F.R. Parts 160, 162, and 164 (HIPAA).

- 4.3.2. HIPAA: This contract and its requirements meet exception in 45 CFR 164.502(e), and do not require a BAA in order for Covered Entity to disclose Protected Health Information to: a health care provider for treatment. Based on this exception, a BAA is not required for this contract. Treatment and administrative patient records generated by this contract or provided to the Contractors by the VA are covered by the VA system of records entitled '[Patient Medical Records-VA' \(24VA19\)](#). Contractor generated VA Patient records are the property of the VA and shall not be accessed, released, transferred, or destroyed except in accordance with applicable laws and regulations. Contractor shall ensure that all records pertaining to medical care and services are available for immediate transmission when requested by the VA. Records identified for review, audit, or evaluation by VA representatives and authorized federal and state officials, shall be accessed on-site during normal business hours or mailed by the Contractor at his expense. Contractor shall deliver all final patient records, correspondence, and notes to the VA within twenty-one (21) calendar days after the contract expiration date.
- 4.3.3. Disclosure: Contract physician(s) may have access to patient medical records: however, Contractor shall obtain permission from the VA before disclosing any patient information. Subject to applicable federal confidentiality or privacy laws, the Contractor, or their designated representatives, and designated representatives of federal regulatory agencies having jurisdiction over Contractor, may have access to VA 's records, at VA's place of business on request during normal business hours, to inspect and review and make copies of such records. The VA will provide the Contractor with a copy of [VHA Handbook 1907.1, Health Information management and Health Records](#) and [VHA Handbook 1605.1, Privacy and Release of Information](#). The penalties and liabilities for the unauthorized disclosure of VA patient information mandated by the statutes and regulations mentioned above, apply to the Contractor.
- 4.3.4. Professional Standards for Documenting Care: Care shall be appropriately documented in medical records in accordance with standard commercial practice and guidelines established by VHA Handbook 1907.01 *Health Information Management and Health Records*: http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=2791 and all guidelines provided by the SFVAHCS.
- 4.3.5. Release of Information: The VA shall maintain control of releasing any patient medical information and will follow policies and standards as defined, but not limited to Privacy Act requirements. In the case of the VA authorizing the Contractor to release patient information, the Contractor in compliance with VA regulations, and at his/her own expense,

shall use [VA Form 3288, Request for and Consent to Release of Information from Individual's Records](#), to process "Release of Information Requests." In addition, the Contractor shall be responsible for locating and forwarding records not kept at their facility. The VA's Release of Information Section shall provide the Contractor with assistance in completing forms. Additionally, the Contractor shall use [VA Form 10-5345, Request for and Authorization to Release Medical Records or Health Information](#), when releasing records protected by 38 U.S.C. 7332. Treatment and release records shall include the patient's consent form. Completed Release of Information requests will be forwarded to the VA Privacy Officer at the following address: Privacy Officer CMCVAMC, 3900 Woodland Ave, Philadelphia, PA 19104

4.3.6. Direct Patient Care: No less than 90% of the time is involved in direct patient care. Per the qualification section of this PWS, the Contractor shall provide the following staff:

4.3.6.1. Board Certified (or Board Eligible) Psychiatry Physicians: The VA estimates the 40 hour work week shall be divided into the following work: outpatient clinical services, inpatient and/or Consult & Liaison services when filling in for an absent provider, and providing on-call coverage as outlined in the terms of this contract. Outpatient services shall include Tele-health clinical services and other duties as determined by the CMCVAMC.

4.3.6.2. The patients seen will be located within the programs operated by the BH&S Care Line for the CMCVAMC. The services specified may be changed by written modification to this contract and will be performed by contractor within the VA policies and procedures and regulations of the medical staff bylaws of the VA facility. Services to be performed by the Contractor will be under the direction of the Mental Health Site Director.

4.3.6.3. All services and care are to be provided consistent with the national standard of care, based on best clinical judgment, VA/VHA clinical guidelines, VA/VHA directives, pertinent VA/VHA performance measures and guidelines. It is recognized by both parties that timely reporting of results of examinations as well as diagnostic and therapeutic procedures, is a critical component of good patient care.

4.3.7. Scope of Care: Contract physician(s) (as appropriate and within scope of practice/privileging) shall be responsible for providing Psychiatry care, including, but not limited to:

- Follow-up on Psychiatry Issues
- In-patient Psychiatry Consults
- Out-patient Psychiatry Consults

4.3.8. Clinical Care: Contractor physician(s) shall be present on time for any scheduled clinics as documented by physical presence in the clinic at the scheduled start time.

4.3.8.1. Psychiatrist will adhere to CMCVAMC Service Agreements between Primary Care Provider and Psychiatry Services. Service Agreements outline specific guidelines for consultative services.

4.3.8.2. No sample medications shall be provided to patients.

4.4. Patient Safety Compliance and Reporting: Contract physician (s) shall follow all established patient safety and infection control standards of care. Contract physician (s) shall make every effort to prevent medication errors, falls, and patient injury caused by acts of commission or omission in the delivery of care. All events related to patient injury, medication errors, and other breeches of patient safety shall be reported to the COR VA Safety Policy. As soon as practicable (but within 24 hours) Contractors shall notify COR of incident and submit to the COR the Patient Safety Report, following up with COR as required or requested.

5. Administrative: No more than 10% of time not involved in direct patient care.

5.1. Quality Improvement Meetings: The contract physician (s) shall participate in continuous quality improvement activities and meetings with committee participation as required by the VAMC Chief of Service, Chief of Staff, or designee as necessary.

5.2. Staff Meetings: The contract physician (s) shall attend staff meetings as required by the VAMC Chief of Service, Chief of Staff, or designee. Contractor to communicate with COR on this requirement and report any conflicts that may interfere with compliance with this requirement. List all meetings, associated time and frequency.

5.3. QA/QI documentation: The contract physician (s) shall complete the appropriate QM/PI documentation pertaining to all procedures, complications and outcome of examinations.

5.4. PERFORMANCE STANDARDS, QUALITY ASSURANCE (QA) AND QUALITY IMPROVEMENT(QI):

5.4.1. Quality Management/Quality Assurance Surveillance: Contractor physician(s) shall be subject to Quality Management measures, such as patient satisfaction surveys, timely completion of medical records, and Peer Reviews. Methods of Surveillance: Focused Provider Practice Evaluation (FPPE) and Ongoing Provider Practice Evaluation (OPPE). Contractor performance will be monitored by the government using the standards as outlined in this Performance Work Statement (PWS) and methods of surveillance detailed in the Quality Assurance Surveillance Plan (QASP). The QASP shall be attached to the resultant contract and shall define the methods and frequency of surveillance conducted.

5.4.1.1. The Contractor shall furnish the Chief of Staff, on an annual basis, provider-specific information on all contractor physician(s) providing services at the facility. This

information shall be furnished using Proficiency Report Form 10-2623a, which will be provided to the contractor by the VA. This confidential, provider-specific information shall be used to identify opportunities for improvement and provide the appropriate data to support the decision of re-appointment/re-privileging.

- 5.4.2. Patient Complaints: The CO will resolve complaints concerning Contractor relations with the Government employees or patients. The CO is final authority on validating complaints. In the event that The Contractor is involved and named in a validated patient complaint, the Government reserves the right to refuse acceptance of the services of such personnel. This does not preclude refusal in the event of incidents involving physical or verbal abuse.
- 5.4.3. The Government reserves the right to refuse acceptance of any Contractor personnel at any time after performance begins, if personal or professional conduct jeopardizes patient care or interferes with the regular and ordinary operation of the facility. Breaches of conduct include intoxication or debilitation resulting from drug use, theft, patient abuse, dereliction or negligence in performing directed tasks, or other conduct resulting in formal complaints by patient or other staff members to designated Government representatives. Standards for conduct shall mirror those prescribed by current federal personnel regulations. The CO and COR shall deal with issues raised concerning Contractor's conduct. The final arbiter on questions of acceptability is the CO.
- 5.4.4. QASP: See Section D Attachment 1 – QASP.
- 5.4.5. Registration with Contractor Performance Assessment Reporting System:
- 5.4.5.1. As prescribed in Federal Acquisition Regulation (FAR) Part 42.15, the Department of Veterans Affairs (VA) evaluates Contractor past performance on all contracts that exceed \$150,000, and shares those evaluations with other Federal Government contract specialists and procurement officials. The FAR requires that the Contractor be provided an opportunity to comment on past performance evaluations prior to each report closing. To fulfill this requirement VA uses an online database, CPARS, which is maintained by the Naval Seal Logistics Center in Portsmouth, New Hampshire. CPARS has connectivity with the Past Performance Information Retrieval System (PPIRS) database, which is available to all Federal agencies. PPIRS is the system used to collect and retrieve performance assessment reports used in source selection determinations and completed CPARS report cards transferred to PPIRS. CPARS also includes access to the federal awardee performance and integrity information system (FAPIIS). FAPIIS is a web-enabled application accessed via CPARS for Contractor responsibility determination information.
- 5.4.5.2. Each Contractor whose contract award is estimated to exceed \$150,000 requires a CPARS evaluation. A government Focal Point will register your contract within

thirty days after contract award and, at that time, you will receive an email message with a User ID (to be used when reviewing evaluations). Additional information regarding the evaluation process can be found at www.cpars.gov or if you have any questions, you may contact the Customer Support Desk @ DSN: 684-1690 or COMM: 207-438-1690.

- 5.4.5.3. For contracts with a period of one year or less, the contracting officer will perform a single evaluation when the contract is complete. For contracts exceeding one year, the contracting officer will evaluate the Contractor's performance annually. Interim reports will be filed each year until the last year of the contract, when the final report will be completed. The report shall be assigned in CPARS to the Contractor's designated representative for comment. The Contractor representative will have sixty (60) days to submit any comments and re-assign the report to the CO.
- 5.4.5.4. Failure for the Contractor's representative to respond to the evaluation within those sixty (60) days, will result in the Government's evaluation being placed on file in the database with a statement that the Contractor failed to respond; the Contractor's representative will be "locked out" of the evaluation and may no longer send comments.

5.5. GOVERNMENT RESPONSIBILITIES:

5.5.1. CO RESPONSIBILITIES:

CO – _____

- 5.5.1.1. The Contracting Officer is the only person authorized to approve changes or modify any of the requirements of this contract. The Contractor shall communicate with the Contracting Officer on all matters pertaining to contract administration. Only the Contracting Officer is authorized to make commitments or issue any modification to include (but not limited to) terms affecting price, quantity or quality of performance of this contract.
- 5.5.1.2. The Contracting Officer shall resolve complaints concerning Contractor relations with the Government employees or patients. The Contracting Officer is final authority on validating complaints. In the event the Contractor effects any such change at the direction of any person other than the Contracting Officer without authority, no adjustment shall be made in the contract price to cover an increase in costs incurred as a result thereof.

- 5.5.1.3. In the event that contracted services do not meet quality and/or safety expectations, the best remedy will be implemented, to include but not limited to a targeted and time limited performance improvement plan; increased monitoring of the contracted services; consultation or training for Contractor personnel to be provided by the VA; replacement of the contract personnel and/or renegotiation of the contract terms or termination of the contract.

5.5.2. COR Responsibilities:

COR: Dorothy McDougall
MIRECC Administrative Officer
3900 Woodland Ave
Philadelphia, PA 19107

- 5.5.2.1. The COR 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.
- 5.5.2.2. The COR will be responsible for monitoring the Contractor's performance to ensure all specifications and requirements are fulfilled. Quality Improvement data that will be collected for ongoing monitoring includes but is not limited to: enter data that may be collected.
- 5.5.2.3. The COR will maintain a record-keeping system of services by reviewing all submitted bills and supporting documentation for services rendered. Invoices must be submitted no later than the 20th workday of the month after services have been provided. The COR will review this data monthly when invoices are received and certify all invoices for payment by comparing the hours documented on the VA record-keeping system and those on the invoices. Any evidence of the Contractor's non-compliance as evidenced by the monitoring procedures shall be forwarded immediately to the Contracting Officer.
- 5.5.2.4. The COR will review and certify monthly invoices for payment. If in the event the Contractor fails to provide the services in this contract, payments will be adjusted to compensate the Government for the difference.
- 5.5.2.5. All contract administration functions will be retained by the VA.

6. Special Contract Requirements

- 6.1. Reports/Deliverables: The Contractor shall be responsible for complying with all reporting requirements established by the Contract. Contractor shall be responsible for assuring the accuracy and completeness of all reports and other documents as well as the timely submission of each. Contractor shall comply with contract requirements regarding the appropriate reporting formats, instructions, submission timetables, and technical assistance as required.

- 6.1.1. The following are brief descriptions of required documents that must be submitted by Contractor: upon award; weekly; monthly; quarterly; annually, etc. identified throughout the PWS and is provided here as a guide for Contractor convenience. If an item is within the PWS and not listed here, the Contractor remains responsible for the delivery of the item.

What	Submit as noted	Submit To
Quality Assurance Plan: Description and reporting reflecting the contractor's plan for meeting of contract requirements and performance standards	Upon proposal submission and as frequently as indicated in the performance standards.	Contracting Officer
Copies of any and all licenses, board certifications, NPI, to include primary source verification of all licensed and certified staff	Upon proposal and upon renewal of licenses and upon renewal of option periods or change of key personnel.	Contracting Officer
Certification that staff list have been compared to OIG list	Upon proposal and upon new hires.	Contracting Officer
Proof of Indemnification and Medical Liability Insurance	Upon proposal and upon renewals.	Contracting Officer
Certificates of Completion for Cyber Security and Patient Privacy Training Courses	Before receiving an account on VA Network and annual training and new hires.	Contracting Officer
ACLS/BLS Certification	Upon award and every two years after award.	COR
Contingency plan	Upon proposal and as updated	Contracting Officer

6.2. Billing and Invoicing:

- 6.2.1. Invoice requirements and supporting documentation: Supporting documentation and invoice must be submitted no later than the 20th workday of the month. Services shall be invoiced monthly in arrears. Subsequent changes or corrections shall be submitted by separate invoice. In addition to information required for submission of a "proper" invoice in accordance with FAR 52.212-4 (g), all invoices must include:

- 6.2.1.1. Name and Address of Contractor
- 6.2.1.2. Invoice Date and Invoice Number
- 6.2.1.3. Contract Number and Purchase/Task Order Number
- 6.2.1.4. Date of Service
- 6.2.1.5. Contract physician (s) (Name of Contractor's employee)
- 6.2.1.6. Hourly Rate
- 6.2.1.7. Quantity of hours worked
- 6.2.1.8. Total price

6.3. Vendor Electronic Invoice Submission Methods:

Facsimile, e-mail, and scanned documents are not acceptable forms of submission for payment requests. Electronic form means an automated system transmitting information electronically according to the accepted electronic data transmission methods below:

- 6.3.1. VA's Electronic Invoice Presentment and Payment System – The FSC uses a third-party contractor, OB10, to transition vendors from paper to electronic invoice submission. Please go to this website: <http://ob10.com/us/en/veterans-affairs-us/> to begin submitting electronic invoices, free of charge.
- 6.3.2. A system that conforms to the X12 electronic data interchange (EDI) formats established by the Accredited Standards Center (ASC) chartered by the American National Standards Institute (ANSI).
The X12 EDI Web site (<http://www.x12.org>).
- 6.3.3. The Contractor may contact FSC at the phone number or email address listed below with any questions about the e-invoicing program or OB10:
 - 6.3.3.1. OB10 e-Invoice Setup Information: 1-877-489-6135
 - 6.3.3.2. OB10 e-Invoice email: VA.Registration@ob10.com
 - 6.3.3.3. FSC e-Invoice Contact Information: 1-877-353-9791
 - 6.3.3.4. FSC e-invoice email: vafscshd@va.gov

6.4. Payment Adjustments/Performance Related Payment Deductions:

- 6.4.1. Invoices will be prorated for partial days/hours worked. The contractor shall be paid only for actual work performed onsite. If in the event the Contractor fails to provide the services in this contract, payments will be adjusted to compensate the Government for the difference.

6.5. Payments in full/no billing VA beneficiaries: The Contractor shall accept payment for services rendered under this contract as payment in full. VA beneficiaries shall not under any circumstances be charged nor their insurance companies charged for services rendered by the Contractor, even if VA does not pay for those services. This provision shall survive the termination or ending of the contract.

- 6.5.1. To the extent that the Veteran desires services which are not a VA benefit or covered under the terms of this contract, the Contractor must notify the Veteran that there will be a charge for such service and that the VA will not be responsible for payment.

- 6.5.2. The Contractor shall not bill, charge, collect a deposit from, seek compensation, remuneration, or reimbursement from, or have any recourse against, any person or entity other than VA for services provided pursuant to this contract. It shall be considered fraudulent for the Contractor to bill other third party insurance sources (including Medicare) for services rendered to Veteran enrollees under this contract.

6.6. **Prohibition against Self-Referral:** Contract physicians are prohibited from referring VA patients to their own practice(s).

6.7. **CONTRACTOR Security Requirements (Handbook 6500.6)** Contractors, contractor personnel, subcontractors, and subcontractor personnel shall be subject to the same Federal laws, regulations,

standards, and VA Directives and Handbooks as VA and VA personnel regarding information and information system security.

6.8. ACCESS TO VA INFORMATION AND VA INFORMATION SYSTEMS

6.8.1. A contractor/subcontractor shall request logical (technical) or physical access to VA information and VA information systems for their employees, subcontractors, and affiliates only to the extent necessary to perform the services specified in the contract, agreement, or task order.

6.8.1.1. All contractors, subcontractors, and third-party servicers and associates working with VA information are subject to the same investigative requirements as those of VA appointees or employees who have access to the same types of information. The level and process of background security investigations for contractors must be in accordance with VA Directive and Handbook 0710, *Personnel Suitability and Security Program* (https://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1568, and http://www1.va.gov/vhapublications/ViewPublication.asp?pub_ID=1569%20%20). The Office for Operations, Security, and Preparedness is responsible for these policies and procedures.

6.8.1.2. Contract personnel who require access to national security programs must have a valid security clearance. National Industrial Security Program (NISP) was established by Executive Order 12829 to ensure that cleared U.S. defense industry contract personnel safeguard the classified information in their possession while performing work on contracts, programs, bids, or research and development efforts. The Department of Veterans Affairs does not have a Memorandum of Agreement with Defense Security Service (DSS). Verification of a Security Clearance must be processed through the Special Security Officer located in the Planning and National Security Service within the Office of Operations, Security, and Preparedness.

6.8.1.3. Custom software development and outsourced operations must be located in the U.S. to the maximum extent practical. If such services are proposed to be performed abroad and are not disallowed by other VA policy or mandates, the contractor/subcontractor must state where all non-U.S. services are provided and detail a security plan, deemed to be acceptable by VA, specifically to address mitigation of the resulting problems of communication, control, data protection, and so forth. Location within the U.S. may be an evaluation factor.

6.8.1.4. The contractor or subcontractor must notify the Contracting Officer immediately when an employee working on a VA system or with access to VA information is reassigned or leaves the contractor or subcontractor's employ. The Contracting Officer must also be notified immediately by the contractor or subcontractor prior to an unfriendly termination.

6.8.2. VA INFORMATION CUSTODIAL LANGUAGE

6.8.2.1. Information made available to the contractor or subcontractor by VA for the performance or administration of this contract or information developed by the contractor/subcontractor in performance or administration of the contract shall be used only for those purposes and shall not be used in any other way without the prior written agreement of the VA. This clause expressly limits the

contractor/subcontractor's rights to use data as described in Rights in Data - General, FAR 52.227-14(d) (1).

- 6.8.2.2. VA information should not be co-mingled, if possible, with any other data on the contractor/subcontractor's information systems or media storage systems in order to ensure VA requirements related to data protection and media sanitization can be met. If co-mingling must be allowed to meet the requirements of the business need, the contractor must ensure that VA's information is returned to the VA or destroyed in accordance with VA's sanitization requirements. VA reserves the right to conduct on site inspections of contractor and subcontractor IT resources to ensure data security controls, separation of data and job duties, and destruction/media sanitization procedures are in compliance with VA directive requirements.
- 6.8.2.3. Prior to termination or completion of this contract, contractor/subcontractor must not destroy information received from VA, or gathered/created by the contractor in the course of performing this contract without prior written approval by the VA. Any data destruction done on behalf of VA by a contractor/subcontractor must be done in accordance with National Archives and Records Administration (NARA) requirements as outlined in VA Directive 6300, *Records and Information Management*(http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=429&FType=2) and its Handbook 6300.1 *Records Management Procedures* (http://www.va.gov/vapubs/viewPublication.asp?Pub_ID=475&FType=2) applicable VA Records Control Schedules, and VA Handbook 6500.1, *Electronic Media Sanitization* (http://www1.va.gov/vapubs/viewPublication.asp?Pub_ID=416&FType=2). Self-certification by the contractor that the data destruction requirements above have been met must be sent to the VA Contracting Officer within 30 days of termination of the contract.
- 6.8.2.4. The contractor/subcontractor must receive, gather, store, back up, maintain, use, disclose and dispose of VA information only in compliance with the terms of the contract and applicable Federal and VA information confidentiality and security laws, regulations and policies. If Federal or VA information confidentiality and security laws, regulations and policies become applicable to the VA information or information systems after execution of the contract, or if NIST issues or updates applicable FIPS or Special Publications (SP) after execution of this contract, the parties agree to negotiate in good faith to implement the information confidentiality and security laws, regulations and policies in this contract.
- 6.8.2.5. The contractor/subcontractor shall not make copies of VA information except as authorized and necessary to perform the terms of the agreement or to preserve electronic information stored on contractor/subcontractor electronic storage media for restoration in case any electronic equipment or data used by the contractor/subcontractor needs to be restored to an operating state. If copies are made for restoration purposes, after the restoration is complete, the copies must be appropriately destroyed.
- 6.8.2.6. If VA determines that the contractor has violated any of the information confidentiality, privacy, and security provisions of the contract, it shall be sufficient grounds for VA to withhold payment to the contractor or third party or terminate the contract for default or terminate for cause under Federal Acquisition Regulation (FAR) part 12.

- 6.8.2.7. If a VHA contract is terminated for cause, the associated BAA must also be terminated and appropriate actions taken in accordance with VHA Handbook 1600.01, *Business Associate Agreements*. Absent an agreement to use or disclose protected health information, there is no business associate relationship.
- 6.8.2.8. The contractor/subcontractor must store, transport, or transmit VA sensitive information in an encrypted form, using VA-approved encryption tools that are, at a minimum, FIPS 140-2 validated.
- 6.8.2.9. The contractor/subcontractor's firewall and Web services security controls, if applicable, shall meet or exceed VA's minimum requirements. VA Configuration Guidelines are available upon request.
- 6.8.2.10. Except for uses and disclosures of VA information authorized by this contract for performance of the contract, the contractor/subcontractor may use and disclose VA information only in two other situations: (i) in response to a qualifying order of a court of competent jurisdiction, or (ii) with VA's prior written approval. The contractor/subcontractor must refer all requests for, demands for production of, or inquiries about, VA information and information systems to the VA contracting officer for response.
- 6.8.2.11. Notwithstanding the provision above, the contractor/subcontractor shall not release VA records protected by Title 38 U.S.C. 5705, confidentiality of medical quality assurance records and/or Title 38 U.S.C. 7332, confidentiality of certain health records pertaining to drug addiction, sickle cell anemia, alcoholism or alcohol abuse, or infection with human immunodeficiency virus. If the contractor/subcontractor is in receipt of a court order or other requests for the above mentioned information, that contractor/subcontractor shall immediately refer such court orders or other requests to the VA contracting officer for response.
- 6.8.2.12. Per the Handbook 6500.6, Appendix A, the C&A requirements do not apply to this requirement. A Security Accreditation Package is not required.

6.8.3. SECURITY INCIDENT INVESTIGATION

- 6.8.3.1. The term "security incident" means an event that has, or could have, resulted in unauthorized access to, loss or damage to VA assets, or sensitive information, or an action that breaches VA security procedures. The contractor/subcontractor shall immediately notify the COR and simultaneously, the designated ISO and Privacy Officer for the contract of any known or suspected security/privacy incidents, or any unauthorized disclosure of sensitive information, including that contained in system(s) to which the contractor/subcontractor has access.
- 6.8.3.2. To the extent known by the contractor/subcontractor, the contractor/subcontractor's notice to VA shall identify the information involved, the circumstances surrounding the incident (including to whom, how, when, and where the VA information or assets were placed at risk or compromised), and any other information that the contractor/subcontractor considers relevant.
- 6.8.3.3. With respect to unsecured protected health information, the business associate is deemed to have discovered a data breach when the business associate knew or should have known of a breach of such information. Upon discovery, the business associate must notify the covered entity of the breach. Notifications need to be made in accordance with the executed business associate agreement.

- 6.8.3.4. In instances of theft or break-in or other criminal activity, the contractor/subcontractor must concurrently report the incident to the appropriate law enforcement entity (or entities) of jurisdiction, including the VA OIG and Security and Law Enforcement. The contractor, its employees, and its subcontractors and their employees shall cooperate with VA and any law enforcement authority responsible for the investigation and prosecution of any possible criminal law violation(s) associated with any incident. The contractor/subcontractor shall cooperate with VA in any civil litigation to recover VA information, obtain monetary or other compensation from a third party for damages arising from any incident, or obtain injunctive relief against any third party arising from, or related to, the incident.

6.8.4. LIQUIDATED DAMAGES FOR DATA BREACH

- 6.8.4.1. Consistent with the requirements of 38 U.S.C. §5725, a contract may require access to sensitive personal information. If so, the contractor is liable to VA for liquidated damages in the event of a data breach or privacy incident involving any SPI the contractor/subcontractor processes or maintains under this contract.
- 6.8.4.2. The contractor/subcontractor shall provide notice to VA of a “security incident” as set forth in the Security Incident Investigation section above. Upon such notification, VA must secure from a non-Department entity or the VA Office of Inspector General an independent risk analysis of the data breach to determine the level of risk associated with the data breach for the potential misuse of any sensitive personal information involved in the data breach. The term 'data breach' means the loss, theft, or other unauthorized access, or any access other than that incidental to the scope of employment, to data containing sensitive personal information, in electronic or printed form, that results in the potential compromise of the confidentiality or integrity of the data. Contractor shall fully cooperate with the entity performing the risk analysis. Failure to cooperate may be deemed a material breach and grounds for contract termination.
- 6.8.4.3. Each risk analysis shall address all relevant information concerning the data breach, including the following:
- 6.8.4.3.1. Nature of the event (loss, theft, unauthorized access);
 - 6.8.4.3.2. Description of the event, including:
 - 6.8.4.3.2.1. date of occurrence;
 - 6.8.4.3.2.2. data elements involved, including any PII, such as full name, social security number, date of birth, home address, account number, disability code;
 - 6.8.4.3.3. Number of individuals affected or potentially affected;
 - 6.8.4.3.4. Names of individuals or groups affected or potentially affected;
 - 6.8.4.3.5. Ease of logical data access to the lost, stolen or improperly accessed data in light of the degree of protection for the data, e.g., unencrypted, plain text;
 - 6.8.4.3.6. Amount of time the data has been out of VA control;
 - 6.8.4.3.7. The likelihood that the sensitive personal information will or has been compromised (made accessible to and usable by unauthorized persons);
 - 6.8.4.3.8. Known misuses of data containing sensitive personal information, if any;
 - 6.8.4.3.9. Assessment of the potential harm to the affected individuals;

- 6.8.4.3.10. Data breach analysis as outlined in 6500.2 Handbook, Management of Security and Privacy Incidents, as appropriate; and
- 6.8.4.3.11. Whether credit protection services may assist record subjects in avoiding or mitigating the results of identity theft based on the sensitive personal information that may have been compromised.
- 6.8.4.4. Based on the determinations of the independent risk analysis, the contractor shall be responsible for paying to the VA liquidated damages in the amount of \$ 37.50 per affected individual to cover the cost of providing credit protection services to affected individuals consisting of the following:
 - 6.8.4.4.1. Notification;
 - 6.8.4.4.2. One year of credit monitoring services consisting of automatic daily monitoring of at least 3 relevant credit bureau reports;
 - 6.8.4.4.3. Data breach analysis;
 - 6.8.4.4.4. Fraud resolution services, including writing dispute letters, initiating fraud alerts and credit freezes, to assist affected individuals to bring matters to resolution;
 - 6.8.4.4.5. One year of identity theft insurance with \$20,000.00 coverage at \$0 deductible; and
 - 6.8.4.4.6. Necessary legal expenses the subjects may incur to repair falsified or damaged credit records, histories, or financial affairs.

6.8.5. SECURITY CONTROLS COMPLIANCE TESTING

- 6.8.5.1. On a periodic basis, VA, including the Office of Inspector General, reserves the right to evaluate any or all of the security controls and privacy practices implemented by the contractor under the clauses contained within the contract. With 10 working-days' notice, at the request of the government, the contractor must fully cooperate and assist in a government-sponsored security controls assessment at each location wherein VA information is processed or stored, or information systems are developed, operated, maintained, or used on behalf of VA, including those initiated by the Office of Inspector General. The government may conduct a security control assessment on shorter notice (to include unannounced assessments) as determined by VA in the event of a security incident or at any other time.

6.8.6. TRAINING

- 6.8.6.1. All contractor employees and subcontractor employees requiring access to VA information and VA information systems shall complete the following before being granted access to VA information and its systems:
 - 6.8.6.1.1. Sign and acknowledge (either manually or electronically) understanding of and responsibilities for compliance with the *Contractor Rules of Behavior*, Appendix D (see Attachment #2 Contractor Rules of Behavior) relating to access to VA information and information systems;
 - 6.8.6.1.2. Successfully complete the *VA Cyber Security Awareness and Rules of Behavior* training and annually complete required security training;
 - 6.8.6.1.3. Successfully complete the appropriate VA privacy training and annually complete required privacy training; and

- 6.8.6.1.4. Successfully complete any additional cyber security or privacy training, as required for VA personnel with equivalent information system access *[to be defined by the VA program official and provided to the contracting officer for inclusion in the solicitation document – e.g., any role-based information security training required in accordance with NIST Special Publication 800-16, Information Technology Security Training Requirements.]*
- 6.8.6.2. The contractor shall provide to the contracting officer and/or the COR a copy of the training certificates and certification of signing the Contractor Rules of Behavior for each applicable employee within 1 week of the initiation of the contract and annually thereafter, as required.
- 6.8.6.3. Failure to complete the mandatory annual training and sign the Rules of Behavior annually, within the timeframe required, is grounds for suspension or termination of all physical or electronic access privileges and removal from work on the contract until such time as the training and documents are complete.
- 6.8.7. CONTRACTOR SECURITY INVESTIGATION REQUIREMENTS
- 6.8.7.1. All Contractor employees and/or agents who access the Department of Veterans Affairs computer systems or VA sensitive information in order to perform the Contract will be the subject of background investigations. Each Contractor employee and/or agent must receive a favorable adjudication from the VA Law Enforcement Training Center/SIC prior to performing any part of the Contract. If the investigation is not completed prior to the start of the Contract, the Contractor will be responsible for the actions of those individuals they provide to perform work.
- 6.8.7.1.1. Position Sensitivity - The position sensitivity has been designated as **Low Risk** by the COR
- 6.8.7.1.2. Background Investigation - The level of background investigation commensurate with the required level of access is National Agency Check with Written Inquiries
- 6.8.7.1.3. Contractor Responsibilities:
- 6.8.7.1.3.1. The contractor shall bear the expense of obtaining background investigations. If the Office of Personnel Management (OPM) conducts the investigation, the contractor shall reimburse VA within 30 days. If timely payment is not made within 30 days from date of bill for collection, then VA shall deduct the cost incurred from the contractors 1st month's invoice(s) for services rendered.
- 6.8.7.1.3.2. It is imperative for the contractor to provide, at the request of VA, a listing of contractor personnel performing services under the contract in order for the background investigation process to commence. This list will include name (first, middle, last) social security number; date of birth; city, state, and country of birth.
- 6.8.7.1.3.3. The contractor or their employees shall submit a complete background investigation packet. Additional guidance and information in completing the required forms, and examples of the forms, can be found at http://www1.va.gov/VABackground_Investigations/page.cfm?pg=2.
- 6.8.7.1.3.4. The following required forms must be submitted to the VA Office of Security and Law Enforcement **before** contract performance begins:

- 6.8.7.1.3.4.1. Standard Form 85, Questionnaire for Non-Sensitive Positions
- 6.8.7.1.3.4.2. Optional Form 306, Declaration for Federal Employment
- 6.8.7.1.3.4.3. Standard Form 86A (EG), Continuation Sheet for Questionnaire
- 6.8.7.1.3.4.4. Electronic Fingerprint Form
- 6.8.7.1.3.5. Fingerprinting is required with the background investigation. Fingerprinting can be done at the local VA Facility. The Electronic Fingerprint Verification Form must be submitted with the above required forms.
- 6.8.7.1.3.6. The Contractor shall inform the contract employee that when filling out Standard Form 85, that there should be no gaps in employment history. Any gaps in employment history on Standard Form 85 may result in OPM rejecting the documentation for investigation and delay contract performance.
- 6.8.7.1.3.7. The contractor, when notified of an unfavorable determination by the Government, shall withdraw the employee from consideration from working under the contract, and at the request of the VA, submit another employee for consideration.
- 6.8.7.1.3.8. The contractor may utilize a private investigating agency if such agency possesses an OPM and Defense Security Service certification. A Cage Code number must be provided to the VA Office of Security and Law Enforcement. VA Office of Security and Law Enforcement will verify the information and advise the contracting officer whether contractor's access to the computer systems can be authorized.
- 6.8.7.1.3.9. All contractor employees and subcontractors are required to complete VA's Privacy training annually. All Contractor employees and subcontractors requiring access to VA computer network are required to complete Cyber Security training courses annually either on-line or hard copy. Documented proof must be provided to the Contracting Officer.
- 6.8.7.1.3.10. The contractor will notify the COR immediately when their employee(s) no longer require access to VA computer systems.
- 6.8.7.1.4. Government Responsibilities
 - 6.8.7.1.4.1. The contracting officer will request the contractor employee's background investigation by the Office of Security and Law Enforcement.
 - 6.8.7.1.4.2. The Office of Security and Law Enforcement will notify the contractor with instructions for the contractor's employees, coordinate the background investigations, and notify the contracting officer and contractor of the results of the investigations.
 - 6.8.7.1.4.3. The VA facility will pay for requested investigations in advance. A bill for collection will be sent to the contractor to reimburse the VA facility. The contractor will reimburse the VA facility within 30 days. If timely payment is not made within 30 days from date of bill for collection, then VA shall deduct the cost incurred from the contractors 1st month's invoice(s) for services rendered.