



PERFORMANCE WORK STATEMENT (PWS) DEPARTMENT OF VETERANS AFFAIRS

Records Center and Vault (RCV)

**Incineration Services for Paper and Cardboard Waste Containing Veteran
Sensitive Information, Personal Identifiable Information and Personal Health
Information**

Date: January 11, 2018

TAC- TAC-18-49519

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**VA Witnessed Destruction of Paper and Cardboard Waste Containing Veteran
Personal Identifiable Information, and/or Personal Health Information**

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1.0 SCOPE OF WORK

The Department of Veterans Affairs (VA) Records Center and Vault (RCV) seeks contractor services to destroy at least 200 tons, but not more than 330 tons of cardboard and paper-based waste over the next five years by direct hopper-fed incineration, bypassing any pit processing. The materials contain Veteran Personal Identifiable Information (PII) and Personal Health Information (PHI) that is required by agency and federal law to be destroyed beyond reconstruction and readability.

The waste is secured in corrugated fiberboard boxes, shrink-wrapped, and banded to 40" x 48" pallets. The contents include paper documents, trace amounts of electronic/film storage media (CDs, DVDs, microfiche, etc.), and the various folders, envelopes, binders, and cases used to store and protect these types of media.

Incineration shall occur at a Contractor facility that is within 350 miles of the RCV (zip code 64850). Approximately 44 pallets (30 tons) of boxes and their contents shall be destroyed per appointment (8 to 10 hour time-frame). Secure transportation of pallets (via 53-foot tractor trailer) to the incineration site shall be provided by the Government. Services must be witnessed by VA RCV employees, who are tasked with controlling physical access to pallets during unloading and staging, and confirming that all VA pallet contents are placed into the furnace feed chute during the scheduled appointment time-frame.

All contractor resources shall be legally authorized to work in the United States. The Contractor shall be capable of meeting the terms and conditions of a VHA Business Associate Agreement.

2.0 APPLICABLE DOCUMENTS

In the performance of the tasks associated with this Performance Work Statement, the Contractor shall comply with the following:

1. VA Directive 6371, Destruction of Temporary Paper Records, April 8, 2014.
2. VA Directive 6500, Managing Information Security Risk: VA Information Security Program, September 20, 2012.
3. VA Handbook 6500, Risk Management Framework for VA Information Systems – Tier 3: VA Information Security Program, March 10, 2015.
4. VA Directive 6300, Records and Information Management, February 26, 2009.
5. VA Handbook, 6300.1, Records Management Procedures, March 24, 2010.
6. VHA Handbook 1600.1, Business Associate Agreements.
7. VA directive 6502, VA Enterprise Privacy Program, August 2013.

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8. VA Directive 6066, Protected Health Information (PHI) and Business Associate Agreements Management, September 2, 2014.

3.0 PERFORMANCE DETAILS

3.1 PERFORMANCE PERIOD

Specific performance dates will be identified at the order level.

There are ten (10) Federal holidays set by law (USC Title 5 Section 6103) that VA follows:

Under current definitions, four are set by date:

New Year's Day	January 1
Independence Day	July 4
Veterans Day	November 11
Christmas Day	December 25

If any of the above falls on a Saturday, then Friday shall be observed as a holiday. Similarly, if one falls on a Sunday, then Monday shall be observed as a holiday.

The other six are set by a day of the week and month:

Martin Luther King's Birthday	Third Monday in January
Washington's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Thanksgiving	Fourth Thursday in November

3.2 PLACE OF PERFORMANCE

Tasks under this PWS shall be performed at a single facility selected by the Contractor that is within 350 miles (a single day's drive) of the RCV facility located in Neosho, Missouri.

3.3 TRAVEL

Travel is not anticipated and the VA will not reimburse contractor for any travel expenses.

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4.0 SPECIFIC TASKS AND DELIVERABLES

The Contractor shall perform the following. Specific quantities and dates will be detailed at the order level.

1. Receive scheduled 53-foot trailers. Unload contents once VA RCV staff verifies integrity and ID number of the security seal and removes it from the trailer.
2. Incinerate approximately 30 tons (44 pallets) of paper waste per single appointment (8 to 10-hour time-frame) beyond reconstruction and readability without opening or sorting any box contents. Dispose any remaining ash/debris in accordance with VA and federal guidelines, employing “green” disposal methods, whenever possible. Provide VA with a signed certificate of destruction verifying incineration for the contents of each trailer.
3. Immediately notify VA staff witnessing the incineration of any issues that could delay or prevent VA freight carriers from being unloaded and/or all pallet contents from being destroyed as scheduled.
4. Provide a secure, onsite, locked storage area to hold up to 44 pallets in the event an appointment in progress cannot be completed as scheduled. Supply the labor and equipment to transfer pallets between the incineration and storage buildings, and/or reload pallets onto a VA freight trailer to return to the VA point of origin where incinerations services cannot be resumed the next business day.
5. Provide the VA copies (.pdf format) of the following documents for each freight trailer prior to billing VA in arrears for services: a.) **VA Commercial Bill of Lading (VCBL)** signed by contractor acknowledging load delivery; b.) **photocopy of the trailer seal**; c.) **scale house ticket** that includes: the name/address/contact information of the incineration site, contractor name (if different from the incineration site), corresponding VCBL number, carrier arrival and departure dates/weights/times, lbs./tons of waste, freight driver and scale house operator names and signatures; and, d.) **contractor’s signed certificate of destruction**.
6. Provide point of contact with whom the VA establishes incineration appointments, obtains deliverables, resolves contractual discrepancies, etc.
7. If specific dates are not provided at the order level, contractor shall provide VA with a list of available appointment dates to schedule incineration appointments within 48 hours of receipt of order.
8. Provide contact information of the person(s) at the incineration site with whom the VA verifies scheduled appointment status, confirms freight carrier arrivals and unloading status, obtains incineration activity progress reports, etc.

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9. Provide VA staff with visitor badges, safety equipment, etc., required for entry to the incineration site. Provide VA staff with the required permits (stickers, decals, etc.) to utilize the incineration site's monitored parking area that is within 1,500 feet of the facility entrance.

4.1 PROJECT MANAGEMENT

4.1.1 REPORTING REQUIREMENTS

The Contractor shall provide the VA Contracting Officer's Representative (COR) with an Incineration Report, due seven days following or prior to billing the VA for each completed service appointment. The report shall contain an electronic copy (PDFs) of the VCBL signed by contractor acknowledging receipt of each trailer, a photocopy of the trailer security seal, the scale house ticket signed by the freight carrier driver and scale house operator, and contractor's signed Certificate of Destruction for the contents of each trailer.

The Incineration Report shall also identify any problems that arose and a description of how the problems were resolved. If problems have not been completely resolved, the Contractor shall provide an explanation including their planned time-frame for resolving the issue(s). It is expected that the Contractor will keep in communication with VA accordingly so that issues that arise are transparent to both parties, and to prevent escalation of outstanding issues.

Deliverable(s):

- A. Destruction Report delivered to the VA Contracting Officer and COR within seven days after the conclusion of each scheduled appointment.

5.0 GENERAL REQUIREMENTS

5.1 ENTERPRISE AND IT FRAMEWORK

N/A.

5.2 SECURITY AND PRIVACY REQUIREMENTS

It has been determined that protected health information may be disclosed and a signed Business Associate Agreement (BAA) shall be required. The Contractor shall adhere to the requirements set forth within the BAA, referenced in Section D of the contract, and shall comply with VA Directive 6066.

5.2.1 POSITION/TASK RISK DESIGNATION LEVEL(S)

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VA RCV employees will witness the incineration of all waste containing sensitive information at the Contractor's facility.

5.2.2 CONTRACTOR PERSONNEL SECURITY REQUIREMENTS

N/A.

5.3 METHOD AND DISTRIBUTION OF DELIVERABLES

The Contractor shall deliver documentation in electronic format, unless otherwise directed in Section B of the solicitation/contract. Acceptable electronic media include: MS Word 2000/2003/2007/2010, MS Excel 2000/2003/2007/2010, MS PowerPoint 2000/2003/2007/2010, MS Project 2000/2003/2007/2010, MS Access 2000/2003/2007/2010, MS Visio 2000/2002/2003/2007/2010, AutoCAD 2002/2004/2007/2010, and Adobe Postscript Data Format (PDF).

5.4 PERFORMANCE METRICS

The table below defines the Performance Standards and Acceptable Levels of Performance associated with this effort.

Performance Objective	Performance Standard	Acceptable Levels of Performance
A. Technical / Quality of Product or Service	<ol style="list-style-type: none">1. Demonstrates understanding of requirements2. Efficient and effective in meeting requirements3. Meets technical needs and mission requirements4. Provides quality services/products	Satisfactory or higher
B. Project Milestones and Schedule	<ol style="list-style-type: none">1. Established milestones and project dates are met2. Products completed, reviewed, delivered in accordance with the established schedule3. Notifies customer in advance of potential problems	Satisfactory or higher

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C. Cost & Staffing	<ol style="list-style-type: none">1. Currency of expertise and staffing levels appropriate2. Personnel possess necessary knowledge, skills and abilities to perform tasks	Satisfactory or higher
D. Management	<ol style="list-style-type: none">1. Integration and coordination of all activities to execute effort	Satisfactory or higher

The COR will utilize a Quality Assurance Surveillance Plan (QASP) throughout the life of the contract to ensure that the Contractor is performing the services required by this PWS in an acceptable level of performance. The Government reserves the right to alter or change the surveillance methods in the QASP at its own discretion. A Performance Based Service Assessment Survey will be used in combination with the QASP to assist the Government in determining acceptable performance levels. The COR will determine if the performance of the Contractor is below a metric standard and deem it unacceptable. The COR will then notify the Contracting Officer.

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ADDENDUM B – VA INFORMATION AND INFORMATION SYSTEM SECURITY/PRIVACY LANGUAGE

APPLICABLE PARAGRAPHS TAILORED FROM: *THE VA INFORMATION AND INFORMATION SYSTEM SECURITY/PRIVACY LANGUAGE, VA HANDBOOK 6500.6, APPENDIX C, MARCH 12, 2010*

B1. GENERAL

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.

B2. ACCESS TO VA INFORMATION AND VA INFORMATION SYSTEMS

a. 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.

b. 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*. The Office for Operations, Security, and Preparedness is responsible for these policies and procedures.

c. 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.

d. 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 (e.g. Business Associate Agreement, Section 3G), the Contractor/Subcontractor must state where all non-U.S. services are provided and detail a security plan, deemed to be acceptable by VA,

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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.

e. The Contractor or Subcontractor must notify the CO 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 CO must also be notified immediately by the Contractor or Subcontractor prior to an unfriendly termination.

B3. VA INFORMATION CUSTODIAL LANGUAGE

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 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).

2. VA information should not be co-mingled, if possible, with any other data on the Contractors/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 information is returned to 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.

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 VA. Any data destruction done on behalf of VA by a Contractor/Subcontractor must be done in accordance with National Archives and Records Administration (NARA) requirements as outlined in VA Directive 6300, *Records and Information Management* and its Handbook 6300.1 *Records Management Procedures*, applicable VA Records Control Schedules, and VA Handbook 6500.1, *Electronic Media Sanitization*. Self-certification by the Contractor that the data destruction requirements above have been met must be sent to the VA CO within 30 days of termination of the contract.

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 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

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faith to implement the information confidentiality and security laws, regulations and policies in this contract.

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. 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.

7. If a VHA contract is terminated for cause, the associated Business Associate Agreement (BAA) must also be terminated and appropriate actions taken in accordance with VHA Handbook 1600.05, *Business Associate Agreements*. Absent an agreement to use or disclose protected health information, there is no business associate relationship.

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.

9. The Contractor/Subcontractor's firewall and Web services security controls, if applicable, shall meet or exceed VA minimum requirements. VA Configuration Guidelines are available upon request.

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 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 CO for response.

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 CO for response.

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12. For service that involves the storage, generating, transmitting, or exchanging of VA sensitive information but does not require Assessment and Authorization (A&A) or a Memorandum of Understanding-Interconnection Security Agreement (MOU-ISA) for system interconnection, the Contractor/Subcontractor must complete a Contractor Security Control Assessment (CSCA) on a yearly basis and provide it to the COR.

B4. INFORMATION SYSTEM DESIGN AND DEVELOPMENT

N/A.

B5. INFORMATION SYSTEM HOSTING, OPERATION, MAINTENANCE, OR USE

N/A.

B6. SECURITY INCIDENT INVESTIGATION

a. 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.

b. 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.

c. 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.

d. 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

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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.

B7. LIQUIDATED DAMAGES FOR DATA BREACH

a. 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. However, it is the policy of VA to forgo collection of liquidated damages in the event the Contractor provides payment of actual damages in an amount determined to be adequate by the agency.

b. 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.

c. Each risk analysis shall address all relevant information concerning the data breach, including the following:

- 1) Nature of the event (loss, theft, unauthorized access);
- 2) Description of the event, including:
 - a) date of occurrence;
 - b) data elements involved, including any PII, such as full name, social security number, date of birth, home address, account number, disability code;
- 3) Number of individuals affected or potentially affected;
- 4) Names of individuals or groups affected or potentially affected;
- 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;

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- 6) Amount of time the data has been out of VA control;
- 7) The likelihood that the sensitive personal information will or has been compromised (made accessible to and usable by unauthorized persons);
- 8) Known misuses of data containing sensitive personal information, if any;
- 9) Assessment of the potential harm to the affected individuals;
- 10) Data breach analysis as outlined in 6500.2 Handbook, *Management of Breaches Involving Sensitive Personal Information*, as appropriate; and
- 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.

d. Based on the determinations of the independent risk analysis, the Contractor shall be responsible for paying to 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:

- 1) Notification;
- 2) One year of credit monitoring services consisting of automatic daily monitoring of at least 3 relevant credit bureau reports;
- 3) Data breach analysis;
- 4) Fraud resolution services, including writing dispute letters, initiating fraud alerts and credit freezes, to assist affected individuals to bring matters to resolution;
- 5) One year of identity theft insurance with \$20,000.00 coverage at \$0 deductible; and
- 6) Necessary legal expenses the subjects may incur to repair falsified or damaged credit records, histories, or financial affairs.

B8. SECURITY CONTROLS COMPLIANCE TESTING

N/A.

B9. TRAINING

N/A.