



01290 - Rental Clerk	15.82
01300 - Scheduler Maintenance	14.60
01311 - Secretary I	14.60
01312 - Secretary II	16.33
01313 - Secretary III	18.21
01320 - Service Order Dispatcher	18.65
01410 - Supply Technician	20.89
01420 - Survey Worker	14.71
01460 - Switchboard Operator/Receptionist	12.33
01531 - Travel Clerk I	12.58
01532 - Travel Clerk II	13.25
01533 - Travel Clerk III	14.27
01611 - Word Processor I	13.35
01612 - Word Processor II	14.99
01613 - Word Processor III	16.77
05000 - Automotive Service Occupations	
05005 - Automobile Body Repairer Fiberglass	20.95
05010 - Automotive Electrician	19.91
05040 - Automotive Glass Installer	19.06
05070 - Automotive Worker	19.06
05110 - Mobile Equipment Servicer	16.98
05130 - Motor Equipment Metal Mechanic	20.95
05160 - Motor Equipment Metal Worker	19.06
05190 - Motor Vehicle Mechanic	21.18
05220 - Motor Vehicle Mechanic Helper	15.92
05250 - Motor Vehicle Upholstery Worker	18.02
05280 - Motor Vehicle Wrecker	19.06
05310 - Painter Automotive	19.91
05340 - Radiator Repair Specialist	19.06
05370 - Tire Repairer	15.62
05400 - Transmission Repair Specialist	20.95
07000 - Food Preparation And Service Occupations	
07010 - Baker	12.88
07041 - Cook I	10.87
07042 - Cook II	12.42
07070 - Dishwasher	8.86
07130 - Food Service Worker	9.44
07210 - Meat Cutter	15.74
07260 - Waiter/Waitress	8.81
09000 - Furniture Maintenance And Repair Occupations	
09010 - Electrostatic Spray Painter	19.62
09040 - Furniture Handler	13.91
09080 - Furniture Refinisher	19.62
09090 - Furniture Refinisher Helper	15.84
09110 - Furniture Repairer Minor	17.89
09130 - Upholsterer	19.62
11000 - General Services And Support Occupations	
11030 - Cleaner Vehicles	13.72
11060 - Elevator Operator	11.45
11090 - Gardener	16.42
11122 - Housekeeping Aide	11.45
11150 - Janitor	11.45
11210 - Laborer Grounds Maintenance	12.85
11240 - Maid or Houseman	10.15
11260 - Pruner	11.66
11270 - Tractor Operator	15.23
11330 - Trail Maintenance Worker	12.85
11360 - Window Cleaner	12.62
12000 - Health Occupations	
12010 - Ambulance Driver	16.19
12011 - Breath Alcohol Technician	17.23
12012 - Certified Occupational Therapist Assistant	25.49
12015 - Certified Physical Therapist Assistant	27.77
12020 - Dental Assistant	16.85
12025 - Dental Hygienist	36.12

12030 - EKG Technician	25.59
12035 - Electroneurodiagnostic Technologist	25.59
12040 - Emergency Medical Technician	16.19
12071 - Licensed Practical Nurse I	15.40
12072 - Licensed Practical Nurse II	17.23
12073 - Licensed Practical Nurse III	19.20
12100 - Medical Assistant	13.59
12130 - Medical Laboratory Technician	20.46
12160 - Medical Record Clerk	14.84
12190 - Medical Record Technician	16.60
12195 - Medical Transcriptionist	15.10
12210 - Nuclear Medicine Technologist	37.10
12221 - Nursing Assistant I	11.52
12222 - Nursing Assistant II	12.96
12223 - Nursing Assistant III	14.14
12224 - Nursing Assistant IV	15.87
12235 - Optical Dispenser	14.42
12236 - Optical Technician	15.42
12250 - Pharmacy Technician	14.75
12280 - Phlebotomist	15.87
12305 - Radiologic Technologist	24.73
12311 - Registered Nurse I	21.92
12312 - Registered Nurse II	26.82
12313 - Registered Nurse II Specialist	26.82
12314 - Registered Nurse III	32.44
12315 - Registered Nurse III Anesthetist	32.44
12316 - Registered Nurse IV	38.89
12317 - Scheduler (Drug and Alcohol Testing)	21.33
12320 - Substance Abuse Treatment Counselor	20.05
13000 - Information And Arts Occupations	
13011 - Exhibits Specialist I	17.44
13012 - Exhibits Specialist II	21.59
13013 - Exhibits Specialist III	26.42
13041 - Illustrator I	17.44
13042 - Illustrator II	21.59
13043 - Illustrator III	26.42
13047 - Librarian	23.91
13050 - Library Aide/Clerk	12.63
13054 - Library Information Technology Systems Administrator	19.64
13058 - Library Technician	14.40
13061 - Media Specialist I	16.19
13062 - Media Specialist II	18.05
13063 - Media Specialist III	20.13
13071 - Photographer I	14.77
13072 - Photographer II	16.52
13073 - Photographer III	20.46
13074 - Photographer IV	25.04
13075 - Photographer V	30.29
13090 - Technical Order Library Clerk	15.74
13110 - Video Teleconference Technician	15.59
14000 - Information Technology Occupations	
14041 - Computer Operator I	17.92
14042 - Computer Operator II	18.33
14043 - Computer Operator III	21.46
14044 - Computer Operator IV	23.01
14045 - Computer Operator V	25.46
14071 - Computer Programmer I	(see 1) 22.75
14072 - Computer Programmer II	(see 1) 25.78
14073 - Computer Programmer III	(see 1)
14074 - Computer Programmer IV	(see 1)
14101 - Computer Systems Analyst I	(see 1)
14102 - Computer Systems Analyst II	(see 1)
14103 - Computer Systems Analyst III	(see 1)
14150 - Peripheral Equipment Operator	17.92

14160 - Personal Computer Support Technician	24.04
14170 - System Support Specialist	25.81
15000 - Instructional Occupations	
15010 - Aircrew Training Devices Instructor (Non-Rated)	28.83
15020 - Aircrew Training Devices Instructor (Rated)	34.88
15030 - Air Crew Training Devices Instructor (Pilot)	40.94
15050 - Computer Based Training Specialist / Instructor	28.83
15060 - Educational Technologist	29.42
15070 - Flight Instructor (Pilot)	40.94
15080 - Graphic Artist	21.79
15085 - Maintenance Test Pilot Fixed Jet/Prop	40.94
15086 - Maintenance Test Pilot Rotary Wing	40.94
15088 - Non-Maintenance Test/Co-Pilot	40.94
15090 - Technical Instructor	18.19
15095 - Technical Instructor/Course Developer	22.26
15110 - Test Proctor	14.69
15120 - Tutor	14.69
16000 - Laundry Dry-Cleaning Pressing And Related Occupations	
16010 - Assembler	9.56
16030 - Counter Attendant	9.56
16040 - Dry Cleaner	12.08
16070 - Finisher Flatwork Machine	9.56
16090 - Presser Hand	9.56
16110 - Presser Machine Drycleaning	9.56
16130 - Presser Machine Shirts	9.56
16160 - Presser Machine Wearing Apparel Laundry	9.56
16190 - Sewing Machine Operator	12.84
16220 - Tailor	13.60
16250 - Washer Machine	10.39
19000 - Machine Tool Operation And Repair Occupations	
19010 - Machine-Tool Operator (Tool Room)	22.95
19040 - Tool And Die Maker	29.95
21000 - Materials Handling And Packing Occupations	
21020 - Forklift Operator	16.55
21030 - Material Coordinator	22.26
21040 - Material Expediter	22.26
21050 - Material Handling Laborer	14.92
21071 - Order Filler	12.00
21080 - Production Line Worker (Food Processing)	16.55
21110 - Shipping Packer	16.54
21130 - Shipping/Receiving Clerk	16.54
21140 - Store Worker I	15.76
21150 - Stock Clerk	20.20
21210 - Tools And Parts Attendant	16.55
21410 - Warehouse Specialist	16.55
23000 - Mechanics And Maintenance And Repair Occupations	
23010 - Aerospace Structural Welder	26.13
23019 - Aircraft Logs and Records Technician	21.15
23021 - Aircraft Mechanic I	24.98
23022 - Aircraft Mechanic II	26.13
23023 - Aircraft Mechanic III	27.21
23040 - Aircraft Mechanic Helper	18.46
23050 - Aircraft Painter	23.83
23060 - Aircraft Servicer	21.15
23070 - Aircraft Survival Flight Equipment Technician	23.83
23080 - Aircraft Worker	22.51
23091 - Aircrew Life Support Equipment (ALSE) Mechanic I	22.51
23092 - Aircrew Life Support Equipment (ALSE) Mechanic II	24.98
23110 - Appliance Mechanic	21.51
23120 - Bicycle Repairer	18.23
23125 - Cable Splicer	35.25
23130 - Carpenter Maintenance	19.62
23140 - Carpet Layer	20.48

23160 - Electrician Maintenance	23.88
23181 - Electronics Technician Maintenance I	26.74
23182 - Electronics Technician Maintenance II	28.07
23183 - Electronics Technician Maintenance III	32.41
23260 - Fabric Worker	19.36
23290 - Fire Alarm System Mechanic	22.55
23310 - Fire Extinguisher Repairer	18.23
23311 - Fuel Distribution System Mechanic	25.66
23312 - Fuel Distribution System Operator	21.12
23370 - General Maintenance Worker	18.69
23380 - Ground Support Equipment Mechanic	24.98
23381 - Ground Support Equipment Servicer	21.15
23382 - Ground Support Equipment Worker	22.51
23391 - Gunsmith I	18.23
23392 - Gunsmith II	20.51
23393 - Gunsmith III	22.76
23410 - Heating Ventilation And Air-Conditioning Mechanic	20.58
23411 - Heating Ventilation And Air Contidioning Mechanic (Research Facility)	21.53
23430 - Heavy Equipment Mechanic	21.52
23440 - Heavy Equipment Operator	20.58
23460 - Instrument Mechanic	22.76
23465 - Laboratory/Shelter Mechanic	21.71
23470 - Laborer	14.92
23510 - Locksmith	21.71
23530 - Machinery Maintenance Mechanic	21.98
23550 - Machinist Maintenance	20.58
23580 - Maintenance Trades Helper	15.77
23591 - Metrology Technician I	22.76
23592 - Metrology Technician II	23.81
23593 - Metrology Technician III	24.76
23640 - Millwright	22.55
23710 - Office Appliance Repairer	21.51
23760 - Painter Maintenance	18.96
23790 - Pipefitter Maintenance	22.34
23810 - Plumber Maintenance	21.25
23820 - Pneudraulic Systems Mechanic	22.76
23850 - Rigger	22.76
23870 - Scale Mechanic	20.51
23890 - Sheet-Metal Worker Maintenance	21.95
23910 - Small Engine Mechanic	18.92
23931 - Telecommunications Mechanic I	26.40
23932 - Telecommunications Mechanic II	27.73
23950 - Telephone Lineman	29.13
23960 - Welder Combination Maintenance	19.95
23965 - Well Driller	24.81
23970 - Woodcraft Worker	22.76
23980 - Woodworker	18.23
24000 - Personal Needs Occupations	
24550 - Case Manager	15.40
24570 - Child Care Attendant	11.22
24580 - Child Care Center Clerk	14.03
24610 - Chore Aide	10.39
24620 - Family Readiness And Support Services Coordinator	15.40
24630 - Homemaker	16.25
25000 - Plant And System Operations Occupations	
25010 - Boiler Tender	23.45
25040 - Sewage Plant Operator	23.96
25070 - Stationary Engineer	25.22
25190 - Ventilation Equipment Tender	17.15
25210 - Water Treatment Plant Operator	20.86
27000 - Protective Service Occupations	
27004 - Alarm Monitor	16.74

27007 - Baggage Inspector	14.15
27008 - Corrections Officer	15.77
27010 - Court Security Officer	17.04
27030 - Detection Dog Handler	17.18
27040 - Detention Officer	15.77
27070 - Firefighter	17.61
27101 - Guard I	14.15
27102 - Guard II	17.18
27131 - Police Officer I	19.25
27132 - Police Officer II	21.39
28000 - Recreation Occupations	
28041 - Carnival Equipment Operator	11.55
28042 - Carnival Equipment Repairer	12.46
28043 - Carnival Worker	9.29
28210 - Gate Attendant/Gate Tender	14.32
28310 - Lifeguard	10.82
28350 - Park Attendant (Aide)	16.01
28510 - Recreation Aide/Health Facility Attendant	11.69
28515 - Recreation Specialist	19.85
28630 - Sports Official	12.76
28690 - Swimming Pool Operator	15.81
29000 - Stevedoring/Longshoremen Occupational Services	
29010 - Blocker And Bracer	22.53
29020 - Hatch Tender	22.53
29030 - Line Handler	22.53
29041 - Stevedore I	21.30
29042 - Stevedore II	23.66
30000 - Technical Occupations	
30010 - Air Traffic Control Specialist Center (HFO) (see 2)	39.09
30011 - Air Traffic Control Specialist Station (HFO) (see 2)	26.95
30012 - Air Traffic Control Specialist Terminal (HFO) (see 2)	29.68
30021 - Archeological Technician I	17.30
30022 - Archeological Technician II	18.10
30023 - Archeological Technician III	22.43
30030 - Cartographic Technician	22.43
30040 - Civil Engineering Technician	19.93
30051 - Cryogenic Technician I	23.93
30052 - Cryogenic Technician II	26.43
30061 - Drafter/CAD Operator I	16.18
30062 - Drafter/CAD Operator II	18.10
30063 - Drafter/CAD Operator III	20.18
30064 - Drafter/CAD Operator IV	24.83
30081 - Engineering Technician I	16.25
30082 - Engineering Technician II	18.25
30083 - Engineering Technician III	22.54
30084 - Engineering Technician IV	24.66
30085 - Engineering Technician V	33.08
30086 - Engineering Technician VI	40.00
30090 - Environmental Technician	22.43
30095 - Evidence Control Specialist	21.60
30210 - Laboratory Technician	23.32
30221 - Latent Fingerprint Technician I	23.93
30222 - Latent Fingerprint Technician II	26.43
30240 - Mathematical Technician	23.48
30361 - Paralegal/Legal Assistant I	18.18
30362 - Paralegal/Legal Assistant II	23.48
30363 - Paralegal/Legal Assistant III	28.72
30364 - Paralegal/Legal Assistant IV	33.95
30375 - Petroleum Supply Specialist	26.43
30390 - Photo-Optics Technician	23.48
30395 - Radiation Control Technician	26.43
30461 - Technical Writer I	21.97
30462 - Technical Writer II	26.88
30463 - Technical Writer III	32.52
30491 - Unexploded Ordnance (UXO) Technician I	24.85

30492 - Unexploded Ordnance (UXO) Technician II	30.06
30493 - Unexploded Ordnance (UXO) Technician III	36.03
30494 - Unexploded (UXO) Safety Escort	24.85
30495 - Unexploded (UXO) Sweep Personnel	24.85
30501 - Weather Forecaster I	23.93
30502 - Weather Forecaster II	29.10
30620 - Weather Observer Combined Upper Air Or Surface Programs	(see 2) 20.18
30621 - Weather Observer Senior	(see 2) 22.43
31000 - Transportation/Mobile Equipment Operation Occupations	
31010 - Airplane Pilot	30.06
31020 - Bus Aide	14.37
31030 - Bus Driver	18.48
31043 - Driver Courier	13.30
31260 - Parking and Lot Attendant	12.23
31290 - Shuttle Bus Driver	14.34
31310 - Taxi Driver	12.62
31361 - Truckdriver Light	14.34
31362 - Truckdriver Medium	15.40
31363 - Truckdriver Heavy	19.56
31364 - Truckdriver Tractor-Trailer	19.56
99000 - Miscellaneous Occupations	
99020 - Cabin Safety Specialist	14.66
99030 - Cashier	9.34
99050 - Desk Clerk	9.36
99095 - Embalmer	27.40
99130 - Flight Follower	24.85
99251 - Laboratory Animal Caretaker I	13.13
99252 - Laboratory Animal Caretaker II	13.89
99260 - Marketing Analyst	27.64
99310 - Mortician	27.40
99410 - Pest Controller	20.55
99510 - Photofinishing Worker	14.01
99710 - Recycling Laborer	15.99
99711 - Recycling Specialist	18.44
99730 - Refuse Collector	14.69
99810 - Sales Clerk	11.90
99820 - School Crossing Guard	13.75
99830 - Survey Party Chief	20.22
99831 - Surveying Aide	12.47
99832 - Surveying Technician	17.11
99840 - Vending Machine Attendant	17.71
99841 - Vending Machine Repairer	21.04
99842 - Vending Machine Repairer Helper	17.71

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Note: Executive Order (EO) 13706 Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Service Contract Act for which the contract is awarded (and any solicitation was issued) on or after January 1 2017. If this contract is covered by the EO the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness injury or other health-related needs including preventive care; to assist a family member (or person who is like family to the employee) who is ill injured or has other health-related needs including preventive care; or for reasons resulting from or to assist a family member (or person who is like family to the employee) who is the victim of domestic violence sexual assault or

stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: Life accident and health insurance plans sick leave pension plans civic and personal leave severance pay and savings and thrift plans. Minimum employer contributions costing an average of \$4.54 per hour computed on the basis of all hours worked by service employees employed on the contract.

HEALTH & WELFARE EO 13706: Minimum employer contributions costing an average of \$4.22 per hour computed on the basis of all hours worked by service employees employed on the covered contracts. \*

\*This rate is to be used only when compensating employees for performance on an SCA-covered contract also covered by EO 13706 Establishing Paid Sick Leave for Federal Contractors. A contractor may not receive credit toward its SCA obligations for any paid sick leave provided pursuant to EO 13706.

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 10 years and 4 after 20 years. Length of service includes the whole span of continuous service with the present contractor or successor wherever employed and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of eleven paid holidays per year: New Year's Day Martin Luther King Jr's Birthday Washington's Birthday Good Friday Memorial Day Independence Day Labor Day Columbus Day Veterans' Day Thanksgiving Day and Christmas Day. A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

THE OCCUPATIONS WHICH HAVE NUMBERED FOOTNOTES IN PARENTHESES RECEIVE THE FOLLOWING:

1) COMPUTER EMPLOYEES: Under the SCA at section 8(b) this wage determination does not apply to any employee who individually qualifies as a bona fide executive administrative or professional employee as defined in 29 C.F.R. Part 541. Because most Computer System Analysts and Computer Programmers who are compensated at a rate not less than \$27.63 (or on a salary or fee basis at a rate not less than \$455 per week) an hour would likely qualify as exempt computer professionals (29 C.F.R. 541.400) wage rates may not be listed on this wage determination for all occupations within those job families. In addition because this wage determination may not list a wage rate for some or all occupations within those job families if the survey data indicates that the prevailing wage rate for the occupation equals or exceeds \$27.63 per hour conformances may be necessary for certain nonexempt employees. For



example if an individual employee is nonexempt but nevertheless performs duties within the scope of one of the Computer Systems Analyst or Computer Programmer occupations for which this wage determination does not specify an SCA wage rate then the wage rate for that employee must be conformed in accordance with the conformance procedures described in the conformance note included on this wage determination.

Additionally because job titles vary widely and change quickly in the computer industry job titles are not determinative of the application of the computer professional exemption. Therefore the exemption applies only to computer employees who satisfy the compensation requirements and whose primary duty consists of:

(1) The application of systems analysis techniques and procedures including consulting with users to determine hardware software or system functional specifications;

(2) The design development documentation analysis creation testing or modification of computer systems or programs including prototypes based on and related to user or system design specifications;

(3) The design documentation testing creation or modification of computer programs related to machine operating systems; or

(4) A combination of the aforementioned duties the performance of which requires the same level of skills. (29 C.F.R. 541.400).

2) AIR TRAFFIC CONTROLLERS AND WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

**\*\* HAZARDOUS PAY DIFFERENTIAL \*\***

An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance explosives and incendiary materials. This includes work such as screening blending dying mixing and pressing of sensitive ordnance explosives and pyrotechnic compositions such as lead azide black powder and photoflash powder.

All dry-house activities involving propellants or explosives. Demilitarization modification renovation demolition and maintenance operations on sensitive ordnance explosives and incendiary materials. All operations involving re-grading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with or in close proximity to ordnance (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands face or arms of the employee engaged in the operation irritation of the skin minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All

operations involving unloading storage and hauling of ordnance explosive and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance explosives and incendiary material differential pay.

**\*\* UNIFORM ALLOWANCE \*\***

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract by the employer by the state or local law etc.) the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition where uniform cleaning and maintenance is made the responsibility of the employee all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount or the furnishing of contrary affirmative proof as to the actual cost) reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However in those instances where the uniforms furnished are made of "wash and wear" materials may be routinely washed and dried with other personal garments and do not require any special treatment such as dry cleaning daily washing or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract by the contractor by law or by the nature of the work there is no requirement that employees be reimbursed for uniform maintenance costs.

**\*\* SERVICE CONTRACT ACT DIRECTORY OF OCCUPATIONS \*\***

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations" Fifth Edition (Revision 1) dated September 2015 unless otherwise indicated.

**\*\* REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE Standard Form 1444 (SF-1444) \*\***

**Conformance Process:**

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e. the work to be performed is not performed by any classification listed in the wage determination) be classified by the contractor so as to provide a reasonable relationship (i.e. appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination (See 29 CFR 4.6(b)(2)(i)). Such conforming procedures shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees

(See 29 CFR 4.6(b)(2)(ii)). The Wage and Hour Division shall make a final determination of conformed classification wage rate and/or fringe benefits which shall be paid to all employees performing in the classification from the first day of work on which contract work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or fully determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract. (See 29 CFR 4.6(b)(2)(v)). When multiple wage determinations are included in a contract a separate SF-1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
  
- 2) After contract award the contractor prepares a written report listing in order the proposed classification title(s) a Federal grade equivalency (FGE) for each proposed classification(s) job description(s) and rationale for proposed wage rate(s) including information regarding the agreement or disagreement of the authorized representative of the employees involved or where there is no authorized representative the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
  
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action together with the agency's recommendations and pertinent information including the position of the contractor and the employees to the U.S. Department of Labor Wage and Hour Division for review (See 29 CFR 4.6(b)(2)(ii)).
  
- 4) Within 30 days of receipt the Wage and Hour Division approves modifies or disapproves the action via transmittal to the agency contracting officer or notifies the contracting officer that additional time will be required to process the request.
  
- 5) The contracting officer transmits the Wage and Hour Division's decision to the contractor.
  
- 6) Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination (See 29 CFR 4.6(b)(2)(iii)).

Information required by the Regulations must be submitted on SF-1444 or bond paper.

When preparing a conformance request the ""Service Contract Act Directory of Occupations"" should be used to compare job definitions to ensure that duties requested are not performed by a classification already listed in the wage

determination. Remember it is not the job title but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split combine or subdivide classifications listed in the wage determination (See 29 CFR 4.152(c)(1))."

## **TITLE 29--LABOR**

### **PART 4 LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS--Table of Contents**

#### Subpart A Service Contract Labor Standards Provisions and Procedures

Sec. 4.6 Labor standards clauses for Federal service contracts exceeding [REDACTED].

The clauses set forth in the following paragraphs shall be included in full by the contracting agency in every contract/Inter-Governmental Service Agreement (IGSA) entered into by the United States or the District of Columbia, in excess of [REDACTED], or in an indefinite amount, the principal purpose of which is to furnish services through the use of service employees:

(a) Service Contract Act of 1965, as amended: This contract/IGSA is subject to the Service Contract Act of 1965 as amended (41 U.S.C. 351 et seq.) and is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor issued there under (29 CFR part 4).

(b)(1) Each service employee employed in the performance of this Contract/IGSA by the contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If there is such a wage determination attached to this Contract/IGSA, the contracting officer shall require that any class of service employee which is not listed therein and which is to be employed under the Contract/IGSA (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this section.

(ii) Such conforming procedure shall be initiated by the contractor prior to the performance of contract/IGSA work by such unlisted class of employee. A written report of the proposed conforming action, including information regarding the agreement or disagreement of the authorized representative of the employees involved or, where there is no authorized representative, the employees themselves, shall be submitted by the contractor to the contracting officer no later than 30 days after such unlisted class of employees performs any Contract/IGSA work. The contracting officer shall review the proposed action and promptly submit a report of the action, together with the agency's recommendation and all pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the contracting officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the contracting officer who shall promptly notify the contractor of the action taken. Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bears a reasonable relationship to those listed in a wage determination cannot be [[Page 41]] reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices, which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a Contract/IGSA modification, an exercise of an option or extension of an existing contract, or in any other case where a contractor succeeds a Contract/IGSA under which the classification in question was previously conformed pursuant to this section, a new conformed wage rate and fringe benefits may be assigned to such conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the Contract/IGSA which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of Contract/IGSA work by the unlisted class of employees, the contractor shall advise the contracting officer of the action taken but the other procedures in paragraph (b) (2) (ii) of this section need not be followed.

(C) No employee engaged in performing work on this Contract/IGSA shall in any event be paid less than the currently applicable minimum wage specified under section 6(a) (1) of the Fair Labor Standards Act of 1938, as amended. (v) The wage rate and fringe benefits finally determined pursuant to paragraphs (b)(2)(i) and (ii) of this section shall be paid to all employees performing in the classification from the first day on which Contract/IGSA work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced Contract/IGSA work shall be a violation of the Act and this contract.(vi) Upon discovery of failure to comply with paragraphs (b)(2)(i) through (v) of this section, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class of employees commenced Contract/IGSA work.

(3) If, as authorized pursuant to section 4(d) of the Service Contract Act of 1965 as amended, the term of this Contract/IGSA is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished there under to service employees shall be subject to adjustment after 1 year and not less often than once every 2 years, pursuant to wage

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determinations to be issued by the Wage and Hour Division, Employment Standards Administration of the Department of Labor as provided in such Act.

(c) The contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of bona fide fringe benefits, or by making equivalent or differential payments in cash in accordance with the applicable rules set forth in subpart D of 29 CFR part 4, and not otherwise.

(d)(1) In the absence of a minimum wage attachment for this contract, neither the contractor nor any subcontractor under this Contract/IGSA shall pay any person performing work under the Contract/IGSA (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this provision shall relieve the contractor or any subcontractor of any other obligation under [[Page 42]] law or Contract/IGSA for the payment of a higher wage to any employee.

(2) If this Contract/IGSA succeeds a contract, subject to the Service Contract Act of 1965 as amended, under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this Contract/IGSA setting forth such collectively bargained wage rates and fringe benefits, neither the contractor nor any subcontractor under this Contract/IGSA shall pay any service employee performing any of the Contract/IGSA work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreements, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No contractor or subcontractor under this Contract/IGSA may be relieved of the foregoing obligation unless the limitations of Sec. 4.1b(b) of 29 CFR part 4 apply or unless the Secretary of Labor or his authorized representative finds, after a hearing as provided in Sec. 4.10 of 29 CFR part 4 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in Sec. 4.11 of 29 CFR part 4, that the collective bargaining agreement applicable to service employees employed under the predecessor Contract/IGSA was not entered into as a result of arm's-length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor Contract/IGSA was not entered into as a result of arm's-length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the Contract/IGSA or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Administrative Review Board, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a Contract/IGSA or subcontract. 53 Comp. Gen. 401 (1973). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

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(e) The contractor and any subcontractor under this Contract/IGSA shall notify each service employee commencing work on this Contract/IGSA of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a) (4) of the Act and of this contract.

(f) The contractor or subcontractor shall not permit any part of the services called for by this Contract/IGSA to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR part 1925.

(g)(1) The contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified in paragraphs (g)(1) (i) through (vi) of this section for each employee subject to the Act and shall make them available for inspection [[Page 43]] and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration of the U.S. Department of Labor:

(i) Name and address and social security number of each employee.

(ii) The correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation of each employee.

(iii) The number of daily and weekly hours so worked by each employee.

(iv) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(v) A list of monetary wages and fringe benefits for those classes of service employees not included in the wage determination attached to this Contract/IGSA but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or authorized representative pursuant to the labor standards clause in paragraph (b) of this section. A copy of the report required by the clause in Paragraph (b) (2) (ii) of this section shall be deemed to be such a list.

(vi) Any list of the predecessor contractor's employees which had been furnished to the contractor pursuant to Sec. 4.6(1)(2).

(2) The contractor shall also make available a copy of this Contract/IGSA for inspection or transcription by authorized representatives of the Wage and Hour Division.



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(3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of the Department of Labor and notification of the contractor, shall take action to cause suspension of any further payment or advance of funds until such violation ceases.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(h) The contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR part 4), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(i) The contracting officer shall withhold or cause to be withheld from the Government prime contractor under this or any other Government Contract/IGSA with the prime contractor such sums as an appropriate official of the Department of Labor requests or such sums as the contracting officer decides may be necessary to pay underpaid employees employed by the contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the agency may, after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of these clauses relating to the Service Contract Act of 1965, may be grounds for termination of the right to proceed with the Contract/IGSA work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost.

(j) The contractor agrees to insert these clauses in this section relating to the Service Contract Act of 1965 in all Subcontracts subject to the Act. The term contractor as used in these clauses in any subcontract shall be deemed to refer to the subcontractor, except in the term Government prime contractor.

(k)(1) As used in these clauses, the term service employee means any person engaged in the performance of this Contract/IGSA other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in part 541 of title 29, Code of Federal Regulations, as of July [[Page44)) 30, 1976, and any subsequent revision of those regulations. The term service employee includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(2) The following statement is included in contracts pursuant to section 2(a) (5) of the Act and is for informational purposes only:

The following classes of service employees expected to be employed under the Contract/IGSA with the Government would be subject, if employed by the contracting agency, to the provisions

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of 5 U.S.C. 5341 or 5 U.S.C. 5332 and would, if so employed, be paid not less than the following rates of wages and fringe benefits:

Employee class	wage-fringe benefit
GS-05	\$
GS-07	\$
GS-09	\$

Search current rates at <http://www.opm.gov/oca/12tables/>

(l)(1) If wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime contractor or any subcontractor under the Contract/IGSA are provided for in a collective bargaining agreement which is or will be effective during any period in which the Contract/IGSA is being performed, the Government prime contractor shall report such fact to the contracting officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of Contract/IGSA performance, such agreements shall be reported promptly after negotiation thereof.

(2) Not less than 10 days prior to completion of any Contract/IGSA being performed at a Federal facility where service employees may be retained in the performance of the succeeding Contract/IGSA and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a contractor (predecessor) or successor (Sec. 4.173 of Regulations, 29 CFR part 4), the incumbent prime contractor shall furnish to the contracting officer a certified list of the names of all service employees on the contractor's or subcontractor's payroll during the last month of Contract/IGSA performance. Such list shall also contain anniversary dates of employment on the Contract/IGSA either with the current or predecessor contractors of each such service employee. The contracting officer shall turn over such list to the successor contractor at the commencement of the succeeding contract.

(m) Rulings and interpretations of the Service Contract Act of 1965, as amended, are contained in Regulations, 29 CFR part 4.

(n)(1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Act.

(2) No part of this Contract/IGSA shall be subcontracted to any person or firm ineligible for award of a Government Contract/IGSA pursuant to section 5 of the Act.

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(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(o) Notwithstanding any of the clauses in paragraphs (b) through (m) of this section relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Public Law 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a) (1) or [[Page 45]]

(2)(b)(1) of the Service Contract Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a) (2) of that Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR parts 520, 521, 524, and 525).

(3) The Administrator will issue certificates under the Service Contract Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR parts 520, 521, 524, and 525).

(4) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in parts 525 and 528 of title 29 of the Code of Federal Regulations.

(p) Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the Contract/IGSA work in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program.

(q) Where an employee engaged in an occupation in which he or she customarily and regularly receives more than \$30 a month in tips, the amount of tips received by the employee may be

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credited by the employer against the minimum wage required by Section 2(a)(1) or 2(b)(1) of the Act to the extent permitted by section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531. To utilize this provision:

(1)The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2)The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit;

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(r) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Contract/IGSA shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 4, 6, and 8. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.(The information collection, recordkeeping, and reporting requirements contained in this section have been approved by the Office of Management and Budget under the following numbers:

[[Page 46]]

----- Paragraph

OMB control number

- 
- (b)(2) (i)--(iv)..... 1215-0150
- (e)..... 1215-0150
- (g)(1) (i)--(iv)..... 1215-0017
- (g)(1) (v), (vi)..... 1215-0150
- (l) (1), (2)..... 1215-0150
- (q)(3)..... 1215-0017
- 

[48 FR 49762, Oct. 27, 1983; 48 FR 50529, Nov. 2, 1983, as amended at 61 FR 68663, Dec. 30, 1996]

## QUALITY ASSURANCE SURVEILLANCE PLAN

### 1. INTRODUCTION

ICE's Quality Assurance Surveillance Plan (QASP) is based on the premise that the Service Provider, and not the Government, is responsible for the day-to-day operation of the Facility and all the management and quality control actions required to meet the terms of the Agreement. The role of the Government in quality assurance is to ensure performance standards are achieved and maintained. The Service Provider shall develop a comprehensive program of inspections and monitoring actions and document its approach in a Quality Control Plan (QCP). The Service Provider's QCP, upon approval by the Government, will be made a part of the resultant Agreement.

This QASP is designed to provide an effective surveillance method to monitor the Service Provider's performance relative to the requirements listed in the Agreement. The QASP illustrates the systematic method the Government (or its designated representative) will use to evaluate the services the Service Provider is required to furnish.

This QASP is based on the premise the Government will validate that the Service Provider is complying with ERO-mandated quality standards in operating and maintaining detention facilities. Performance standards address all facets of detainee handling, including safety, health, legal rights, facility and records management, etc. Good management by the Service Provider and use of an approved QCP will ensure that the Facility is operating within acceptable quality levels.

### 2. DEFINITIONS

**Performance Requirements Summary (Attachment 3[A]):** The Performance Requirements Summary (PRS) communicates what the Government intends to qualitatively inspect. The PRS is based on the American Correctional Association (ACA) Standards for Adult Local Detention Facilities (ALDF) and ICE 2019 National Detention Standards (NDS). The PRS identifies performance standards grouped into nine functional areas, and quality levels essential for successful performance of each requirement. The PRS is used by ICE when conducting quality assurance surveillance to guide them through the inspection and review processes.

**Functional Area:** A logical grouping of performance standards.

**Contracting Officer's Representative (COR):** The COR interacts with the Service Provider to inspect and accept services/work performed in accordance with the technical standards prescribed in the Agreement. The Contracting Officer issues a written memorandum that appoints the COR. Other individuals may be designated to assist in the inspection and quality assurance surveillance activities.

**Performance Standards:** The performance standards are established in the ICE 2019 NDS at <https://www.ice.gov/detention-standards/2019> as well as the ACA standards for ALDF. Other standards may also be defined in the Agreement.

**Measures:** The method for evaluating compliance with the standards.

**Acceptable Quality Level:** The minimum level of quality that will be accepted by ICE to meet the performance standard.

**Withholding:** Amount of monthly invoice payment withheld pending correction of a deficiency. See Attachment 3(A) for information on the percentages of an invoice amount that may be withheld for each functional area. Funds withheld from payment are recoverable (See Sections 7 and 8) if the COR and Contracting Officer confirm resolution or correction, and should be included in the next month's invoice.

**Deduction:** Funds may be deducted from a monthly invoice for an egregious act or event, or if the same deficiency continues to occur. The Service Provider will be notified immediately if such a situation arises. The Contracting Officer in consultation with the ERO will determine the amount of the deduction. Amounts deducted are not recoverable.

#### 4. QUALITY CONTROL PLAN

The Service Provider shall develop, implement, and maintain a Quality Control Plan (QCP) that illustrates the methods it will use to review its performance to ensure it conforms to the performance requirements. (See Attachment 3[A] for a summary list of performance requirements.) Such reviews shall be performed by the Service Provider to validate its operations, and assure ICE that the services meet the performance standards.

The Service Provider's QCP shall include monitoring methods that ensure and demonstrate its compliance with the performance standards. This includes inspection methods and schedules that are consistent with the regular reviews conducted by ERO. The reports and other results generated by the Service Provider's QCP activities should be provided to the COR as requested.

The frequency and type of the Service Provider's reviews should be consistent with what is necessary in order to ensure compliance with the performance standards.

The Service Provider is encouraged not to limit its inspection to only the processes outlined in the 2019 NDS; however, certain key documents shall be produced by the Service Provider to ensure that the services meet the performance standards. Some of the documentation that shall be generated and made available to the COR for inspection is listed below. The list is intended as illustrative and is not all-inclusive. The Service Provider shall develop and implement a program that addresses the specific requirement of each standard and the means it will use to document compliance.

- Written policies and procedures to implement and assess operational requirements of the standard
- Documentation and record keeping to ensure ongoing operational compliance with the standards (e.g.; inventories, logbooks, register of receipts, reports, etc.)
- Staff training records
- Contract discrepancy reports (CDRs)
- Investigative reports

- Medical records
- Records of investigative actions taken
- Equipment inspections
- System tests and evaluation

## **5. METHODS OF SURVEILLANCE**

ICE will monitor the Service Provider's compliance with the Performance Standards using a variety of methods. All facilities will be subject to a full annual inspection, which will include a review of the Service Provider's QCP activities. In addition, ICE may conduct additional routine, follow-up, or unscheduled ad hoc inspections as necessary (for instance, as a result of unusual incidents or data reflected in routine monitoring). ICE may also maintain an on-site presence in some facilities in order to conduct more regular or frequent monitoring. Inspections and monitoring may involve direct observation of facility conditions and operations, review of documentation (including QCP reports), and/or interviews of facility personnel and detainees.

**5.1 Documentation Requirements:** The Service Provider shall develop and maintain all documentation as prescribed in the 2019 NDS (e.g., post logs, policies, and records of corrective actions). In addition to the documentation prescribed by the standards, the Service Provider shall also develop and maintain documentation that demonstrates the results of its own inspections as prescribed in its QCP. The Government may review 100% of the documents, or a representative sample, at any point during the period of performance.

## **6. FUNCTIONAL PERFORMANCE AREAS AND STANDARDS**

To facilitate the performance review process, the required performance standards are organized into nine functional areas. Each functional area represents a proportionate share (i.e., weight) of the monthly invoice amount payable to the Service Provider based on meeting the performance standards. Payment withholdings and deductions will be based on these percentages and weights applied to the overall monthly invoice.

The Contracting Officer may, by written order, and with the bilateral agreement of the Service Provider, make changes within the general scope of this Agreement in any one or more of the following:

- (a) Description of services to be performed, including revisions to the applicable Detention Standards.
- (b) Place of performance of the transportation, escort and stationary guard services.

## **7. FAILURE TO MEET PERFORMANCE STANDARDS**

Performance of services in conformance with the PRS standards is essential for the Service Provider to receive full payment as identified in the Agreement. The Contracting Officer may take withholdings or deductions against the monthly invoices for unsatisfactory performance documented through surveillance of the Service Provider's activities gained through site inspections, reviews of documentation (including monthly QCP reports), interviews and other

feedback. As a result of its surveillance, the Service Provider will be assigned the following rating relative to each performance standard:

<b>Rating</b>	<b>Description</b>
Acceptable	Based on the measures, the performance standard is demonstrated.
Deficient	Based on the measures, compliance with most of the attributes of the performance standard is demonstrated or observed with some area(s) needing improvement. There are no critical areas of unacceptable performance
At-Risk	Based on the performance measures, the majority of a performance standard's attributes are not met.

Using the above standards as a guide, the Contracting Officer will implement adjustments to the Service Provider's monthly invoice as prescribed in Attachment 3(A).

Rather than withholding funds until a deficiency is corrected, there may be times when an event or a deficiency is so egregious that the Government *deducts* (vs. "withholds") amounts from the Service Provider's monthly invoice. This may happen when a significant event occurs, when a particular deficiency is noted multiple times without correction, or when the Service Provider has failed to take timely action on a deficiency about which he was properly and timely notified. The amount deducted will be consistent with the relative weight of the functional performance area where the deficiency was noted. The deduction may be a one-time event, or may continue until the Service Provider has either corrected the deficiency, or made substantial progress in the correction.

Further, a deficiency found in one functional area may tie into another. If a detainee escaped, for example, a deficiency would be noted in "Security," but may also relate to a deficiency in the area of "Administration and Management." In no event will the withhold or deduction exceed 100% of the invoice amount.

## **8. NOTIFICATIONS**

- (a) Based on the inspection of the Service Provider's performance, the COR will document instances of deficient or at-risk performance (e.g., noncompliance with the standard) using the CDR located at Attachment 3(B). To the extent practicable, issues should be resolved informally, with the COR and Service Provider working together. When documentation of an issue or deficiency is required, the procedures set forth in this section will be followed.
- (b) When a CDR is required to document performance issues, it will be submitted to the Service Provider with a date when a response is due. Upon receipt of a CDR, the Service Provider shall immediately assess the situation and either correct the deficiency as quickly as possible or prepare a corrective action plan. In either event, the Service Provider shall return the CDR with the action planned or taken noted. After the COR reviews the Service Provider's response to the CDR including its planned remedy or corrective action taken, the COR will either accept the plan or correction or reject the correction or plan for revision and provide an



explanation. This process should take no more than one week. The CDR shall not be used as a substitute for quality control by the Service Provider.

- (c) The COR, in addition to any other designated ICE official, shall be notified immediately in the event of all emergencies. Emergencies include, but are not limited to the following: activation of disturbance control team(s); disturbances (including gang activities, group demonstrations, food boycotts, work strikes, work-place violence, civil disturbances, or protests); staff use of force including use of lethal and less-lethal force (includes detainees in restraints more than eight hours); assaults on staff or detainees resulting in injuries requiring medical attention (does not include routine medical evaluation after the incident); fights resulting in injuries requiring medical attention; fires; full or partial lock down of the Facility; escape; weapons discharge; suicide attempts; deaths; declared or non-declared hunger strikes; adverse incidents that attract unusual interest or significant publicity; adverse weather (e.g., hurricanes, floods, ice or snow storms, heat waves, tornadoes); fence damage; power outages; bomb threats; significant environmental problems that impact the Facility operations; transportation accidents resulting in injuries, death or property damage; and sexual assaults. Note that in an emergency situation, a CDR may not be issued until an investigation has been completed.
- (d) If the COR concludes that the deficient or at-risk performance warrants a withholding or deduction, the COR will include the CDR in its monthly report, with a copy to the Contracting Officer. The CDR will be accompanied by the COR's investigation report and written recommendation for any withholding. The Contracting Officer will consider the COR's recommendation and forward the CDR along with any relevant supporting information to the Service Provider in order to confirm or further discuss the prospective cure, including the Government's proposed course of action. As described in section 7 above, portions of the monthly invoice amount may be withheld until such time as the corrective action is completed, *or* a deduction may be taken.
- (e) Following receipt of the Service Provider's notification that the correction has been made, the COR may re-inspect the Facility. Based upon the COR's findings, he or she will recommend that the Contracting Officer continue to withhold a proportionate share of the payment until the correction is made, or accept the correction as final and release the full amount withheld for that issue.
- (f) If funds have been withheld and either the Government or the Service Provider terminates the Agreement, those funds will not be released. The Service Provider may only receive withheld payments upon successful correction of an instance of non-compliance. Further, the Service Provider is not relieved of full performance of the required services hereunder; the Agreement may be terminated upon adequate notice from the Government based upon any one instance, or failure to remedy deficient performance, even if a deduction was previously taken for any inadequate performance.
- (g) The COR will maintain a record of all open and resolved CDRs.

## **9. DETAINEE OR MEMBER OF THE PUBLIC COMPLAINTS**

The detainee and the public are the ultimate recipients of the services identified in this Agreement. Any complaints made known to the COR will be logged and forwarded to the Service Provider for remedy. Upon notification, the Service Provider shall be given a pre-specified number of hours after verbal notification from the COR to address the issue. The Service Provider shall submit documentation to the COR regarding the actions taken to remedy the situation. If the complaint is found to be invalid, the Service Provider shall document its findings and notify the COR.

## **10. ATTACHMENTS**

- A. Performance Requirements Summary
- B. Contract Discrepancy Report

**ATTACHMENT 5: DHS PREA STANDARDS**

This document incorporates the requirements from Subpart A of the U.S. Department of Homeland Security (DHS) regulation titled, “Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities,” 79 Fed. Reg. 13100 (Mar. 7, 2014) that are specifically applicable to detention facilities. Requirements that are applicable to the agency only have not been included, and accordingly, the numbering and sequential order within each of the below sections may not necessarily reflect those contained in Subpart A. Where any requirements of the DHS standards may conflict with the terms of the ICE detention standards currently applicable at the facility, the DHS PREA standards shall supersede:

**115.6 Definitions Related to Sexual Abuse and Assault**

- (1) Sexual abuse includes –
  - (a) Sexual abuse and assault of a detainee by another detainee; and
  - (b) Sexual abuse and assault of a detainee by a staff member, contractor, or volunteer.
  
- (2) Sexual abuse of a detainee by another detainee includes any of the following acts by one or more detainees, prisoners, inmates, or residents of the facility in which the detainee is housed who, by force, coercion, or intimidation, or if the victim did not consent or was unable to consent or refuse, engages in or attempts to engage in:
  - (a) Contact between the penis and the vulva or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight;
  - (b) Contact between the mouth and the penis, vulva, or anus;
  - (c) Penetration, however, slight, of the anal or genital opening of another person by a hand or finger or by any object;
  - (d) Touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person; or
  - (e) Threats, intimidation, or other actions or communications by one or more detainees aimed at coercing or pressuring another detainee to engage in a sexual act.
  
- (3) Sexual abuse of a detainee by a staff member, contractor, or volunteer includes any of the following acts, if engaged in by one or more staff members, volunteers, or contract personnel who, with or without the consent of the detainee, engages in or attempts to engage in:
  - (a) Contact between the penis and the vulva or anus and, for purposes of this subparagraph, contact involving the penis upon penetration, however slight;
  - (b) Contact between the mouth and the penis, vulva, or anus;
  - (c) Penetration, however slight, of the anal or genital opening of another person by a hand or finger or by any object that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  - (d) Intentional touching of the genitalia, anus, groin, breast, inner thighs or buttocks, either directly or through the clothing, that is unrelated to official duties or where

- the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- (e) Threats, intimidation, harassment, indecent, profane or abusive language, or other actions or communications, aimed at coercing or pressuring a detainee to engage in a sexual act;
  - (f) Repeated verbal statements or comments of a sexual nature to a detainee;
  - (g) Any display of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or resident, or
  - (h) Voyeurism, which is defined as the inappropriate visual surveillance of a detainee for reasons unrelated to official duties. Where not conducted for reasons relating to official duties, the following are examples of voyeurism: staring at a detainee who is using a toilet in his or her cell to perform bodily functions; requiring an inmate detainee to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a detainee's naked body or of a detainee performing bodily functions.

## **PREVENTION PLANNING**

### **115.11 Zero tolerance of sexual abuse: Prevention of Sexual Assault Coordinator.**

- (1) Each facility shall have a written policy mandating zero tolerance toward all forms of sexual abuse and outlining the facility's approach to preventing, detecting, and responding to such conduct. The agency shall review and approve each facility's written policy.
- (2) Each facility shall employ or designate a Prevention of Sexual Assault Compliance Manager (PSA Compliance Manager) who shall serve as the facility point of contact for the ICE PSA Coordinator and who has sufficient time and authority to oversee facility efforts to comply with facility sexual abuse prevention and intervention policies and procedures.

### **115.13 Detainee supervision and monitoring.**

- (1) Each facility shall ensure that it maintains sufficient supervision of detainees, including through appropriate staffing levels and, where applicable, video monitoring, to protect detainees against sexual abuse.
- (2) Each facility shall develop and document comprehensive detainee supervision guidelines to determine and meet the facility's detainee supervision needs, and shall review those guidelines at least annually.
- (3) In determining adequate levels of detainee supervision and determining the need for video monitoring, the facility shall take into consideration generally accepted detention and correctional practices, any judicial findings of inadequacy, the physical layout of each facility, the composition of the detainee population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse, the findings and recommendations of sexual abuse incident review reports, and any other relevant factors, including but not limited to the length of time detainees spend in agency custody.
- (4) Each facility shall conduct frequent unannounced security inspections to identify and deter sexual abuse of detainees. Such inspections shall be implemented for night as well

as day shifts. Each facility shall prohibit staff from alerting others that these security inspections are occurring, unless such announcement is related to the legitimate operational functions of the facility.

#### **115.15 Limits to cross-gender viewing and searches.**

- (1) Searches may be necessary to ensure the safety of officers, civilians and detainees; to detect and secure evidence of criminal activity; and to promote security, safety, and related interests at immigration detention facilities.
- (2) Cross-gender pat-down searches of male detainees shall not be conducted unless, after reasonable diligence, staff of the same gender is not available at the time the pat-down search is required or in exigent circumstances.
- (3) Cross-gender pat-down searches of female detainees shall not be conducted unless in exigent circumstances.
- (4) All cross-gender pat-down searches shall be documented.
- (5) Cross-gender strip searches or cross-gender visual body cavity searches shall not be conducted except in exigent circumstances, including consideration of officer safety, or when performed by medical practitioners. Facility staff shall not conduct visual body cavity searches of juveniles and, instead, shall refer all such body cavity searches of juveniles to a medical practitioner.
- (6) All strip searches and visual body cavity searches shall be documented.
- (7) Each facility shall implement policies and procedures that enable detainees to shower, perform bodily functions, and change clothing without being viewed by staff of the opposite gender, except in exigent circumstances or when such viewing is incidental to routine cell checks or is otherwise appropriate in connection with a medical examination or monitored bowel movement. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering an area where detainees are likely to be showering, performing bodily functions, or changing clothing.
- (8) The facility shall not search or physically examine a detainee for the sole purposes of determining the detainee's genital characteristics. If the detainee's gender is unknown, it may be determined during conversations with the detainee, by reviewing medical records, or, if necessary, learning that information as part of a standard medical examination that all detainees must undergo as part of intake or other processing procedure conducted in private, by a medical practitioner.

#### **115.16 Accommodating detainees with disabilities and detainees who are limited English proficient.**

- (1) The agency and each facility shall take appropriate steps to ensure that detainees with disabilities (including, for example, detainees who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse. Such steps shall include, when necessary to ensure effective communication with detainees who are deaf or hard of hearing, providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and

expressively, using any necessary specialized vocabulary. In addition, the agency and facility shall ensure that any written materials related to sexual abuse are provided in formats or through methods that ensure effective communication with detainees with disabilities, including detainees who have intellectual disabilities, limited reading skills, or who are blind or have low vision. An agency or facility is not required to take actions that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens, as those terms are used in regulations promulgated under title II of the Americans with Disabilities Act, 28 CFR 35.164.

- (2) The agency and each facility shall take steps to ensure meaningful access to all aspects of the agency's and facility's efforts to prevent, detect, and respond to sexual abuse to detainees who are limited English proficient, including steps to provide in-person or telephonic interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary.
- (3) In matters relating to allegations of sexual abuse, the agency and each facility shall provide in-person or telephonic interpretation services that enable effective, accurate, and impartial interpretation, by someone other than another detainee, unless the detainee expresses a preference for another detainee to provide interpretation, and the agency determines that such interpretation is appropriate and consistent with DHS policy. The provision of interpreter services by minors, alleged abusers, detainees who witnessed the alleged abuse, and detainees who have a significant relationship with the alleged abuser is not appropriate in matters relating to allegations of sexual abuse.

#### **115.17 Hiring and promotion decisions.**

- (1) An agency or facility shall not hire or promote anyone who may have contact with detainees, and shall not enlist the services of any contractor or volunteer who may have contact with detainees, who has engaged in sexual abuse in a prison, jail, holding facility, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); who has been convicted of engaging or attempting to engage in sexual activity facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or who has been civilly or administratively adjudicated to have engaged in such activity.
- (2) An agency or facility considering hiring or promoting staff shall ask all applicants who may have contact with detainees directly about previous misconduct described in paragraph (1) of this section, in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations conducted as part of reviews of current employees. Agencies and facilities shall also impose upon employees a continuing affirmative duty to disclose any such misconduct. The agency, consistent with law, shall make its best efforts to contact all prior institutional employers of an applicant for employment, to obtain information on substantiated allegations of sexual abuse or any resignation during a pending investigation of alleged sexual abuse.
- (3) Before hiring new staff who may have contact with detainees, the agency or facility shall conduct a background investigation to determine whether the candidate for hire is suitable for employment with the facility or agency, including a criminal background

records check. Upon request by the agency, the facility shall submit for the agency's approval written documentation showing the detailed elements of the facility's background check for each staff member and the facility's conclusions. The agency shall conduct an updated background investigation every five years for agency employees who may have contact with detainees. The facility shall require an updated background investigation every five years for those facility staff who may have contact with detainees and who work in immigration-only detention facilities.

- (4) The agency or facility shall also perform a background investigation before enlisting the services of any contractor who may have contact with detainees. Upon request by the agency, the facility shall submit for the agency's approval written documentation showing the detailed elements of the facility's background check for each contractor and the facility's conclusions.
- (5) Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination or withdrawal of an offer of employment, as appropriate.
- (6) In the event the agency contracts with a facility for the confinement of detainees, the requirements of this section otherwise applicable to the agency also apply to the facility and its staff.

#### **115.18 Upgrades to facilities and technologies.**

- (1) When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the facility or agency, as appropriate, shall consider the effect of the design, acquisition, expansion, or modification upon their ability to protect detainees from sexual abuse.
- (2) When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology in an immigration detention facility, the facility or agency, as appropriate, shall consider how such technology may enhance their ability to protect detainees from sexual abuse.

### **RESPONSIVE PLANNING**

#### **115.21 Evidence protocols and forensic medical examinations.**

- (1) To the extent that the agency or facility is responsible for investigating allegations of sexual abuse involving detainees, it shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecutions. The protocol shall be developed in coordination with DHS and shall be developmentally appropriate for juveniles, where applicable.
- (2) The agency and each facility developing an evidence protocol referred to in paragraph (1) of this section, shall consider how best to utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention and counseling to most appropriately address victims' needs. Each facility shall establish procedures to make available, to the full extent possible, outside victim services following incidents of sexual abuse; the facility shall attempt to make available to the victim a victim advocate from a rape crisis center. If a rape crisis center is not available

to provide victim advocate services, the agency shall provide these services by making available a qualified staff member from a community-based organization, or a qualified agency staff member. A qualified agency staff member or a qualified community-based staff member means an individual who has received education concerning sexual assault and forensic examination issues in general. The outside or internal victim advocate shall provide emotional support, crisis intervention, information, and referrals.

- (3) Where evidentiarily or medically appropriate, at no cost to the detainee, and only with the detainee's consent, the facility shall arrange for an alleged victim detainee to undergo a forensic medical examination by qualified health care personnel, including a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE) where practicable. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified health care personnel.
- (4) As requested by a victim, the presence of his or her outside or internal victim advocate, including any available victim advocacy services offered by a hospital conducting a forensic exam, shall be allowed for support during a forensic exam and investigatory interviews.
- (5) To the extent that the agency is not responsible for investigating allegations of sexual abuse, the agency or the facility shall request that the investigating agency follow the requirements of paragraphs (1) through (4) of this section.

#### **115.22 Policies to ensure investigation of allegations and appropriate agency oversight.**

- (1) The agency shall establish an agency protocol, and shall require each facility to establish a facility protocol, to ensure that each allegation of sexual abuse is investigated by the agency or facility, or referred to an appropriate investigative authority.
- (2) The agency shall ensure that the agency and facility protocols required by paragraph (a) of this section, include a description of responsibilities of the agency, the facility, and any other investigating entities; and require the documentation and maintenance, for at least five years, of all reports and referrals of allegations of sexual abuse.
- (3) The agency shall post its protocols on its Web site; each facility shall also post its protocols on its Web site, if it has one, or otherwise make the protocol available to the public.
- (4) Each facility protocol shall ensure that all allegations are promptly reported to the agency as described in paragraphs (5) and (6) of this section, and, unless the allegation does not involve potentially criminal behavior, are promptly referred for investigation to an appropriate law enforcement agency with the legal authority to conduct criminal investigations. A facility may separately, and in addition to the above reports and referrals, conduct its own investigation.
- (5) When a detainee, prisoner, inmate, or resident of the facility in which an alleged detainee victim is housed is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General, as well as the appropriate ICE Field Office Director, and, if it is potentially criminal, referred to an appropriate law enforcement agency having jurisdiction for investigation.
- (6) When a staff member, contractor, or volunteer is alleged to be the perpetrator of detainee sexual abuse, the facility shall ensure that the incident is promptly reported to the Joint



Intake Center, the ICE Office of Professional Responsibility or the DHS Office of Inspector General, as well as to the appropriate ICE Field Office Director, and to the local government entity or contractor that owns or operates the facility. If the incident is potentially criminal, the facility shall ensure that it is promptly referred to an appropriate law enforcement agency having jurisdiction for investigation.

## **TRAINING AND EDUCATION**

### **115.31 Staff training.**

- (1) The agency shall train, or require the training of, all employees who may have contact with immigration detainees, and all facility staff, to be able to fulfill their responsibilities under this part, including training on:
  - (a) The agency's and the facility's zero-tolerance policies for all forms of sexual abuse;
  - (b) The right of detainees and staff to be free from sexual abuse, and from retaliation for reporting sexual abuse;
  - (c) Definitions and examples of prohibited and illegal sexual behavior;
  - (d) Recognition of situations where sexual abuse may occur;
  - (e) Recognition of physical, behavioral, and emotional signs of sexual abuse, and methods of preventing and responding to such occurrences;
  - (f) How to avoid inappropriate relationships with detainees;
  - (g) How to communicate effectively and professionally with detainees, including lesbian, gay, bisexual, transgender, intersex, or gender nonconforming detainees;
  - (h) Procedures for reporting knowledge or suspicion of sexual abuse; and
  - (i) The requirement to limit reporting of sexual abuse to personnel with a need-to-know in order to make decisions concerning the victim's welfare and for law enforcement or investigative purposes.
- (2) All current facility staff, and all agency employees who may have contact with immigration detention facility detainees, shall be trained within one year of May 6, 2014, and the agency or facility shall provide refresher information every two years.
- (3) The agency and each facility shall document that staff that may have contact with immigration facility detainees have completed the training.

### **115.32 Other training.**

- (1) The facility shall ensure that all volunteers and other contractors (as defined in paragraph (4) of this section) who have contact with detainees have been trained on their responsibilities under the agency's and the facility's sexual abuse prevention, detection, intervention and response policies and procedures.
- (2) The level and type of training provided to volunteers and other contractors shall be based on the services they provide and level of contact they have with detainees, but all volunteers and other contractors who have contact with detainees shall be notified of the agency's and the facility's zero-tolerance policies regarding sexual abuse and informed how to report such incidents.

- (3) Each facility shall receive and maintain written confirmation that volunteers and other contractors who have contact with immigration facility detainees have completed the training.
- (4) In this section, the term *other contractor* means a person who provides services on a non-recurring basis to the facility pursuant to a contractual agreement with the agency or facility.

### **115.33 Detainee education.**

- (1) During the intake process, each facility shall ensure that the detainee orientation program notifies and informs detainees about the agency's and the facility's zero-tolerance policies for all forms of sexual abuse and includes (at a minimum) instruction on:
  - (a) Prevention and intervention strategies;
  - (b) Definitions and examples of detainee-on-detainee sexual abuse, staff-on-detainee sexual abuse and coercive sexual activity;
  - (c) Explanation of methods for reporting sexual abuse, including to any staff member, including a staff member other than an immediate point-of-contact line officer (e.g., the compliance manager or a mental health specialist), the DHS Office of Inspector General, and the Joint Intake Center;
  - (d) Information about self-protection and indicators of sexual abuse;
  - (e) Prohibition against retaliation, including an explanation that reporting sexual abuse shall not negatively impact the detainee's immigration proceedings; and
  - (f) The right of a detainee who has been subjected to sexual abuse to receive treatment and counseling.
- (2) Each facility shall provide the detainee notification, orientation, and instruction in formats accessible to all detainees, including those who are limited English proficient, deaf, visually impaired or otherwise disabled, as well as to detainees who have limited reading skills.
- (3) The facility shall maintain documentation of detainee participation in the intake process orientation.
- (4) Each facility shall post on all housing unit bulletin boards the following notices:
  - (a) The DHS-prescribed sexual assault awareness notice;
  - (b) The name of the Prevention of Sexual Abuse Compliance Manager; and
  - (c) The name of local organizations that can assist detainees who have been victims of sexual abuse.
- (5) The facility shall make available and distribute the DHS-prescribed "Sexual Assault Awareness Information" pamphlet.
- (6) Information about reporting sexual abuse shall be included in the agency Detainee Handbook made available to all immigration detention facility detainees.

### **115.34 Specialized training: Investigations.**

- (1) In addition to the general training provided to all facility staff and employees pursuant to § 115.31, the agency or facility shall provide specialized training on sexual abuse and effective cross-agency coordination to agency or facility investigators, respectively, who conduct investigations into allegations of sexual abuse at immigration detention facilities. All investigations into alleged sexual abuse must be conducted by qualified investigators.

- (2) The agency and facility must maintain written documentation verifying specialized training provided to investigators pursuant to this section.

#### **115.35 Specialized training: Medical and mental health care.**

- (1) The agency shall review and approve the facility's policy and procedures to ensure that facility medical staff is trained in procedures for examining and treating victims of sexual abuse, in facilities where medical staff may be assigned these activities.

### **ASSESSMENT FOR RISK OF SEXUAL VICTIMIZATION AND ABUSIVENESS**

#### **115.41 Assessment for risk of victimization and abusiveness.**

- (1) The facility shall assess all detainees on intake to identify those likely to be sexual aggressors or sexual abuse victims and shall house detainees to prevent sexual abuse, taking necessary steps to mitigate any such danger. Each new arrival shall be kept separate from the general population until he/she is classified and may be housed accordingly.
- (2) The initial classification process and initial housing assignment should be completed within twelve hours of admission to the facility.
- (3) The facility shall also consider, to the extent that the information is available, the following criteria to assess detainees for risk of sexual victimization:
  - (a) Whether the detainee has a mental, physical, or developmental disability;
  - (b) The age of the detainee;
  - (c) The physical build and appearance of the detainee;
  - (d) Whether the detainee has previously been incarcerated or detained;
  - (e) The nature of the detainee's criminal history;
  - (f) Whether the detainee has any convictions for sex offenses against an adult or child;
  - (g) Whether the detainee has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;
  - (h) Whether the detainee has self-identified as having previously experienced sexual victimization; and
  - (i) The detainee's own concerns about his or her physical safety.
- (4) The initial screening shall consider prior acts of sexual abuse, prior convictions for violent offenses, and history of prior institutional violence or sexual abuse, as known to the facility, in assessing detainees for risk of being sexually abusive.
- (5) The facility shall reassess each detainee's risk of victimization or abusiveness between 60 and 90 days from the date of initial assessment, and at any other time when warranted based upon the receipt of additional, relevant information or following an incident of abuse or victimization.
- (6) Detainees shall not be disciplined for refusing to answer, or for not disclosing complete information in response to, questions asked pursuant to paragraphs (3)(a), (3)(g), (3)(h), or (3)(i) of this section.
- (7) The facility shall implement appropriate controls on the dissemination within the facility of responses to questions asked pursuant to this standard in order to ensure that sensitive

information is not exploited to the detainee's detriment by staff or other detainees or inmates.

#### **115.42 Use of assessment information.**

- (1) The facility shall use the information from the risk assessment under § 115.41 of this part to inform assignment of detainees to housing, recreation and other activities, and voluntary work. The agency shall make individualized determinations about how to ensure the safety of each detainee.
- (2) When making assessment and housing decisions for a transgender or intersex detainee, the facility shall consider the detainee's gender self-identification and an assessment of the effects of placement on the detainee's health and safety. The facility shall consult a medical or mental health professional as soon as practicable on this assessment. The facility should not base placement decisions of transgender or intersex detainees solely on the identity documents or physical anatomy of the detainee; a detainee's self-identification of his/her gender and self-assessment of safety needs shall always be taken into consideration as well. The facility's placement of a transgender or intersex detainee shall be consistent with the safety and security considerations of the facility, and placement and programming assignments for each transgender or intersex detainee shall be reassessed at least twice each year to review any threats to safety experienced by the detainee.
- (3) When operationally feasible, transgender and intersex detainees shall be given the opportunity to shower separately from other detainees.

#### **115.43 Protective custody.**

- (1) The facility shall develop and follow written procedures consistent with the standards in this subpart for each facility governing the management of its administrative segregation unit. These procedures, which should be developed in consultation with the ICE Enforcement and Removal Operations Field Office Director having jurisdiction for the facility, must document detailed reasons for placement of an individual in administrative segregation on the basis of a vulnerability to sexual abuse or assault.
- (2) Use of administrative segregation by facilities to protect detainees vulnerable to sexual abuse or assault shall be restricted to those instances where reasonable efforts have been made to provide appropriate housing and shall be made for the least amount of time practicable, and when no other viable housing options exist, as a last resort. The facility should assign detainees vulnerable to sexual abuse or assault to administrative segregation for their protection until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days.
- (3) Facilities that place vulnerable detainees in administrative segregation for protective custody shall provide those detainees access to programs, visitation, counsel and other services available to the general population to the maximum extent practicable.
- (4) Facilities shall implement written procedures for the regular review of all vulnerable detainees placed in administrative segregation for their protection, as follows:

- (a) A supervisory staff member shall conduct a review within 72 hours of the detainee's placement in administrative segregation to determine whether segregation is still warranted; and
  - (b) A supervisory staff member shall conduct, at a minimum, an identical review after the detainee has spent seven days in administrative segregation, and every week thereafter for the first 30 days, and every 10 days thereafter.
- (5) Facilities shall notify the appropriate ICE Field Office Director no later than 72 hours after the initial placement into segregation, whenever a detainee has been placed in administrative segregation on the basis of a vulnerability to sexual abuse or assault.

## **REPORTING**

### **115.51 Detainee reporting.**

- (1) The agency and each facility shall develop policies and procedures to ensure that detainees have multiple ways to privately report sexual abuse, retaliation for reporting sexual abuse, or staff neglect or violations of responsibilities that may have contributed to such incidents. The agency and each facility shall also provide instructions on how detainees may contact their consular official, the DHS Office of the Inspector General or, as appropriate, another designated office, to confidentially and, if desired, anonymously, report these incidents.
- (2) The agency shall also provide, and the facility shall inform the detainees of, at least one way for detainees to report sexual abuse to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward detainee reports of sexual abuse to agency officials, allowing the detainee to remain anonymous upon request.
- (3) Facility policies and procedures shall include provisions for staff to accept reports made verbally, in writing, anonymously, and from third parties and to promptly document any verbal reports.

### **115.52 Grievances.**

- (1) The facility shall permit a detainee to file a formal grievance related to sexual abuse at any time during, after, or in lieu of lodging an informal grievance or complaint.
- (2) The facility shall not impose a time limit on when a detainee may submit a grievance regarding an allegation of sexual abuse.
- (3) The facility shall implement written procedures for identifying and handling time-sensitive grievances that involve an immediate threat to detainee health, safety, or welfare related to sexual abuse.
- (4) Facility staff shall bring medical emergencies to the immediate attention of proper medical personnel for further assessment.
- (5) The facility shall issue a decision on the grievance within five days of receipt and shall respond to an appeal of the grievance decision within 30 days. Facilities shall send all grievances related to sexual abuse and the facility's decisions with respect to such grievances to the appropriate ICE Field Office Director at the end of the grievance process.

- (6) To prepare a grievance, a detainee may obtain assistance from another detainee, the housing officer or other facility staff, family members, or legal representatives. Staff shall take reasonable steps to expedite requests for assistance from these other parties.

#### **115.53 Detainee access to outside confidential support services.**

- (1) Each facility shall utilize available community resources and services to provide valuable expertise and support in the areas of crisis intervention, counseling, investigation and the prosecution of sexual abuse perpetrators to most appropriately address victims' needs. The facility shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers or, if local providers are not available, with national organizations that provide legal advocacy and confidential emotional support services for immigrant victims of crime.
- (2) Each facility's written policies shall establish procedures to include outside agencies in the facility's sexual abuse prevention and intervention protocols, if such resources are available.
- (3) Each facility shall make available to detainees information about local organizations that can assist detainees who have been victims of sexual abuse, including mailing addresses and telephone numbers (including toll-free hotline numbers where available). If no such local organizations exist, the facility shall make available the same information about national organizations. The facility shall enable reasonable communication between detainees and these organizations and agencies, in as confidential a manner as possible.
- (4) Each facility shall inform detainees prior to giving them access to outside resources, of the extent to which such communications will be monitored and the extent to which reports of abuse will be forwarded to authorities in accordance with mandatory reporting laws.

#### **115.54 Third-party reporting.**

- (1) Each facility shall establish a method to receive third-party reports of sexual abuse in its immigration detention facilities and shall make available to the public information on how to report sexual abuse on behalf of a detainee.

### **OFFICIAL RESPONSE FOLLOWING A DETAINEE REPORT**

#### **115.61 Staff reporting duties.**

- (1) The agency and each facility shall require all staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse that occurred in a facility; retaliation against detainees or staff who reported or participated in an investigation about such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation. The agency shall review and approve facility policies and procedures and shall ensure that the facility specifies appropriate reporting procedures, including a method by which staff can report outside of the chain of command.
- (2) Staff members who become aware of alleged sexual abuse shall immediately follow the

reporting requirements set forth in the agency's and facility's written policies and procedures.

- (3) Apart from such reporting, staff shall not reveal any information related to a sexual abuse report to anyone other than to the extent necessary to help protect the safety of the victim or prevent further victimization of other detainees or staff in the facility, or to make medical treatment, investigation, law enforcement, or other security and management decisions.

#### **115.62 Protection duties.**

- (1) If an agency employee or facility staff member has a reasonable belief that a detainee is subject to a substantial risk of imminent sexual abuse, he or she shall take immediate action to protect the detainee.

#### **115.63 Reporting to other confinement facilities.**

- (1) Upon receiving an allegation that a detainee was sexually abused while confined at another facility, the agency or facility whose staff received the allegation shall notify the ICE Field Office and the administrator of the facility where the alleged abuse occurred.
- (2) The notification provided in paragraph (1) of this section shall be provided as soon as possible, but no later than 72 hours after receiving the allegation.
- (3) The agency or facility shall document that it has provided such notification.
- (4) The agency or facility office that receives such notification, to the extent the facility is covered by this subpart, shall ensure that the allegation is referred for investigation in accordance with these standards and reported to the appropriate ICE Field Office Director.

#### **115.64 Responder duties.**

- (1) Upon learning of an allegation that a detainee was sexually abused, the first security staff member to respond to the report, or his or her supervisor, shall be required to:
  - (a) Separate the alleged victim and abuser;
  - (b) Preserve and protect, to the greatest extent possible, any crime scene until appropriate steps can be taken to collect any evidence;
  - (c) If the abuse occurred within a time period that still allows for the collection of physical evidence, request the alleged victim not to take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating; and
  - (d) If the sexual abuse occurred within a time period that still allows for the collection of physical evidence, ensure that the alleged abuser does not take any actions that could destroy physical evidence, including, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, smoking, drinking, or eating.
- (2) If the first staff responder is not a security staff member, the responder shall be required to request that the alleged victim not take any actions that could destroy physical evidence and then notify security staff.

#### **115.65 Coordinated response.**

- (1) Each facility shall develop a written institutional plan to coordinate actions taken by staff first responders, medical and mental health practitioners, investigators, and facility leadership in response to an incident of sexual abuse.
- (2) Each facility shall use a coordinated, multidisciplinary team approach to responding to sexual abuse.
- (3) If a victim of sexual abuse is transferred between DHS immigration detention facilities, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services.
- (4) If a victim is transferred between DHS immigration detention facilities or to a non-DHS facility, the sending facility shall, as permitted by law, inform the receiving facility of the incident and the victim's potential need for medical or social services, unless the victim requests otherwise.

#### **115.66 Protection of detainees from contact with alleged abusers.**

- (1) Staff, contractors, and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation.

#### **115.67 Agency protection against retaliation.**

- (1) Staff, contractors, and volunteers, and immigration detention facility detainees, shall not retaliate against any person, including a detainee, who reports, complains about, or participates in an investigation into an allegation of sexual abuse, or for participating in sexual activity as a result of force, coercion, threats, or fear of force.
- (2) For at least 90 days following a report of sexual abuse, the agency and facility shall monitor to see if there are facts that may suggest possible retaliation by detainees or staff, and shall act promptly to remedy any such retaliation.

#### **115.68 Post-allegation protective custody.**

- (1) The facility shall take care to place detainee victims of sexual abuse in a supportive environment that represents the least restrictive housing option possible (e.g., protective custody), subject to the requirements of § 115.43.
- (2) Detainee victims shall not be held for longer than five days in any type of administrative segregation, except in highly unusual circumstances or at the request of the detainee.
- (3) A detainee victim who is in protective custody after having been subjected to sexual abuse shall not be returned to the general population until completion of a proper re-assessment, taking into consideration any increased vulnerability of the detainee as a result of the sexual abuse.
- (4) Facilities shall notify the appropriate ICE Field Office Director whenever a detainee victim has been held in administrative segregation for 72 hours.

## **INVESTIGATIONS**



### **115.71 Criminal and administrative investigations.**

- (1) If the facility has responsibility for investigating allegations of sexual abuse, all investigations into alleged sexual abuse must be prompt, thorough, objective, and conducted by specially trained, qualified investigators.
- (2) Upon conclusion of a criminal investigation where the allegation was substantiated, an administrative investigation shall be conducted. Upon conclusion of a criminal investigation where the allegation was unsubstantiated, the facility shall review any available completed criminal investigation reports to determine whether an administrative investigation is necessary or appropriate. Administrative investigations shall be conducted after consultation with the appropriate investigative office within DHS, and the assigned criminal investigative entity.
- (3) (a) The facility shall develop written procedures for administrative investigations, including provisions requiring:
  - i. Preservation of direct and circumstantial evidence, including any available physical and DNA evidence and any available electronic monitoring data;
  - ii. (ii) Interviewing alleged victims, suspected perpetrators, and witnesses;
  - iii. (iii) Reviewing prior complaints and reports of sexual abuse involving the suspected perpetrator;
  - iv. (iv) Assessment of the credibility of an alleged victim, suspect, or witness, without regard to the individual's status as detainee, staff, or employee, and without requiring any detainee who alleges sexual abuse to submit to a polygraph;
  - v. (v) An effort to determine whether actions or failures to act at the facility contributed to the abuse; and
  - vi. (vi) Documentation of each investigation by written report, which shall include a description of the physical and testimonial evidence, the reasoning behind credibility assessments, and investigative facts and findings; and
  - vii. (vii) Retention of such reports for as long as the alleged abuser is detained or employed by the agency or facility, plus five years.
- (b) Such procedures shall govern the coordination and sequencing of the two types of investigations, in accordance with paragraph (2) of this section, to ensure that the criminal investigation is not compromised by an internal administrative investigation.
- (4) The agency shall review and approve the facility policy and procedures for coordination and conduct of internal administrative investigations with the assigned criminal investigative entity to ensure non-interference with criminal investigations.
- (5) The departure of the alleged abuser or victim from the employment or control of the facility or agency shall not provide a basis for terminating an investigation.
- (6) When outside agencies investigate sexual abuse, the facility shall cooperate with outside investigators and shall endeavor to remain informed about the progress of the investigation.

## **DISCIPLINE**

### **115.76 Disciplinary sanctions for staff.**

- (1) Staff shall be subject to disciplinary or adverse action up to and including removal from their position and the Federal service for substantiated allegations of sexual abuse or for violating agency or facility sexual abuse policies.
- (2) The agency shall review and approve facility policies and procedures regarding disciplinary or adverse actions for staff and shall ensure that the facility policy and procedures specify disciplinary or adverse actions for staff, up to and including removal from their position and from the Federal service for staff, when there is a substantiated allegation of sexual abuse, or when there has been a violation of agency sexual abuse rules, policies, or standards. Removal from their position and from the Federal service is the presumptive disciplinary sanction for staff who have engaged in or attempted or threatened to engage in sexual abuse, as defined under the definition of sexual abuse of a detainee by a staff member, contractor, or volunteer, paragraphs (a) - (d) and (g) - (h) of the definition of “sexual abuse of a detainee by a staff member, contractor, or volunteer” in § 115.6.
- (3) Each facility shall report all removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to appropriate law enforcement agencies, unless the activity was clearly not criminal.
- (4) Each facility shall make reasonable efforts to report removals or resignations in lieu of removal for violations of agency or facility sexual abuse policies to any relevant licensing bodies, to the extent known.

#### **115.77 Corrective action for contractors and volunteers.**

- (1) Any contractor or volunteer who has engaged in sexual abuse shall be prohibited from contact with detainees. Each facility shall make reasonable efforts to report to any relevant licensing body, to the extent known, incidents of substantiated sexual abuse by a contractor or volunteer. Such incidents shall also be reported to law enforcement agencies, unless the activity was clearly not criminal.
- (2) Contractors and volunteers suspected of perpetrating sexual abuse shall be removed from all duties requiring detainee contact pending the outcome of an investigation.
- (3) The facility shall take appropriate remedial measures, and shall consider whether to prohibit further contact with detainees by contractors or volunteers who have not engaged in sexual abuse, but have violated other provisions within these standards.

#### **115.78 Disciplinary sanctions for detainees.**

- (1) Each facility shall subject a detainee to disciplinary sanctions pursuant to a formal disciplinary process following an administrative or criminal finding that the detainee engaged in sexual abuse.
- (2) At all steps in the disciplinary process provided in paragraph (1), any sanctions imposed shall be commensurate with the severity of the committed prohibited act and intended to encourage the detainee to conform with rules and regulations in the future.
- (3) Each facility holding detainees in custody shall have a detainee disciplinary system with progressive levels of reviews, appeals, procedures, and documentation procedure.
- (4) The disciplinary process shall consider whether a detainee’s mental disabilities or mental

illness contributed to his or her behavior when determining what type of sanction, if any, should be imposed.

- (5) The facility shall not discipline a detainee for sexual contact with staff unless there is a finding that the staff member did not consent to such contact.
- (6) For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief that the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.

## **MEDICAL AND MENTAL CARE**

### **115.81 Medical and mental health assessments: history of sexual abuse.**

- (1) If the assessment pursuant to § 115.41 indicates that a detainee has experienced prior sexual victimization or perpetrated sexual abuse, staff shall, as appropriate, ensure that the detainee is immediately referred to a qualified medical or mental health practitioner for medical and/or mental health follow-up as appropriate.
- (2) When a referral for medical follow-up is initiated, the detainee shall receive a health evaluation no later than two working days from the date of assessment.
- (3) When a referral for mental health follow-up is initiated, the detainee shall receive a mental health evaluation no later than 72 hours after the referral.

### **115.82 Access to emergency medical and mental health services.**

- (1) Detainee victims of sexual abuse shall have timely, unimpeded access to emergency medical treatment and crisis intervention services, including emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care.
- (2) Emergency medical treatment services provided to the victim shall be without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.

### **115.83 Ongoing medical and mental health care for sexual abuse victims and abusers.**

- (1) Each facility shall offer medical and mental health evaluation and, as appropriate, treatment to all detainees who have been victimized by sexual abuse while in immigration detention.
- (2) The evaluation and treatment of such victims shall include, as appropriate, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
- (3) The facility shall provide such victims with medical and mental health services consistent with the community level of care.
- (4) Detainee victims of sexually abusive vaginal penetration by a male abuser while incarcerated shall be offered pregnancy tests. If pregnancy results from an instance of sexual abuse, the victim shall receive timely and comprehensive information about lawful

pregnancy-related medical services and timely access to all lawful pregnancy-related medical services.

- (5) Detainee victims of sexual abuse while detained shall be offered tests for sexually transmitted infections as medically appropriate.
- (6) Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
- (7) The facility shall attempt to conduct a mental health evaluation of all known detainee-on-detainee abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

## **DATA COLLECTION AND REVIEW**

### **115.86 Sexual abuse incident reviews.**

- (1) Each facility shall conduct a sexual abuse incident review at the conclusion of every investigation of sexual abuse and, where the allegation was not determined to be unfounded, prepare a written report within 30 days of the conclusion of the investigation recommending whether the allegation or investigation indicates that a change in policy or practice could better prevent, detect, or respond to sexual abuse. The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so in a written response. Both the report and response shall be forwarded to the Field Office Director, for transmission to the ICE PSA Coordinator.
- (2) The review team shall consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.
- (3) Each facility shall conduct an annual review of all sexual abuse investigations and resulting incident reviews to assess and improve sexual abuse intervention, prevention and response efforts. If the facility has not had any reports of sexual abuse during the annual reporting period, then the facility shall prepare a negative report. The results and findings of the annual review shall be provided to the facility administrator and Field Office Director or his or her designee, who shall transmit it to the ICE PSA Coordinator.

### **115.87 Data collection.**

- (1) Each facility shall maintain in a secure area all case records associated with claims of sexual abuse, including incident reports, investigative reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment, if necessary, and/or counseling in accordance with these standards and applicable agency policies, and in accordance with established schedules.
- (2) On an ongoing basis, the PSA Coordinator shall work with relevant facility PSA Compliance Managers and DHS entities to share data regarding effective agency response methods to sexual abuse.

## **AUDITS AND COMPLIANCE**

**115.93 Audits of standards.**

- (1) The agency may require an expedited audit if the agency has reason to believe that a particular facility may be experiencing problems relating to sexual abuse. The agency may also include referrals to resources that may assist the facility with PREA-related issues.

**ADDITIONAL PROVISIONS IN AGENCY POLICIES**

**115.95 Additional provisions in agency policies.**

- (1) The regulations in this subpart A establish minimum requirements for agencies and facilities. Agency and facility policies may include additional requirements.

Robotics Process Automation (RPA) Contract Requirement

The Detention Facility Robotics Process Automation (RPA) process requires that bed space and transportation invoice costs and supporting documentation be recorded utilizing the Detention-Transportation Invoice Template (attached) and that all Templates must be submitted to both the ERO Field Office Contract Officer Representative (COR) and the ERO RPA Team Mailbox along with the monthly invoices. This invoice template should be completed in its entirety in the established format (template included in this modification) to include, but not limited to, the following: (1) Vendor Reference information including Bed Space Rate Breakdown, Invoice Date Range, Transportation Cost Breakdown; (2) Bed Space data including Detainee Names and corresponding Alien Numbers (A#); (3) Detainees Transported data including: Detainee Names, corresponding Alien Numbers, Category and Mission #, Mission Data including Mandatory Fields and Additional Mission Expenses corresponding to GSA and contract rates, as applicable and allowed. Invoice updates may be requested by the COR and will require timely resubmission to the COR and the ERO RPA Team Mailbox. The Government reserves the right to update the detention facility invoice process, templates or other related documents, in order to fix issues, expand capabilities, and improve performance of the reconciliation process.

<b>SOLICITATION/CONTRACT</b> BIDDER/OFFEROR TO COMPLETE BLOCKS 11, 13, 15, 21, 22, & 27		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING	PAGE OF PAGES 1 59
2. CONTRACT NO 70CDCR20DIG000008		3. AWARD/EFFECTIVE DATE 06/23/2020	4. SOLICITATION NUMBER		5. SOLICITATION TYPE <input type="checkbox"/> SEALED BIDS (IFB) <input type="checkbox"/> NEGOTIATED (RFP)
7. ISSUED BY ICE/Detention Compliance & Removals Immigration and Customs Enforcement Office of Acquisition Management 801 I Street, NW [REDACTED] WASHINGTON DC 20536		CODE ICE/DCR	8. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE: % FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) <input type="checkbox"/> HUBZONE SMALL BUSINESS ELIGIBLE UNDER THE WOSB PROGRAM <input type="checkbox"/> EDWOSB <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS NAICS: 561210 <input type="checkbox"/> 8(A) SIZE STANDARD: [REDACTED]		
9. (AGENCY USE) NO COLLECT CALLS					

10. ITEMS TO BE PURCHASED (BRIEF DESCRIPTION) <input type="checkbox"/> SUPPLIES <input checked="" type="checkbox"/> SERVICES		11. IF OFFER IS ACCEPTED BY THE GOVERNMENT WITHIN _____ CALENDAR DAYS (60 CALENDAR DAYS UNLESS OFFEROR INSERTS A DIFFERENT PERIOD) FROM THE DATE SET FORTH IN BLOCK 9 ABOVE, THE CONTRACTOR AGREES TO HOLD ITS OFFERED PRICES FIRM FOR THE ITEMS SOLICITED HEREIN AND TO ACCEPT ANY RESULTING CONTRACT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN.		12. ADMINISTERED BY CODE ICE/DCR ICE/Detention Compliance & Removals Immigration and Customs Enforcement Office of Acquisition Management 801 I Street, NW [REDACTED] WASHINGTON DC 20536	
13. CONTRACTOR OFFEROR CODE 0468452280000 FINNEY COUNTY OF ATTN [REDACTED] 304 N 9TH STREET GARDEN CITY KS 678465371 TELEPHONE NO. DUNS NO. 046845228 <input type="checkbox"/> CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER		14. PAYMENT WILL BE MADE BY CODE ICE-ERO/FOD-FCH DHS, ICE Burlington Finance Center P.O. Box 1620 Attn: ICE-ERO/FOD-FCH Williston VT 05495-1620 SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK		15. PROMPT PAYMENT DISCOUNT Net 30	
16. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION <input type="checkbox"/> 10 U.S.C. 2304 <input checked="" type="checkbox"/> 41 U.S.C. 253					

17. ITEM NO.	18. SCHEDULE OF SUPPLIES/SERVICES	19. QUANTITY	20. UNIT	21. UNIT PRICE	22. AMOUNT
	DUNS Number: 046845228 --- Contracting Officer's Representative: [REDACTED] (312) 890-[REDACTED] Contracting Officer: Continued ...				

23. ACCOUNTING AND APPROPRIATION DATA See Schedule	24. TOTAL AWARD AMOUNT (FOR GOVERNMENT USE ONLY) \$0.00
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25. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN _____ COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY CONTINUATION SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.	26. AWARD OF CONTRACT: YOUR OFFER ON SOLICITATION NUMBER SHOWN IN BLOCK 4 INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS
---	---

27. SIGNATURE OF OFFEROR/CONTRACTOR <i>Kevin Bascoe</i>	[REDACTED]
NAME AND TITLE OF SIGNER (TYPE OR PRINT) Kevin Bascoe, Sheriff	DATE SIGNED 07/21/2020

**NO RESPONSE FOR REASONS CHECKED**

<input type="checkbox"/>	CANNOT COMPLY WITH SPECIFICATIONS	<input type="checkbox"/>	CANNOT MEET DELIVERY REQUIREMENT
<input type="checkbox"/>	UNABLE TO IDENTIFY THE ITEM(S)	<input type="checkbox"/>	DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED
<input type="checkbox"/>	OTHER (Specify)		
<input type="checkbox"/>	WE DO	<input type="checkbox"/>	WE DO NOT, DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE OF ITEMS INVOLVED

NAME AND ADDRESS OF FIRM (Include ZIP Code)	SIGNATURE
	TYPE OR PRINT NAME AND TITLE OF SIGNER

Large empty rectangular area for providing details or comments.

FROM:

AFFIX  
STAMP  
HERE

TO:  
ICE/DCR  
ICE/Detention Compliance & Removals  
Immigration and Customs Enforcement  
Office of Acquisition Management  
801 I Street, NW [REDACTED]  
WASHINGTON DC 205

SOLICITATION NO. \_\_\_\_\_

DATE AND LOCAL TIME \_\_\_\_\_



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(A) ITEM NO.	(B) SUPPLIES/SERVICES	(C) QUANTITY	(D) UNIT	(E) UNIT PRICE	(F) AMOUNT
0002	<p>Bed Day Rate: [REDACTED] per day                      There is no guaranteed minimum number of beds under this agreement.                      Obligated Amount: \$0.00                      Product/Service Code: S206                      Product/Service Description: HOUSEKEEPING- GUARD</p>				0.00
	TRANSPORTATION SERVICES				
	<p>Transport/Escort/Stationary Rate; [REDACTED] per hour                      Transport/Escort/Stationary Rate; [REDACTED] per hour (overtime)                      Mileage: [REDACTED] per mile                      Per Diem as authorized IAW Article 13                      Obligated Amount: \$0.00                      Product/Service Code: S206                      Product/Service Description: HOUSEKEEPING- GUARD</p>				
	<p>Invoice Instructions: ICE - ERO Contracts</p>				
	<p>Service Providers/Contractors shall use these procedures when submitting an invoice.</p>				
	<p>1. Invoice Submission: Invoices shall be submitted in a ".pdf" format in accordance with the contract terms and conditions [Contract Specialist and Contracting Officer to disclose if on a monthly basis or other agreed to terms"] via email, United States Postal Service (USPS) or facsimile as follows:</p>				
	<p>a) Email:</p> <ul style="list-style-type: none"> <li>• Invoice.Consolidation@ice.dhs.gov</li> <li>• Contracting Officer Representative (COR) or Government Point of Contact (GPOC)</li> <li>• Contract Specialist/Contracting Officer</li> </ul>				
	<p>Each email shall contain only (1) invoice and the invoice number shall be indicated on the subject line of the email.</p>				
	<p>b) USPS:  DHS, ICE Financial Operations - Burlington P.O. Box 1620 Williston, VT 05495-1620  ATTN: ICE-ERO/FOD-FCH</p>				
	<p>The Contractors Data Universal Numbering System (DUNS) Number must be registered and active in the System for Award Management (SAM) at <a href="https://www.sam.gov">https://www.sam.gov</a> prior to Continued ...</p>				

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0001	<p>██████████ ██████████ (202) 732-██████████ ---</p> <p>The purpose of 70CDCR20DIG000008 is to establish an Inter-Governmental Service Agreement (IGSA) between the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) and Finney County, KS for the provision of detention and transportation services for ICE detainees at the Finney County Sheriff's Office located at 304 N. 9th St #1, Garden City, KS 67846.</p> <p>---</p> <p>This agreement does not obligate any funds. Services shall only be provided when authorized through a funded Task Order. The Period of Performance is from June 23, 2020 through June 21, 2120.</p> <p>---</p> <p>The Service Provider shall not accept any instruction that results in a change to the services detailed in this IGSA from an entity or individual other than the Contracting Officer.</p> <p>---</p> <p>The following documents constitute the complete agreement and are hereby incorporated directly or by reference:</p> <ul style="list-style-type: none"> <li>• Intergovernmental Service Agreement (IGSA)</li> <li>• Finney County Pricing Proposal dated April 10, 2020</li> <li>• ICE National Detention Standards (NDS) 2019</li> <li>• Attachment 1 - Wage Determination Number: [2015-5346 Rev. 11 dated 12/23/2019</li> <li>• Attachment 2 - Title 29, Part 4 Labor Standards for Federal Service Contracts</li> <li>• Attachment 3 - Quality Assurance Surveillance Plan (QASP)/(PRS)/(CDR)/2019</li> <li>• Attachment 4 - G-324B Operational Review Self-Assessment (ORSA) Detention Inspection Form Worksheet for IGSA's - Rev: 05/01/2012</li> <li>• Attachment 5 - DHS Prison Rape Elimination Act (PREA) Regulations</li> <li>• Attachment 6 - G-391 Data Collection Categories and Descriptions</li> <li>• Attachment 6(a) - G-391 Transportation Data Template</li> <li>• Attachment 7 - Robotics Process Automation (RPA) Contract Requirement</li> <li>• Attachment 7(a) - RPA Detention-Transportation Invoice Template</li> <li>• Attachment 8 - Bed Space Tracking Initiative Requirement</li> <li>• Attachment 8(a) - Bed Space Tracking Initiative Facility Submission Form</li> </ul> <p>DETENTION SERVICES</p> <p>Continued ...</p>		DA	██████████	0.00

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	<p>award and shall be notated on every invoice submitted to ensure prompt payment provisions are met. The ICE program office identified in the task order/contract shall also be notated on every invoice.</p> <p>c) Facsimile:</p> <p>Alternative Invoices shall be submitted to: (802)-288-7658</p> <p>Submissions by facsimile shall include a cover sheet, point of contact and the number of total pages.</p> <p>Note: the Service Providers or Contractors Dunn and Bradstreet (D&amp;B) DUNS Number must be registered in the System for Award Management (SAM) at <a href="https://www.sam.gov">https://www.sam.gov</a> prior to award and shall be notated on every invoice submitted to ensure prompt payment provisions are met. The ICE program office identified in the task order/contract shall also be notated on every invoice.</p> <p>2. Content of Invoices: Each invoice shall contain the following information in accordance with 52.212-4 (g), as applicable:</p> <p>(i). Name and address of the Service Provider/Contractor Note: the name, address and DUNS number on the invoice MUST match the information in both the Contract/Agreement and the information in the SAM. If payment is remitted to another entity, the name, address and DUNS information of that entity must also be provided which will require Government verification before payment can be processed;</p> <p>(ii). Dunn and Bradstreet (D&amp;B) DUNS Number;</p> <p>(iii). Invoice date and invoice number;</p> <p>(iv). Agreement/Contract number, contract line item number and, if applicable, the order number;</p> <p>(v). Description, quantity, unit of measure, unit price, extended price and period of performance of the items or services delivered;</p> <p>(vi). If applicable, shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;</p> <p>(vii). Terms of any discount for prompt payment offered;</p> <p>(viii). Remit to Address;</p> <p>(ix). Name, title, and phone number of person to resolve invoicing issues;</p> <p>(x). ICE program office designated on order/contract/agreement and</p> <p>(xi). Mark invoice as "Interim" (Ongoing performance and additional billing expected) and "Final" (performance complete and no additional billing)</p> <p>Continued ...</p>				

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	<p>(xii). Electronic Funds Transfer (EFT) banking information in accordance with 52.232-33 Payment by Electronic Funds Transfer - System for Award Management or 52-232-34, Payment by Electronic Funds Transfer - Other than System for Award Management.</p> <p>3. Invoice Supporting Documentation. To ensure payment, the vendor must submit supporting documentation which provides substantiation for the invoiced costs to the Contracting Officer Representative (COR) or Point of Contact (POC) identified in the contract. Invoice charges must align with the contract CLINs. Supporting documentation is required when guaranteed minimums are exceeded and when allowable costs are incurred. Details are as follows:</p> <p>(i). Guaranteed Minimums. If a guaranteed minimum is not exceeded on a CLIN(s) for the invoice period, no supporting documentation is required. When a guaranteed minimum is exceeded on a CLIN (s) for the invoice period, the Contractor is required to submit invoice supporting documentation for all detention services provided during the invoice period which provides the information described below:</p> <p>a. Detention Bed Space Services</p> <ul style="list-style-type: none"> <li>• Bed day rate;</li> <li>• Detainees check-in and check-out dates;</li> <li>• Number of bed days multiplied by the bed day rate;</li> <li>• Name of each detainee;</li> <li>• Detainees identification information</li> </ul> <p>(ii). Allowable Incurred Cost. Fixed Unit Price Items (items for allowable incurred costs, such as transportation services, stationary guard or escort services, transportation mileage or other Minor Charges such as sack lunches and detainee wages): shall be fully supported with documentation substantiating the costs and/or reflecting the established price in the contract and shall be submitted in .pdf format:</p> <p>a. Detention Bed Space Services. For detention bed space CLINs without a GM, the supporting documentation must include:</p> <ul style="list-style-type: none"> <li>• Bed day rate;</li> <li>• Detainees check-in and check-out dates;</li> <li>• Number of bed days multiplied by the bed day rate;</li> <li>• Name of each detainee;</li> <li>• Detainees identification information</li> </ul> <p>b. Transportation Services: For transportation CLINs without a GM, the supporting documentation must include:</p> <ul style="list-style-type: none"> <li>• Mileage rate being applied for that invoice;</li> <li>• Number of miles;</li> <li>• Transportation routes provided;</li> </ul> <p>Continued ...</p>				

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FINNEY COUNTY OF

(A) ITEM NO.	(B) SUPPLIES/SERVICES	(C) QUANTITY	(D) UNIT	(E) UNIT PRICE	(F) AMOUNT
	<ul style="list-style-type: none"> <li>• Locations serviced;</li> <li>• Names of detainees transported;</li> <li>• Itemized listing of all other charges; and,</li> <li>• for reimbursable expenses (e.g. travel expenses, special meals, etc.) copies of all receipts.</li> </ul> <p>c. Stationary Guard Services: The itemized monthly invoice shall state:</p> <ul style="list-style-type: none"> <li>• The location where the guard services were provided,</li> <li>• The employee guard names and number of hours being billed,</li> <li>• The employee guard names and duration of the billing (times and dates), and</li> <li>• for individual or detainee group escort services only, the name of the detainee(s) that was/were escorted.</li> </ul> <p>d. Other Direct Charges (e.g. VTC support, transportation meals/sack lunches, volunteer detainee wages, etc.):</p> <p>1) The invoice shall include appropriate supporting documentation for any direct charge billed for reimbursement. For charges for detainee support items (e.g. meals, wages, etc.), the supporting documentation should include the name of the detainee(s) supported and the date(s) and amount(s) of support.</p> <p>(iii) Firm Fixed-Price CLINs. Supporting documentation is not required for charges for FFP CLINs.</p> <p>4. Safeguarding Information: As a contractor or vendor conducting business with Immigration and Customs Enforcement (ICE), you are required to comply with DHS Policy regarding the safeguarding of Sensitive Personally Identifiable Information (PII). Sensitive PII is information that identifies an individual, including an alien, and could result in harm, embarrassment, inconvenience or unfairness. Examples of Sensitive PII include information such as: Social Security Numbers, Alien Registration Numbers (A-Numbers), or combinations of information such as the individuals name or other unique identifier and full date of birth, citizenship, or immigration status.</p> <p>As part of your obligation to safeguard information, the follow precautions are required:</p> <p>(i) Email supporting documents containing Sensitive PII in an encrypted attachment with password sent separately to the Contracting Officer Representative assigned to the contract.</p> <p>(ii) Never leave paper documents containing Sensitive PII unattended and unsecure. When not in use, these documents will be locked in drawers, cabinets, desks, etc. so the information is not accessible to those without a need to know.</p> <p>(iii) Use shredders when discarding paper documents containing Sensitive PII.</p> <p>Continued ...</p>				

**CONTINUATION SHEET**

REFERENCE NO. OF DOCUMENT BEING CONTINUED  
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PAGE OF  
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NAME OF OFFEROR OR CONTRACTOR  
FINNEY COUNTY OF

(A) ITEM NO.	(B) SUPPLIES/SERVICES	(C) QUANTITY	(D) UNIT	(E) UNIT PRICE	(F) AMOUNT
	<p>(iv) Refer to the DHS Handbook for Safeguarding Sensitive Personally Identifiable Information (March 2012) found at <a href="http://www.dhs.gov/xlibrary/assets/privacy/dhs-privacy-safeguardingsensitivepiihandbook-march2012.pdf">http://www.dhs.gov/xlibrary/assets/privacy/dhs-privacy-safeguardingsensitivepiihandbook-march2012.pdf</a> for more information on and/or examples of Sensitive PII.</p> <p>5. Invoice Inquiries. If you have questions regarding payment, please contact ICE Financial Operations at 1-877-491-6521 or by e-mail at <a href="mailto:OCFO.CustomerService@ice.dhs.gov">OCFO.CustomerService@ice.dhs.gov</a>.</p> <p>The obligated amount of award: \$0.00. The total for this award is shown in box 24.</p>				

## Intergovernmental Service Agreement (IGSA)

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**Article 1. Purpose**

- A. Purpose: The purpose of this Intergovernmental Service Agreement (IGSA) is to establish an Agreement between ICE and the Service Provider for the detention and care of persons detained under the authority of the Immigration and Nationality Act, as amended. All persons in the custody of ICE are “Administrative Detainees.” This term recognizes that ICE detainees are not charged with criminal violations and are only held in custody to assure their presence throughout the administrative hearing process and to assure their presence for removal from the United States pursuant to a lawful final order by the Immigration Court, the Board of Immigration Appeals, an authorized Executive Official, or other Federal judicial body.
  
- B. Responsibilities: This Agreement sets forth the responsibilities of ICE and the Service Provider. The Service Provider shall provide all personnel, management, equipment, supplies, and services necessary for performance of all aspects of the Agreement and ensure that the safekeeping, housing, subsistence, medical, and other program services provided to ICE detainees housed in the facility is consistent with ICE’s civil detention authority, the PWS, IGSA requirements and ICE standards referenced in this agreement. The Agreement states the services the Service Provider shall perform satisfactorily to receive payment from ICE at the rate prescribed in Article I C.
  
- C. Rates: This is a fixed rate contract, not a cost reimbursable, with respect to the bed day rate for [40] detainees. ICE will be responsible for reviewing and approving the costs associated with this Agreement and subsequent modifications utilizing all applicable federal procurement laws, regulations and standards in arriving at the bed day rate.

Bed Day Rate:	\$	██████████	per Detainee
Transport/Escort/Stationary Services Rate :	\$	██████████	per hour
Transport/Escort/Stationary Services Rate (overtime)	\$	██████████	per hour

If this IGSA contains a population guarantee, ICE will not be liable for any failure to meet the population guarantee if such failure directly results from an occurrence that impairs the ability to use the facility's capacity, and such occurrence arises out of causes beyond the control and without the fault or negligence of ICE. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, freight embargoes, court orders and severe or adverse weather. This provision shall become effective only if ICE immediately notifies the Provider of the extent and nature of the occurrence resulting in the failure and takes all reasonable steps to limit any adverse effects required by the occurrence.



## Article 2. General

- A. Commencement of Services: ICE is under no obligation to utilize the facilities identified herein until the need for detention services has been identified, funding has been identified and made available, and the Facility meets ICE requirements, and is compliant with ICE National Detention Standards (NDS) 2019. Therefore, ICE may perform numerous assessments to ensure compliance prior to presenting detainees for housing. *\*Should there be a need for a ramp-up plan, the effective start of the plan is from the date of the first detainee presented for housing.*
- B. Funding: The obligation of ICE to make payments to the Service Provider is contingent upon the availability of Federal funds. ICE will neither present detainees to the Service Provider nor direct performance of any other services until ICE has the appropriate funding. Orders will be placed under this Agreement when specific requirements have been identified and funding obligated. Performance under this Agreement is not authorized until the Contracting Officer issues an order in writing. The effective date of the services will be negotiated and specified in this Agreement. The Service Provider shall be prepared to accept detainees immediately upon issuance of task order in accordance with the agreed upon ramp-up plan.
- C. Subcontractors: The Service Provider shall notify and obtain approval from the ICE Contracting Officer if it intends to house ICE detainees in a facility other than the Finney County Sheriff's Department. If either the Facility or any future facility is operated by an entity other than the Service Provider, ICE will treat the entity as a subcontractor to the Service Provider. The Service Provider shall obtain the Contracting Officer's approval before subcontracting the detention and care of detainees to another entity. The Contracting Officer has the right to deny, withhold, or withdraw approval of the proposed subcontractor. Upon approval by the Contracting Officer, the Service Provider shall ensure that any subcontract includes all provisions of this Agreement, and shall provide ICE with copies of all subcontracts. All payments will be made to the Service Provider. ICE will not accept invoices from, or make payments to, a subcontractor. Subcontractors that perform under this agreement are subject to the terms and conditions of this IGSA.
- D. Consistent with Law: This is a firm fixed rate Agreement, not a cost reimbursable Agreement. This Agreement is permitted under applicable statutes, regulation, policies or judicial mandates. Any provision of this Agreement contrary to applicable statutes, regulation, policies or judicial mandates is null and void and shall not necessarily affect the balance of the Agreement.

## Article 3. Covered Services

- A. Bedspace: The Service Provider shall provide [REDACTED] (both male and female) on a space available basis for no more than seventy-two (72) hours. The Service Provider shall house all detainees as determined within the Service Provider's classification system. The facility shall be located within appropriate proximity and access to emergency services

(medical, fire protection, law enforcement, etc.) ICE will be financially liable only for the actual detainee days as defined in Paragraph C of Article 3.

- B. Basic Needs: The Service Provider shall provide ICE detainees with safekeeping, housing, subsistence, medical and other services in accordance with this Agreement. In providing these services, the Service Provider shall ensure compliance with all applicable laws, regulations, fire and safety codes, policies and procedures. The types and levels of services shall be consistent with those the Service Provider routinely affords other inmates.

If the Service Provider determines that ICE has delivered a person for custody who is under the age of eighteen (18), the Service Provider shall not house that person with adult detainees and shall immediately notify the ICE Contract Officer Representative (COR) or designated ICE official. ICE will remove the juvenile as quickly as is reasonably possible.

- C. Unit of Service and Financial Liability: The unit of service is called a “Bed Day” and is defined as one person per day. The bed day begins on the date of arrival. The Service Provider may bill ICE for the date of arrival but not the date of departure. The Service Provider shall not charge for costs that are not directly related to the housing and detention of detainees. Such unallowable costs include but are not limited to:

- 1) Salaries of elected officials
- 2) Salaries of employees not directly engaged in the housing and detention of detainees
- 3) Indirect costs in which a percentage of all local government costs are pro-rated and applied to individual departments unless, those cost are allocated under an approved Cost Allocation Plan
- 4) Detainee services which are not provided to, or cannot be used by, Federal detainees
- 5) Operating costs of facilities not utilized by Federal detainees
- 6) Interest on borrowing (however represented), bond discounts, costs of financing/refinancing, except as prescribed by OMB Circular A-87.
- 7) Legal or professional fees (including legal expenses for prosecution of claims against the Federal Government, legal expenses of individual detainees or inmates)
- 8) Contingencies

The Parties agree to base the cost of the bed day rate and all services provided on the principles of allowability and allocability as set forth in OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, federal procurement laws, regulations, and standards.

- D. Language Access Services: The Service Provider shall provide language access services, which include interpretation and translation services, for limited English proficient (LEP)

detainees. This should be accomplished through professional interpretation and translation or qualified bilingual personnel for necessary communication with detainees who do not read, speak, write, or understand English. Oral interpretation should be provided for detainees who are illiterate. Other than in emergencies, and even then only for that period of time before appropriate language services can be procured, detainees shall not be used for interpretation or translation services. The Service Provider shall also make special provisions for detainees who are illiterate. The Service Provider should utilize commercial phone language interpretive services to ensure fulfillment of this requirement. Upon request, ICE will assist the Service Provider in obtaining interpretation and translation services through a toll free line. The Service Provider shall provide all instructions verbally, either in English or the detainees' language, as appropriate, to detainees who cannot read.

- E. Disability-Related Services: The Service Provider shall comply with Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), their implementing federal regulations, any other applicable disability-related federal law and state law, and its obligations under NDS 2019. Specifically, the Service Provider shall ensure that its building and transportation services are physically accessible for detainees with disabilities. Also, as required under applicable federal and state law and under NDS 2019, the Service Provider shall provide detainees with disabilities with accommodations, auxiliary aids, and modifications to policies, practices, and/or procedures to allow them an equal opportunity to access, participate in, or benefit from detention programs, services, and activities. The Service Provider shall allow for effective communication with detainees with disabilities through the provision of accommodations and auxiliary aids, such as access to sign language interpretation services, as necessary. In addition, deaf detainees shall have access to a TTY telephone and to sign language interpretation services.
- F. No ICE Liability for Failure to Meet Minimum Guarantee: ICE will not be liable for any failure to meet the minimum or population guarantee if such failure results directly from an occurrence that impairs the ability of ICE to use the facility's capacity, and such occurrence arises out of causes beyond the control and without the fault or negligence of ICE. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, freight embargoes, court orders and extraordinarily severe weather. This provision becomes effective only if ICE immediately notifies the Provider of the extent and nature of the occurrence resulting in the failure and takes all reasonable steps to limit any adverse effects required by the occurrence.

#### **Article 4. Receiving and Discharging Detainees**

- A. Required Activity: The Service Provider shall receive and discharge detainees only to and from properly identified ICE/ERO personnel or other properly identified Federal law enforcement officials with prior authorization from ICE/ERO. Presentation of and satisfactory inspection of valid U.S. Government identification will constitute "proper identification." The Service Provider shall furnish receiving and discharging services

twenty-four (24) hours per day, seven (7) days per week. ICE will furnish the Service Provider with reasonable notice of receiving and discharging detainees. The Service Provider shall ensure positive identification and recording of detainees and ICE officers. The Service Provider shall not permit medical or emergency discharges except through coordination with on-duty ICE officers.

- B. Emergency Situations: ICE detainees shall not be released from the Facility into the custody of other non-ICE Federal, state, or local officials for any reason, except for medical or emergency situations, without express authorization of ICE.
- C. Restricted Release of Detainees: The Service Provider shall not release ICE detainees from its physical custody to any persons other than those described in Paragraph A of Article IV for any reason, except for either medical, other emergency situations, or in response to a federal writ of habeas corpus. If an ICE detainee is sought for federal, state, or local proceedings, only ICE may authorize release of the detainee for such purposes. The Service Provider shall contact the COR or designated ICE official immediately regarding any such requests.
- D. Safe Release: The time, point and manner of release from a facility shall be consistent with safety considerations and shall take into account special vulnerabilities. Facilities that are not within a reasonable walking distance of, or that are more than one mile from, public transportation shall transport detainees to local bus/train/subway stations prior to the time the last bus/train leaves such stations for the day. If public transportation is within walking distance of the detention facility, detainees shall be provided with an information sheet that gives directions to and describes the types of transportation services available. However, facilities must provide transportation for any detainee who is not reasonably able to walk to public transportation due to age, disability, illness, mental health or other vulnerability, or as a result of weather or other environmental conditions at the time of release that may endanger the health or safety of the detainee.

Upon release, detainees shall also be provided with a list of shelter services available in the immediate area along with directions to each shelter. Prior to their release, detainees shall be given the opportunity to make one free phone call to a friend or relative to arrange for pick up from the facility.

- E. Service Provider Right of Refusal. The Service Provider retains the right to refuse acceptance of any detainee if such refusal is supported by a valid justification and agreed to by the COR. ICE hereby agrees to the following examples of valid justification for refusal: any detainee exhibiting violent or disruptive behavior, or any detainee found to have a medical condition that requires medical care beyond the scope of the Service Provider's health care provider. In the case of a detainee already in custody, the Service Provider shall notify ICE and request such removal of the detainee from the Facility. The Service Provider shall allow ICE reasonable time to make alternative arrangements for the detainee. The Service Provider further has the right to refuse any person delivered by

ICE who is under the age of eighteen and ICE shall remove such person, in accordance with Article 3.

- F. **Emergency Evacuation:** In the event of an emergency requiring evacuation of the Facility, the Service Provider shall evacuate ICE detainees in the same manner, and with the same safeguards, as it employs for persons detained under the Service Provider's authority. The Service Provider shall notify the COR or designated ICE official within two (2) hours of evacuation.

**Article 5. ICE National Detention Standards (NDS) 2019 and Other Applicable Standards**

- A. The Service Provider shall house detainees and perform related detention services at a minimum in accordance with the NDS 2019 (<https://www.ice.gov/detention-standards/2019>) and the G-324B ORSA Detention Inspection Form Worksheet for IGSA's  
Rev: 05/01/2012 Attachment 4, unless otherwise specified in this agreement. ICE Inspectors will conduct periodic inspections of the Facility to assure compliance with the applicable standards.
- B. If a change in the standards identified herein results in a documentable financial impact to the Service Provider, the Service Provider must notify the Contracting Officer within five (5) days of receipt of the change and request either 1) a waiver to the Standards or, 2) to negotiate a change in per diem.
- C. The Facility's operation shall reflect the NDS 2019 Expected Outcomes and Practices. Where mandatory requirements are expressed, innovation is encouraged to achieve the optimal levels to further the goals of detention reform.
- D. The Service provider shall also comply with the American Correctional Association (ACA) Standards for Adult Local Detention Facilities (ALDF), and Standards Supplement, Standards for Health Services in Jails, National Commission on Correctional Health Care (NCCHC). Some ACA standards are augmented by ICE Policy and/or procedure. The Service Provider shall also comply with the requirements of Subpart A of the U.S. Department of Homeland Security Regulation titled "*Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities*," title 6 Code of Federal Regulation (C.F.R.) part 115 (DHS PREA)/79 Fed. Reg. 13100 (Mar. 7, 2014), and Attachment 5 to this agreement. If any requirements of the DHS PREA standards conflict with the terms of the NDS 2019, the DHS PREA standards shall prevail.
- E. In cases where other standards conflict with ICE Policy or Standards, NDS 2019 Standards will prevail.

The parties to this IGSA agree to enter into negotiations if and when the ICE Detention Standards are updated. This Agreement will be modified in writing upon mutual agreement

## **Article 6. Medical Services**

- A. If it is determined that ICE Health Service Corps will not provide direct patient care services at this location, the Service Provider shall be responsible for providing health care services for ICE detainees at the Facility in accordance with NDS 2019 and/or the ICE Family Residential Standards, including but not limited to; intake arrival screening, infectious disease screening and treatment, emergent, acute and chronic care, on-site sick call, dental services, and mental health services. Also required is over-the-counter and prescription medications per the current ICE Health Service Corps (IHSC) Formulary along with all required vaccinations per the CDC recommendations and IHSC policy for certain populations. On site routine labs and CLIA waived testing (see attached appendix) will be a requirement of the Service Provider. Off-site labs must be approved through the Medpar system and will be paid for by IHSC. Medical supplies will also be provided at no additional cost to the government or the ICE detained alien. All of the above costs will be included in the bed day rate for this contract.

The exception would be any approved prescription medications that must be filled at a retail pharmacy location, to include; approved non-formulary meds, or any approved newly marketed med not currently available at the on-site pharmacy, as well as durable medical equipment identified as necessary by a medical provider. The mechanism for payment for retail purchases of medications and durable medical equipment will be made available through the IHSC Field Medical Coordinator (FMC).

- B. In the event of a medical emergency, the Service Provider shall proceed immediately to provide necessary emergency medical treatment, including initial on-site stabilization and off-site transport, if needed. The Service Provider shall notify ICE immediately regarding the nature of the transferred detainee's illness or injury and the type of treatment provided. The cost of all emergency medical services provided off-site will be the responsibility of ICE Health Service Corps (IHSC). At no time shall the Service Provider or detainee incur any financial liability related to such services. The primary point of contact for obtaining pre-approval for non-emergent care as well as the post approval for emergent care will be the IHSC FMC assigned to this location.
- C. The Service Provider shall furnish a twenty-four (24) hour/seven day per week emergency medical care contact list which must include local hospitals and other offsite service providers. The Service Provider shall ensure they have access to an offsite emergency medical provider at all times.

- D. The Service Provider must make available a facility emergency evacuation procedure guide that includes any patients currently housed in a medical/mental health housing area including any isolation rooms as well as other special housing areas within the facility. The service provider must provide training on all emergency plans to the onsite medical staff.
- E. A true copy of a detainee's medical records shall be transferred with the detainee upon request of the detainee. Otherwise a medical transfer summary shall accompany the detainee outlining necessary care during transit that includes current medications, medical precautions, tuberculosis testing and evaluation status, equipment needed, and appropriately authorized methods of travel.
- F. The Service Provider shall ensure that all health care providers utilized for ICE detainees hold current licenses, certifications, and/or registrations within the State and/or City where they treat our detained population. The Service Provider shall retain, at a minimum, staffing levels as approved by IHSC at the time of implementation of this contract.
- G. The Service Provider shall furnish onsite health care under this Agreement as defined by the Facility Local Health Authority (usually the Health Administrator) and as approved by the ICE Health Authority on the effective date of this Agreement. The Service Provider shall not charge any ICE detainee a fee or co-payment for medical services or treatment provided at the Facility. The Service Provider shall ensure that ICE detainees receive no lower level of onsite medical care and services than those it provides to local inmates, and as spelled out in NDS 2019.
- H. Onsite health care personnel shall perform **initial medical screening** within (12) hours of arrival to the Facility. Arrival screening shall include, at a minimum, all questions captured on the IHSC 795-A or equivalent. Required testing for TB infection and/or disease using any Food and Drug Administration (FDA) approved method, and recording the history of past and present illnesses (mental and physical, dental, pregnancy status, history of substance abuse, screening questions for other infectious disease, and current health status). Initial screening will also contain height, weight, and a complete set of vital signs (BP, P, T). Blood sugar and O2 readings may be necessary dependent upon specified diagnosis or current medical concern.
- I. The Service Provider shall furnish mental health evaluations as determined by the Facility local health authority and in accordance with detention, NDS 2019, National Commission on Correctional Health Care (NCCHC), and ACA standards with the expectation to provide custody oversight and medication as needed.
- J. **A full health assessment to include a history and hands on physical examination shall be completed within the first 14 days of detainee arrival unless the clinical situation dictates an earlier evaluation.** Detainees with chronic medical and/or mental health conditions shall receive prescribed treatment and follow-up care with the

appropriate level of provider and in accordance with the NDS 2019, the Family Residential Standards, National Commission on Correctional Health Care (NCCHC) and American Correctional Association Standards based on which standards are applicable under this agreement. In addition, **any juvenile (pediatric or adolescent) seen for a scheduled medical, dental or mental health appointment will have a weight, blood pressure, temperature, and pulse taken and recorded in the record.** This does not include the weekly mental health wellness check conducted for each juvenile.

- K. If the Service Provider determines that an ICE detainee has a medical condition which renders that person unacceptable for detention under this Agreement, (for example, serious contagious disease, condition needing life support, uncontrollable violence, or serious mental health condition), the Service Provider shall notify ICE through the Field Office representative. Upon such notification, the Service Provider shall allow ICE reasonable time to make the proper arrangements for further disposition of that detainee.
- L. The Service Provider shall release any and all medical information for ICE detainees to the IHSC representatives upon request.

The Service Provider shall submit a Medical Payment Authorization Request (MedPAR) to IHSC for payment for off-site medical care (e.g. offsite lab testing, eyeglasses, prosthetics, hospitalizations, emergency visits). The Service Provider shall enter payment authorization requests electronically as outlined in the MedPAR User Guide: <https://medpar.ehr-icehealth.org/>.

- M. The Health Authority of the Service Provider shall notify the ICE contact and/or FMC as soon as possible if emergency care was obtained off site; and in no case more than seventy-two (72) hours after detainee is in receipt of such care. Authorized payment for all offsite medical services for the initial emergency need and for medical and/or mental health care required beyond the initial emergency situation will be made by the Veterans Administration Franchise Service Center (VA FSC) on behalf of IHSC directly to the medical provider(s).

IHSC VA Financial Services Center  
PO Box 149345  
Austin, TX 78714-9345  
Phone: (800) 479-0523  
Fax: (512) 460-5538

- N. The Service Provider shall allow IHSC Field Medical Coordinators, Managed Care Coordinators or any ICE personnel reasonable access to its facility and medical records of ICE detainees for the purpose of liaison activities with the local IGSA Health Authority and associated Service Provider departments in accordance with HIPAA privacy exception at 45 C.F.R. § 164.512 (k)(5)(i).



- O. The Service Provider shall provide ICE detainee medical records to ICE whether created by the Service Provider or its sub-Service Provider/vendor upon request from the Contracting Officer's Representative or Contracting Officer in accordance with HIPAA privacy exception at 45 C.F.R. § 164.512 (k)(5)(i), which allows disclosure without consent to a correctional institution or a law enforcement official having lawful custody of an inmate or other individual if the correctional institution or such law enforcement official represents that such protected health information is necessary for:
- a. The provision of health care to such individuals;
  - b. The health and safety of such individual or other inmates;
  - c. The health and safety of the officers or employees of or others at the correctional institution;
  - d. The health and safety of such individuals and officers or other persons responsible for the transporting of inmates or their transfer from one institution, facility, or setting to another;
  - e. Law enforcement on the premises of the correctional institution;
  - f. The administration and maintenance of the safety, security, and good order of the correctional institution; and
  - g. Conducting a quality improvement / quality of care review consistent with an established quality improvement (medical quality management) program and interfacing with the IHSC quality improvement program consistent with federal, state, and local laws.

P. Tuberculosis Screening

The Service Provider will perform TB screening as part of the routine intake screening, within 12 hours of detainee admission, early detection of any detainee suspected of having TB disease. TB screening will include, at a minimum, TB symptom screening and testing for TB infection and/or disease using any Food and Drug Administration (FDA) approved method. Detainees who have symptoms suggestive of TB disease will be immediately placed in an airborne infection isolation room and promptly evaluated for suspected TB disease. Detainees who are initially tested using a test for TB infection [TB skin test (TST) or interferon gamma release assay (IGRA)] and result with a TST interpretation or IGRA positive for TB infection and no symptoms suggestive of TB disease must be evaluated with a chest radiograph within 5 days after the TST is interpreted or IGRA result is received.

Detainees who are identified with confirmed or suspected active TB (e.g., symptoms suggestive of TB or chest radiograph suggestive of TB) will be placed in a functional airborne infection isolation room and managed in accordance with the PBNDS and all applicable CDC guidelines: <http://www.cdc.gov/tb/publications/guidelines/default.htm>. It is not necessary to house detainees separately from the general population unless there is clinical or radiographic evidence suggestive of TB disease. If chest x-rays are

performed on-site, they will be performed by a trained and qualified health care provider and interpreted by a credentialed radiologist. There will be a non-punitive process in place for detainees who refuse the screening assessment for TB.

The Service Provider will notify IHSC and the local health department of all detainees with confirmed or suspected TB disease, including detainees with clinical or radiographic evidence suggestive of TB. Notification shall occur within one working day of identifying a detainee with confirmed or suspected TB disease. Notification to local health departments shall identify the detainee as being in ICE custody and shall include the alien number with other identifying information. For detainees with confirmed or suspected TB disease, the Service Provider will coordinate with IHSC and the local health department prior to release to facilitate release planning and referrals for continuity of care.

The service provider will evaluate detainees annually for symptoms, consistent with TB, within one year of the previously documented TB evaluation. For detainees initially screened with a TST or IGRA with a negative result, annual evaluation will include testing with the same method as previously used. For detainees initially evaluated with a chest radiograph interpreted as not suggestive of TB disease, routine annual chest radiograph is not recommended.

Q. Radiology Service Provider

If the service provider utilizes tele-radiology for Tuberculosis screening, the requirement should be built into the established bed day rate for this IGSA.

R. Airborne precautions

In order to prevent the spread of airborne infectious disease or cross contamination of zones within the facility, the HVAC system in the intake screening area will be designed to exhaust to the exterior and prevent air exchange between the intake screening area and any other area within the facility (see CDC guidelines <http://www.cdc.gov/tb/publications/guidelines/Correctional.htm>).

**Other areas of concern:**

**Language Access Services:** The Service Provider shall provide language access services, which include interpretation and translation services, for limited English proficient (LEP) detainees. This should be accomplished through professional interpretation and translation or qualified bilingual personnel for necessary communication with detainees who do not read, speak, write, or understand English. Oral interpretation should be provided for residents who are illiterate. Other than in emergencies, and even then only for that period of time before appropriate language services can be procured, residents shall not be used for interpretation or translation services. The Service Provider shall also make special provisions for detainees who are illiterate. The Service Provider should utilize commercial phone language interpretive

services to ensure fulfillment of this requirement. Upon request, ICE will assist the Service Provider in obtaining interpretation and translation services through a toll free line. The Service Provider shall provide all instructions verbally, either in English or the detainees' language, as appropriate, to detainees who cannot read.

**Disability-Related Services:** The Service Provider shall comply with Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), their implementing federal regulations, any other applicable disability-related federal law and state law, and its obligations under NDS 2019. Specifically, the Service Provider shall ensure that its building and transportation services are physically accessible for detainees with disabilities. Also, as required under applicable federal and state law and under NDS 2019, the Service Provider shall provide detainees with disabilities with accommodations, auxiliary aids, and modifications to policies, practices, and/or procedures to allow them an equal opportunity to access, participate in, or benefit from detention programs, services, and activities. The Service Provider shall allow for effective communication with detainees with disabilities through the provision of accommodations and auxiliary aids, such as access to sign language interpretation services, as necessary. In addition, deaf detainees shall have access to a TTY telephone and to sign language interpretation services.

**Employee Health:** Employee health files for each employee must be maintained on site, in a locked cabinet by the Health Services Administrator or the employer's designee. Health files are maintained in accordance with DHS and ICE Privacy Policies and the Privacy Act of 1974 and contain the following documents:

- a. Initial and annual TB infection screening results.
- b. Vaccination records including results, titers, and Immunization Declination Form(s).
- c. OSHA 301 Incident forms.
- d. Blood borne pathogen exposure documentation.
- e. Annual respirator medical clearance.
- f. Fit test results.
- g. Other employee health documents.

The Service Provider may initiate employment of an individual who has initiated the required vaccines and the individual may be hired and begin performing work on the contract as long as they meet all subsequent booster dates until fully vaccinated.

All contract personnel must provide documentation regarding the following:

1. History of testing for tuberculosis (TB) within the last 12 months:

- a. Chest x-ray if employee has a history of LTBI, treatment history for LTBI or TB disease, if applicable; and
- b. Additionally, on an annual basis and at own expense, contractor shall provide a current TST or IGRA test result if the employee previously tested negative for LTBI, evaluation for TB symptoms if the employee previously tested positive for LTBI, and follow up as appropriate in accordance with Centers for Disease Control and Prevention (CDC) guidelines.

## 2. Hepatitis B

The Occupational Safety and Health Administration (OSHA) Blood-borne Pathogens (BBP) Standard requires employers to provide employees at risk of occupational exposure to blood and other potentially infectious material (OPIM) with the Hepatitis B vaccination series. Health staff must do one of the following:

- a. Complete the Hepatitis B vaccination series; and provide documentation of the vaccination series or titer results that confirm immunity to HBV; or
- b. Refuse the vaccination series for medical reasons and complete the Immunization Declination Form.

Highly recommended vaccinations for custody staff in the detention environment; Custody workers are considered to be at significant risk for acquiring or transmitting Hepatitis B, measles, mumps, rubella, varicella and seasonal influenza. All of these diseases are vaccine-preventable. Therefore, the following vaccinations are highly recommended for custody staff. If staff decline or refuse any of these recommended vaccines, an Immunization Declination Form is required.

- a. Hepatitis A;
- b. Hepatitis B;
- c. Varicella;
- d. Measles, Mumps, Rubella (MMR);
- e. Diphtheria, tetanus, a-cellular pertussis (DTAP); and
- f. Annual seasonal influenza.

Custody staff will provide immunization documentation or titer results to the Health Services Administrator or the employer's designee for placement in the employee health file. CDC's Immunization of Health-Care Workers: Recommendations of the Advisory Committee on Immunization Practices (ACIP) and the Hospital Infection Control Practices Advisory Committee (HICPAC)

## Article 7. Employment Screening Requirements

Subject to existing laws, regulations, Executive Orders, and addenda to this Agreement, the Service Provider shall not employ aliens unauthorized to work in the United States. Except for maintaining personal living areas, ICE detainees shall not be required to perform manual labor.

- A. General. The Service Provider shall certify to the Contracting Officer that any employees performing under this Agreement, who have access to ICE detainees, will have successfully completed an employment screening that includes at a minimum a criminal history records check, employment reference checks and a citizenship check.
- B. Employment Eligibility. Each employee working on this contract shall successfully pass the DHS Employment Eligibility Verification (E-Verify) program operated by USCIS to establish work authorization.

The E-Verify system, formerly known as the Basic Pilot/Employment Eligibility Verification Program, is an Internet-based system operated by DHS USCIS, in partnership with the Social Security Administration (SSA) that allows participating employers to electronically verify the employment eligibility of their newly hired employees. E-Verify represents the best means currently available for employers to verify the work authorization of their employees.

Each employee working on this contract shall have a Social Security Card issued and approved by the Social Security Administration. The Contractor shall be responsible to the Government for acts and omissions of his own employees and for any subcontractor(s) and their employees.

Subject to existing law, regulations and/or other provisions of this contract, illegal or undocumented aliens shall not be employed by the Contractor, or under this contract. The Contractor shall ensure that this provision is expressly incorporated into any and all Subcontracts or subordinate agreements issued in support of this contract.

- C. Security Management. The Contractor shall appoint a senior official to act as the Corporate Security Officer. The individual shall interface with the OPR-PSU through the COR on all security matters, to include physical, personnel, and protection of all Government information and data accessed by the Contractor.

The COR and the OPR-PSU shall have the right to inspect the procedures, methods, and facilities utilized by the Contractor in complying with the security requirements under this contract. Should the COR determine that the Contractor is not complying with the security requirements of this contract, the Contractor will be informed in writing by the Contracting Officer of the proper action to be taken in order to effect compliance with such requirements.

## Article 8. Period of Performance

This Agreement becomes effective upon the date of final signature by the ICE Contracting Officer and the authorized signatory of Finney County Sheriff's Office and will remain in effect indefinitely. Either party must provide written notice of intention to terminate the agreement, 90 days in advance of the effective date of formal termination, or the Parties may agree to a shorter period under the procedures prescribed in Article 11. If this Agreement is terminated by either party under this Article, ICE will not be under any financial obligation for any costs related to and arising out of the Agreement after the effective date of termination. The Service Provider will only be paid for services provided to ICE up to and including the day of termination.

## Article 9. Inspections, Audit, Surveys, and Tours

- A. Facility Inspections: The Service Provider shall allow ICE or an entity or organization approved by ICE, to conduct inspections of the Facility, to ensure an acceptable level of services and acceptable conditions of confinement as determined by ICE. No notice to the Service Provider is required prior to an inspection. ICE will share findings of the inspection with the Service Provider's Facility Administrator. The Inspection Report will state any improvements to facility operation, conditions of confinement, and level of service that will be required by the Service Provider.
- B. Facilities holding detainees for 72 hours or less are evaluated in accordance with Attachment 4 of this agreement. To this end, the ratings are scored as: *Acceptable, Deficient, At-Risk or Not Applicable*. ICE will not house detainees in any facility that has received two consecutive overall ratings of less than acceptable. Upon notice that the second overall rating is less than acceptable, ICE will remove all detainees from the Facility within seven (7) calendar days. Any minimum guarantee stated elsewhere in this Agreement is no longer applicable if detainees are removed as a result of two overall ratings less than acceptable. No further funds will be obligated and no further payments will be made.
- C. Possible Termination: If the Service Provider, after being afforded reasonable time to comply with the ratings as described in Paragraph B, fails to remedy deficient service identified through an ICE inspection, ICE may terminate this Agreement without regard to any other provisions in this Agreement.
- D. Share Findings: The Service Provider shall provide ICE copies of facility inspections, reviews, examinations, and surveys performed by accreditation sources. The Service Provider shall cooperate fully with the Detention Service Manager (DSM).

- E. Access to Detainee and Facility Records: The Service Provider shall, upon request, grant ICE access to any record in its possession, regardless of whether the Service Provider created the record, concerning any detainee held pursuant to this Agreement. This right of access includes, but is not limited to, incident reports, records relating to suicide attempts, and behavioral assessments and other records relating to the detainee's behavior while in the Service Provider's custody; provided, however that access to medical and mental health record information be provided in accordance with Article VI. Furthermore, the Service Provider shall retain all records where this right of access applies for a period of two (2) years from the date of the detainee's discharge from the Service Provider's custody. This right of access specifically applies to all inspections and other Facility reports.

## **Article 10. Modifications and Disputes**

- A. Modifications: Actions other than those designated in this Agreement will not bind or incur liability on behalf of either Party. Either Party may request a modification to this Agreement by submitting a written request to the other Party. A modification will become a part of this Agreement only after the ICE Contracting Officer has approved the modification in writing.
- B. Change Orders:
1. The Contracting Officer may at any time , and by written change order, make changes within the general scope of this Agreement in any one or more of the following:
    - (a) Description of services to be performed, including revisions to the applicable Detention Standards.
  2. If any such change causes an increase or decrease in the cost of the services under the Agreement, the Contracting Officer will make an equitable adjustment in the agreement price and will modify the Agreement accordingly.
  3. The Service provider must assert its right to an adjustment under this Article within 30 days from the date of receipt of the written order including a proposal addressing the cost impacts and detailed supporting data.
  4. If the Service Provider's proposal includes costs that are determined unreasonable and/or unsupportable, as determined by the Contracting Officer, the Contracting Officer will disallow those costs when determining a revised rate, if any.
  5. Failure to agree to any adjustment will be a dispute under the Disputes section of the Agreement. However, nothing in this Article excuses the Service Provider from proceeding with the Agreement as changed.

- C. Disputes: The ICE Contracting Officer and the authorized signatory of the Service Provider will settle disputes, questions and concerns arising from this Agreement. Settlement of disputes will be memorialized in a written modification between the ICE Contracting Officer and authorized signatory of the Service Provider. In the event a dispute is not able to be resolved between the Service Provider and the ICE Contracting Officer, the ICE Contracting Officer will make the final decision. If the Service Provider does not agree with the final decision, the matter may be appealed to the ICE Head of the Contracting Activity (HCA) for resolution. The ICE HCA may employ all methods available to resolve the dispute including alternative dispute resolution techniques. The Service Provider shall proceed diligently with performance of this Agreement pending final resolution of any dispute.

#### **Article 11. Adjusting the Bed Day Rate**

ICE will reimburse the Service Provider at the fixed detainee bed day rate shown in Article I paragraph C. The Service Provider may request a rate adjustment no less than thirty-six (36) months after the effective date of the Agreement unless required by law (see Article 19). After thirty-six (36) months, the Service Provider may request a rate by submitting a new Jail Services Cost Statement with a summary of the rate adjustment, break-out of the requested increase amount, and back up documentation necessary to support the request. The Parties agree to base the cost portion of the rate adjustment on the principles of allowability and allocability as set forth in OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, federal procurement laws, regulations, and standards in arriving at the bed day rate. If ICE does not receive an official request for a bed day rate adjustment that is supported by the information provided, the fixed bed day rate as stated in this Agreement will be in place for the duration of the agreement.

ICE reserves the right to audit the actual and/or prospective costs upon which the rate adjustment is based. All rate adjustments are prospective. As the bed day rate is fixed, there are no retroactive adjustment(s).

#### **Article 12. Enrollment, Invoicing, and Payment**

- A. Enrollment in Electronic Funds Transfer: The Service Provider shall provide ICE with the information needed to make payments by electronic funds transfer (EFT). The Service Provider shall identify their financial institution and related information on Standard Form 3881, Automated Clearing House (ACH) Vendor Miscellaneous Payment Enrollment Form <http://www.fms.treas.gov/pdf/3881.pdf>. The Service Provider shall submit a completed SF 3881 to ICE payment office prior to submitting its initial request for payment under this Agreement. If the EFT data changes, the Service Provider shall be responsible for providing updated information to the ICE payment office.
- B. Consolidated Invoicing: The Service Provider shall submit an original monthly itemized invoice within the first ten (10) working days of the month following the calendar month when it provided the services via one of the following three methods:



1. By mail:

DHS, ICE  
Burlington Finance Center  
P.O. Box 1620  
Williston, VT 05495-1620  
Attn: ICE-ERO-FOD-FCH

2. By fax: (include a cover sheet with point of contact and number of pages)

802-288-7658

3. By e-mail:

[Invoice.Consolidation@ice.dhs.gov](mailto:Invoice.Consolidation@ice.dhs.gov)

Invoices submitted by other than these three methods will be returned. The Service Provider's Taxpayer Identification Number (TIN) must be registered in the System for Award Management (<http://www.sam.gov>) prior to award and shall be notated on every invoice submitted to ICE to ensure prompt payment provisions are met. The ICE program office shall also be notated on every invoice.

Each invoice submitted shall contain the following information:

1. Name and address of the Facility;
2. Invoice date and number;
3. Agreement number, line item number and, if applicable, the Task Order number;
4. Terms of any discount for prompt payment offered;
5. Name, title, and phone number of person to notify in event of defective invoice;
6. Taxpayer Identification Number (TIN).
7. Total number of bed days; total number of miles.
8. Bed day rate;
9. Number of bed days multiplied by the bed day rate;
10. Name of each detainee;
11. Resident's/detainee's A-number;
12. Specific dates of detention for each resident/detainee;
13. An itemized listing of all other charges;
14. For stationary guard services, the itemized monthly invoice shall state the number of hours being billed, the duration of the billing (times and dates) and the name of the resident(s)/detainee(s) that was guarded.
15. For Mileage, the itemized monthly invoice shall include a copy of the GSA webpage that shows the mileage rate being applied for that invoice.

**Items 1 through 15 above shall be included in the invoice. Invoices without the above information may be returned for resubmission.**

- C. Payment: ICE will transfer funds electronically through either an Automated Clearing House subject to the banking laws of the United States, or the Federal Reserve Wire Transfer System. The Prompt Payment Act applies to this Agreement. The Prompt Payment Act requires ICE to make payments under this Agreement the thirtieth (30<sup>th</sup>) calendar day after the Burlington Finance Office receives a complete invoice. Either the date on the Government's check, or the date it executes an electronic transfer of funds, constitutes the payment date. The Prompt Payment Act requires ICE to pay interest on overdue payments to the Service Provider. ICE will determine any interest due in accordance with the Prompt Payment Act provided the Service Provider maintains an active registration in the System for Award Management (SAM) and all information is accurate.

### **Article 13. Transportation**

- A. All transportation of ICE detainees shall be conducted in accordance with the ICE NDS 2019 Standards. Except in emergency situations, females may not be transported by bus for more than ten hours. Furthermore, except in emergency situations, [REDACTED] may not transport a single detainee of the opposite gender and if there is an expectation that a pat search will occur during transport, an officer of the same gender as the detainee(s) must be present.
- B. In the event of transportation services involving distances that exceed a twelve (12) hour workday to complete, the Service Provider shall be reimbursed for related costs of lodging and meals commensurate with the U.S. General Services Administration rates for such within the geographical area of occurrence. Any incurred overtime pay for such services will be reimbursed at the applicable overtime rate for the transportation officer position specified in Article I. C., Rates. Overnight lodging resulting from transportation services shall be approved in advance by the COR or designated ICE official. All transportation services shall be accomplished in an appropriate and economical manner.
- C. The Service Provider personnel provided for the above services shall be of the same qualifications, receive the same training, complete the same security clearances, and wear the same uniforms as those Service Provider personnel provided in the other areas of this Agreement. Transportation officers shall have the required state licenses for commercial drivers with the proper endorsement limited to vehicles with Automatic Transmission and the state Department of Motor Vehicles (DMV) (or Motor Vehicles Department (MVD)) Medical Certification.
- D. Transport/Escort/Stationary Services Rate: The Service Provider agrees, upon request of ICE in whose custody an ICE detainee is held, to provide all such ground transportation/escort/stationary services as may be required to transport detainees securely, in a timely manner, to locations as directed by the ICE COR or designated ICE

official. At least [REDACTED] qualified law enforcement or correctional officer personnel employed by the Service Provider under their policies, procedures and practices shall perform transport services. As written above, except in emergency situations, females may not be transported by bus for more than ten hours. Furthermore, except in emergency situations, a single officer may not transport a single detainee of the opposite gender and if there is an expectation that a pat search will occur during transport, an officer of the same gender as the detainee(s) must be present.

- E. Medical/Legal Transportation: The Service Provider shall provide transportation and escort guard services for ICE detainees to and from a medical facility for outpatient care and attending off-site court proceedings. An officer or officers shall keep the detainee under constant supervision twenty-four (24) hours per day until the detainee is ordered released from the hospital, or at the order of the COR. The number of escorts will be determined by the COR. The Service Provider agrees to augment such practices as may be requested by ICE to enhance specific requirements for security, detainee monitoring, visitation, and contraband control.
- F. The Service Provider shall, upon order of the COR, or upon its own decision in an urgent medical situation with notification to the COR immediately thereafter, transport a detainee to a hospital location. [REDACTED] shall keep the detainee under supervision 24 hours per day until the detainee is ordered released from the hospital, or at the order of the COR. The Service Provider shall then return the detainee to the Facility. The Service Provider will ensure that at least [REDACTED] responsible for the security of the detainee while he/she is an in-patient a hospital will be of the same sex as the detainee.
- G. Indemnities: Furthermore, the Service Provider agrees to hold harmless and indemnify DHS/ICE and its officials in their official and individual capacities from any liability, including third-party liability or worker's compensation, arising from the conduct of the Service Provider and its employees during the course of transporting ICE detainees.
- H. Service Provider Furnished Vehicles: If the Service Provider is to use its own vehicles, the following requirements apply to this agreement.
1. The Service Provider shall not allow employees to use their personal vehicles to transport detainees.
  2. The Service Provider shall furnish suitable vehicles in good condition, approved by the Government, to safely provide the required transportation services. The Service Provider shall comply with all federal and state laws with regard to inspections, licensing, and registration for all vehicles used for transportation.
  3. The Service Provider shall furnish vehicles equipped with interior security features including physical separation of detainees from guards. The Service Provider shall provide interior security specifications of the vehicles to ICE for review and approval prior to installation.

4. Nothing in this Agreement shall restrict the Service Provider from acquiring additional vehicles as deemed necessary by the Service Provider at no cost to the Government.
- I. Training and Compliance: The Service Provider shall comply with ICE transportation standards (<http://www.ice.gov/detention-standards/2019/>) related to the number of hours the Service Provider's employee may operate a vehicle. The transportation shall be accomplished in the most economical manner. The Service Provider personnel provided for the above services shall be of the same qualifications, receive training, complete the same security clearances, and wear the same uniforms as those personnel provided for in other areas of this Agreement.
- J. Miscellaneous Transportation: The COR may direct the Service Provider to transport detainees to unspecified, miscellaneous locations.
- K. When the COR provides documents to the Service Provider concerning the detainee(s) to be transported and/or escorted, the Service Provider shall deliver these documents only to the named authorized recipients. The Service Provider shall ensure the material is kept confidential and not viewed by any person other than the authorized recipient.
- L. The Service Provider shall establish a fully operational communication system that has direct and immediate contact with all transportation vehicles and post assignments. Upon demand, the COR shall be provided with current status of all vehicles and post assignment employees.
- M. Failure on the Service Provider's part to comply fully with the detainee(s) departure as pre-scheduled shall result in the Service Provider having deductions made for non-performance.
- N. Armed Transportation Officers: All transportation Detention Officers shall be armed in the performance of these duties. Armed county detention officers are not federal law enforcement officers. Even though the armed county detention officers are performing work on behalf of the federal government, they have not been statutorily granted or delegated authority to enforce federal laws. As such, the armed county detention officers do not possess any federal authority to carry firearms across states lines – even if they are performing duties on behalf of ICE. The armed county detention officers are subject to state and local laws in these situations and must comply with any applicable state or local requirements (licensing, credentialing, etc.) regarding the possession of firearms.
- O. Billing Procedures: The itemized monthly invoice for such stationary guard services shall state the number of hours being billed, the duration of the billing (times and dates) and the name of the detainee(s) that was guarded.

P. Anticipated Transportation Routes: The following transportation routes and/or destinations are anticipated requirements for this Agreement. The following requirements are [REDACTED] routes from the Facility. Mileage may vary from the table depending on the starting point of the destination reimbursed at the rate of [REDACTED] per mile. These routes are not all inclusive and should not be limited to the following:

Mileage From FACILITY	Locations	City	Frequency
260 miles	Chase County		Bi-Weekly

Q. Transportation Reporting Requirements: The Service Provider shall document all Transportation movements in accordance with Attachments 6 and 6[a]. This data will be collected through form G-391 (Attachment 6[a]) in excel-based format and submitted to the COR every month, with every invoice. Additionally, Quarterly Status Reports shall be provided as indicated below:

Reporting Requirements	Description
1. Monthly Status Report	The report will include at a minimum the information required for each G 391 for every trip as indicated in the G-391 Data Collection Categories and Descriptions (Attachment 6). An electronic excel based template for data collection will be provided to the contractor upon award to submit as a part of the Monthly Status Report. A breakdown of hours and personnel will also be provided and divided into Transportation Guard Hours (time spent performing transportation related activities) and Stationary Guard Hours (time spent performing detention related stationary guard activities). A breakdown of the total number of vehicles used (year, model, and capacity) will also be required if the contractor is using contractor owned vehicles. A list of government vehicles used will be required if the contractor uses government owned vehicles. This information will be available electronically to government users and submitted monthly with each Service Provider invoice.
2. Quarterly Status Report	This report will be produced every three months to document and provide the vehicle telematics data collected from all movement of ERO serviced contract hours for the previous quarter. It will include a summation of the previous Monthly Status reports and document any fluctuations in demand or trends in provided service. Recommendations for surges or lulls will also be included in the quarterly performance report along

with the Service Provider's capability to respond.

#### **Article 14. Contracting Officer's Representative (COR)**

- A. The COR will be designated by the Contracting Officer. When and if the COR duties are reassigned, an administrative modification will be issued to reflect the changes. This designation does not include authority to sign contractual documents or to otherwise commit to, or issue changes, which could affect the price, quantity, or performance of this Agreement.

Should the Service Provider believe it has received direction that is not within the scope of the agreement; the Service Provider shall not proceed with any portion that is not within the scope of the agreement without first contacting the Contracting Officer. The Service Provider shall continue performance of efforts that are deemed within the scope.

#### **Article 15. Hold Harmless Provisions**

Unless specifically addressed by the terms of this Agreement, the parties agree to be responsible for the negligent or wrongful acts or omissions of their respective employees.

- A. Service Provider Liability Limitations: ICE liability for any injury, damage or loss to persons or property arising in the performance of this Agreement and caused by the negligent or tortious conduct of its own officers, employees, and other persons provided coverage pursuant to federal law is governed by the Federal Tort Claims Act, 28 USC 2691 *et seq.*(FTCA). Compensation for work related injuries for ICE's officers, employees and covered persons is governed by the Federal Employees Compensation Act (FECA). ICE agrees to the extent permitted under Federal law, to waive all claims and causes of action it may have against the Service Provider for any injury, damage or loss to the Government, not otherwise provided for in this agreement, as a result of claims paid or judgments incurred under either the FTCA or FECA. The Service Provider shall promptly notify ICE of any claims or lawsuits filed against any ICE employees of which Service Provider is notified.
- B. Federal Government Held Harmless: Service Provider liability for any injury, damage or loss to persons or property arising out of the performance of this Agreement and caused by the negligence of its own officers, employees, agents and representatives is governed by the laws of Kansas. Nothing herein shall waive the application of sovereign immunity to the Service Provider. ICE will promptly notify the Service Provider of any claims filed against any of Service Providers employees of which ICE is notified. The Federal Government shall have no liability to Service Provider for any injury, damage or loss to persons or property caused by a Service Provider employee arising in the performance of this Agreement.

- C. Defense of Suit: In the event a detainee files suit against the Service Provider contesting the legality of the detainee's incarceration by ICE under this Agreement and/or immigration/citizenship status, or a detainee files suit as a result of an administrative error or omission of the Federal Government, ICE will request that the Department of Justice, as appropriate, move either to have the Service Provider dismissed from such suit; to have ICE substituted as the proper party defendant; or to have the case removed to a court of proper jurisdiction. Regardless of the decision on any such motion, ICE will request that the Department of Justice be responsible for the defense of any suit on these grounds.
- D. ICE Recovery Right: The Service Provider shall do nothing to prejudice ICE's right to recover against third parties for any loss, destruction of, or damage to U.S. Government property. Upon request of the Contracting Officer, the Service Provider shall furnish to ICE all reasonable assistance and cooperation, including assistance in the prosecution of suit and execution of the instruments of assignment in favor of ICE in obtaining recovery.
- E. Service Provider Insurance: The Service Provider and any subcontractor(s) shall maintain insurance in an amount not less than [REDACTED] to protect the Service Provider from claims under workman's compensation acts and from any other claims for damages for personal injury, including death which may arise from operations under this contract whether such operations by the Service Provider itself or by any subcontractor or anyone directly or indirectly employed by either business entity. The Service Provider and its subcontractor(s) shall maintain General Liability insurance: bodily injury liability coverage written on a comprehensive form of policy of at least [REDACTED] per occurrence is required.
- Additionally, an automobile liability insurance policy providing for bodily injury and property damage liability covering automobiles operated in the United States shall provide coverage of at least [REDACTED] per person and [REDACTED] per occurrence for bodily injury and [REDACTED] per occurrence for property coverage. Certificates of such insurance shall be subject to the approval of the CO for adequacy of protection. All insurance certificates required under this contract shall provide 30 days advance notice to the Government of any contemplated cancellation.

The Service Provider and its subcontractor(s) shall ensure that all staff having access to detainee monies and valuables are bonded in an amount sufficient to ensure reimbursement to the detainee by the Service Provider and its subcontractor(s) in case of loss.

## Article 16. Financial Records

- A. Retention of Records: All financial records, supporting documents, statistical records, and other records pertinent to contracts or subordinate agreements under this Agreement shall be retained by the Service Provider for three (3) years for purposes of federal examinations and audit. The three (3) year retention period begins at the end of the first year of completion of service under the Agreement. If any litigation, claim, negotiation,

audit, or other action involving the records has been started before the expiration of the three (3) year period, the records must be retained until completion of the action and resolution of all issues which arise from it or until the end of the regular three (3) year period, whichever is later.

- B. Access to Records: ICE and the Comptroller General of the United States, or any of their authorized representatives, have the right of access to any pertinent books, documents, papers or other records of the Service Provider or its subcontractors, which are pertinent to the award, in order to make audits, examinations, excerpts, and transcripts. The rights of access must not be limited to the required retention period, but shall last as long as the records are retained.
- C. Delinquent Debt Collection: ICE will hold the Service Provider accountable for any overpayment, or any breach of this Agreement. ICE will apply interest, penalties, and administrative costs to a delinquent debt owed to the Federal Government by the Service Provider pursuant to the Debt Collection Improvement Act of 1982, as amended.

#### **Article 17. Labor Standards and Wage Determination**

- A. The Service Contract Act, 41 U.S.C. 351 et seq., Title 29, Part 4 Labor Standards for Federal Service Contracts, is hereby incorporated as Attachment 2. These standards and provisions are included in every contract and IGSA entered into by the United States or the District of Columbia, in excess of [REDACTED] or in an indefinite amount, the principal purpose of which is to furnish services through the use of service employees.
- B. Wage Determination: Each service employee employed in the performance of this Agreement shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this Agreement. (See Attachment 1 - Wage Determination)

#### **Article 18. Notification and Public Disclosures**

- A. Information obtained or developed as a result of this IGSA is under the control of ICE and is subject to public disclosure only pursuant to the provisions of applicable federal laws, regulations, and executive orders or as ordered by a court. Insofar as any documents created by the Service Provider contain information developed or obtained as a result of this IGSA, such documents shall be subject to public disclosure only pursuant to the provisions of applicable federal laws, regulations, and executive orders or as ordered by a court. To the extent the Service Provider intends to release the IGSA or any information relating to, or exchanged under, this IGSA, the Service Provider agrees to coordinate with the ICE Contracting Officer prior to such release. There shall be no



public disclosures regarding this agreement made by the Provider (or any subcontractors) without review and approval of such disclosure by ICE.

- B. The CO shall be notified in writing of all litigation pertaining to this IGSA and provided copies of any pleadings filed or said litigation within five working days of the filing. The Service Provider shall cooperate with Government legal staff and/or the United States Attorney regarding any requests pertaining to federal or Service Provider litigation.
- C. The Service Provider shall notify the CO when a member of the United States Congress requests information or makes a request to visit the facility. The Service Provider shall coordinate all public information related issues pertaining to ICE detainees with the CO. All press statements and releases shall be cleared, in advance, with the ICE Office of Public Affairs. The Service Provider shall promptly make public announcements stating the facts of unusual or newsworthy incidents to local media. Examples of such events include, but are not limited to: deaths, escapes from custody, and facility emergencies.
- D. With respect to public announcements and press statements on matters related to ICE Detainees and ICE operations, the Service Provider shall ensure employees agree to use appropriate disclaimers clearly stating the employees' opinions do not necessarily reflect the position of the United States Government in any public presentations they make or articles they write that relate to any aspect of contract performance or the facility operations.

#### **Article 19. Incident Reporting**

The COR shall be notified immediately in the event of all serious incidents pertaining to ICE detainees. The COR will provide afterhours contact information to the Service Provider at the time of award.

Serious incidents include, but are not limited to: activation of disturbance control team(s); disturbances (including gang activities, group demonstrations, food boycotts, work strikes, work-place violence, civil disturbances/protests); staff use of force including use of lethal and less-lethal force (includes inmates in restraints more than eight hours); assaults on staff/inmates resulting in injuries requiring medical attention (does not include routine medical evaluation after the incident); fights resulting in injuries requiring medical attention; fires; full or partial lock down of the Facility; escape; weapons discharge; suicide attempts; deaths; declared or non-declared hunger strikes; adverse incidents that attract unusual interest or significant publicity; adverse weather (e.g., hurricanes, floods, ice/snow storms, heat waves, tornadoes); fence damage; power outages; bomb threats; detainee admitted to a community hospital; witness security cases taken outside the Facility; significant environmental problems that impact the facility operations; transportation accidents (i.e. airlift, bus) resulting in injuries, death or property damage; and sexual assaults.

#### **Article 20. Detainee Privacy**

- A. The Service Provider agrees to comply with the Privacy Act of 1974 (“Act”) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the Agreement specifically identifies (i) the systems of records; and (ii) the design, development, or operation work that the Service Provider is to perform. The Service Provider shall also include the Privacy Act into any and all subcontracts when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and
- B. In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the agreement is for the operation of a system of records on individuals to accomplish an agency function, the Service Provider is considered to be an employee of the agency.
  - 1. “Operation of a system of records,” as used in this Article, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.
  - 2. “Record,” as used in this Article, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person’s name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.
  - 3. “System of records on individuals,” as used in this Article, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

**Article 21. Zero Tolerance for Sexual Harassment, Abuse, and Assault**

- A. The Service Provider shall develop and implement a comprehensive sexual abuse/assault prevention and intervention program of which training will include training on working with vulnerable populations and addressing their vulnerability in the general population. This program shall include training that is given separately to both staff and detainees, in accordance with the Prison Rape Elimination Act (PREA) (Attachment 5) and NDS 2019.

- B. The Service Provider will ensure that information regarding the facility's policy on sexual abuse/assault is included in the detainee handbook; that the facility articulates to staff and to detainees and adheres to a standard of zero tolerance for incidents of sexual abuse or assault; that detainees shall be encouraged to promptly report acts of harassment of a sexual nature, or abuse or signs of abuse observed; that victims of sexual abuse are given timely access to emergency medical treatment and crisis intervention services; that training is included for all staff to ensure that they fulfill their responsibilities under the Service Providers' Sexual Abuse and Assault Prevention and Intervention Program; that the facility reports immediately all sexual abuse and/or assault to ICE/ERO; that the Service Provider develops and implements a policy that includes: an evidence protocol for sexual assault, including access to a forensic medical exam, an internal administrative investigation process that will not compromise a criminal investigation. The Service Provider will also maintain a policy that requires medical staff to report allegations or suspicions of sexual assault to appropriate facility staff, how the victim's medical, mental health and future safety needs will be addressed; appropriate disciplinary sanctions, how a detainee may contact the Office of the Inspector General to confidentially report sexual abuse or assault.

#### **Article 22. Detainee Telephone Services (DTS)**

- A. The Service Provider shall provide detainees with reasonable and equitable access to telephones as specified in the ICE 2019 NDS standard on Telephone Access. Telephones shall be located in an area that provides for a reasonable degree of privacy and a minimal amount of environmental noise during phone calls.
- B. If authorized to do so under applicable law, the Service Provider shall monitor and record detainee conversations. If detainee telephone conversations can be monitored under applicable law, the Service Provider shall provide notice to detainees of the potential for monitoring. However, the Service Provider shall also provide procedures at the facility for detainees to be able to place unmonitored telephone calls to their attorneys.
- C. Telephone rates shall not exceed the FCC rates for inmate telephone service, as well as State established rates where applicable, and shall conform to all applicable federal, state, and local telephone regulations.
- D. Video phones, portable electronics or other enhanced telecommunications features provided by the DTS contractor to ICE detainees, based upon concurrence between ICE and the Service Provider, may be added in the future subject to negotiation at no cost to ICE. These features may not in any way compromise the safety and security of the detainees, staff or the facility. Any new or enhanced telecommunications features must be integrated within the DTS service and can NOT be a separate system or software from the DTS service. Such capabilities may now or in the future include; video visitation, limited web access for law library, email, kites, commissary ordering, educational tools, news, sports, and video games. Pricing for the use of

these technologies will be set by the DTS provider, subject to negotiations with ICE, and shall be negotiated at a future time and date if required.

- E. ICE recognizes the Service Provider may have an existing contract with a Telecommunications Company to provide telephone service to ICE detainees and other inmates. Notwithstanding any existing Telecommunications contract, the Service Provider shall require the Telecommunications Company to provide connectivity to the DTS Contractor for ICE detainee pro bono telephone calls. The Service Provider (and the Telecommunications Company) shall make all arrangements with the DTS Contractor independently from this Agreement. If the Service Provider has an existing contract with a Telecommunications Company, ICE requires that ICE detainees have direct access to the DTS Contractor for collect and prepaid calls at the expiration of any current contract. The DTS Contractor shall then be allowed to install vending debit machines and shall receive 100 percent of all revenues collected by sale of prepaid debit services to ICE detainees. The DTS Contractor shall be responsible for the costs incurred to provide the pro bono services, and the maintenance and operation of the system, including a standard compensation to the Telecommunications Company. The Service Provider shall not be entitled to any commissions, fees, or revenues generated by the use of the DTS.
  
- F. The Service Provider shall inspect telephones for serviceability, in accordance with ICE 2019 NDS and ICE policies and procedures. The Service Provider shall notify the COR or ICE designee of any inoperable telephones.

CC. ICE DTS Contractor Information:

Talton Communications  
910 Ravenwood Dr.  
Selma, AL 36701

[REDACTED]  
Customer Relations Manager  
(334) 375-[REDACTED]

[REDACTED]  
Operations Manager  
(334) 375-[REDACTED]

**Article 23. Government Use of Wireless Communication Devices**

All personnel that have been issued a Federal Government owned wireless communication device, including but not limited to, cellular telephones, pagers or wireless Internet devices, are authorized to possess and use those items in all areas of the facility in which ICE detainees are present.

## Article 24. Certified Cost and Pricing Data

### A) Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data

#### (a) *Exceptions from certified cost or pricing data.*

(1) In lieu of submitting certified cost or pricing data, offerors may submit a written request for exception by submitting the information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable.

(i) *Identification of the law or regulation establishing the price offered.* If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document.

(ii) *Commercial item exception.* For a commercial item exception, the offeror shall submit, at minimum, information on prices at which the same item or similar items have previously been sold in the commercial market that is adequate for evaluating the reasonableness of the price for this acquisition. Such information may include

(A) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, provide a copy or describe current discount policies and price lists (published or unpublished), *e.g.*, wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities;

(B) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market;

(C) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The offeror grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this provision, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the offeror's determination of the prices to be offered in the catalog or marketplace.

(b) *Requirements for certified cost or pricing data.* If the offeror is not granted an exception from the requirement to submit certified cost or pricing data, the following applies:

(1) The offeror shall prepare and submit certified cost or pricing data, and data other than certified cost or pricing data, and supporting attachments.

(2) As soon as practicable after agreement on price, but before IGSA award, the offeror shall submit a Certificate of Current Cost or Pricing Data, the format of which is at the end of this Article.

**B) Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data – Modifications**

*(a) Exceptions from certified cost or pricing data.*

(1) In lieu of submitting certified cost or pricing data for modifications under this IGSA, for price adjustments expected to exceed [REDACTED] on the date of the agreement on price or the date of the award, whichever is later, the Service Provider may submit a written request for exception by submitting the information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable

*(i) Identification of the law or regulation establishing the price offered.* If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document.

(2) The Service Provider grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this clause, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the Service Provider's determination of the prices to be offered in the catalog or marketplace.

*(b) Requirements for certified cost or pricing data.* If the Service Provider is not granted an exception from the requirement to submit certified cost or pricing data, the following applies:

(1) The Service Provider shall submit certified cost or pricing data, data other than certified cost or pricing data, and supporting attachments.

(2) As soon as practicable after agreement on price, but before award, the Service Provider shall submit a Certificate of Current Cost or Pricing Data. The form is included at the end of this Article.

**C) Subcontractor Certified Cost or Pricing Data**

(a) Before awarding any subcontract expected to exceed \$700,000 on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification

involving a pricing adjustment expected to exceed [REDACTED], the Service Provider shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), to include any information reasonably required to explain the subcontractor's estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price, unless (1) the prices are based upon adequate price competition, or (2) if a waiver has been granted.

(b) The Service Provider shall require the subcontractor to certify in substantially the form at the end of this Article that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(c) In each subcontract that exceeds [REDACTED], when entered into, the Service Provider shall insert either -

(1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of certified cost or pricing data for the subcontract; or

(2) The substance of the Section below entitled "Subcontractor Certified Cost or Pricing Data - Modifications."

**D) Subcontractor Certified Cost or Pricing Data – Modifications**

(a) The requirements of paragraphs (b) and (c) of this Section shall

(1) Become operative only for any modification to this IGSA involving a pricing adjustment expected to exceed [REDACTED]; and

(2) Be limited to such modifications.

(b) Before awarding any subcontract expected to exceed [REDACTED], on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed [REDACTED], the Service Provider shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), to include any information reasonably required to explain the subcontractor's estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price, unless (1) prices of the modification are based upon adequate price competition, or (2) if a waiver has been granted.

(c) The Service Provider shall require the subcontractor to certify in substantially the form at the end of this Article that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(d) The Service Provider shall insert the substance of this Article, including this paragraph (d), in each subcontract that exceeds [REDACTED] on the date of agreement on price or the date of award, whichever is later.

**E) Price Reduction for Defective Certified Cost or Pricing Data**

(a) If any price, including profit or fee, negotiated in connection with this IGSA, or any cost reimbursable under this IGSA, was increased by any significant amount because

(1) The Service Provider or a subcontractor furnished certified cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;

(2) A subcontractor or prospective subcontractor furnished the Service Provider certified cost or pricing data that were not complete, accurate, and current as certified in the Service Provider's Certificate of Current Cost or Pricing Data; or

(3) Any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the IGSA shall be modified to reflect the reduction.

(b) Any reduction in the IGSA price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Service Provider, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Service Provider; provided, that the actual subcontract price was not itself affected by defective certified cost or pricing data.

(c)

(1) If the Contracting Officer determines under paragraph (a) of this clause that a price or cost reduction should be made, the Service Provider agrees not to raise the following matters as a defense:

(i) The Service Provider or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the IGSA would not have been modified even if accurate, complete, and current certified cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the certified cost or pricing data in issue were defective even though the Service Provider or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The IGSA was based on an agreement about the total cost of the IGSA and there was no agreement about the cost of each item procured under the IGSA.



(iv) The Service Provider or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)

(i) Except as prohibited by subdivision ©(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a IGSA price reduction if

(A) The Service Provider certifies to the Contracting Officer that, to the best of the Service Provider's knowledge and belief, the Service Provider is entitled to the offset in the amount requested; and

(B) The Service Provider proves that the certified cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if

(A) The understated data were known by the Service Provider to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Government proves that the facts demonstrate that the IGSA price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

(d) If any reduction in the IGSA price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Service Provider shall be liable to and shall pay the United States at the time such overpayment is repaid

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Service Provider to the date the Government is repaid by the Service Provider at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) A penalty equal to the amount of the overpayment, if the Service Provider or subcontractor knowingly submitted certified cost or pricing data that were incomplete, inaccurate, or noncurrent.

**F) Price Reduction for Defective Certified Cost or Pricing Data - Modifications**

(a) This Article shall become operative only for any modification to this IGSA involving a pricing adjustment expected to exceed [REDACTED], except that this Article does not apply to any

modification (1) where prices of the modification are based upon adequate price competition, or

(2) when a waiver has been granted.

(b) If any price, including profit or fee, negotiated in connection with any modification under this

clause, or any cost reimbursable under this IGSA, was increased by any significant amount because

(1) the Service Provider or a subcontractor furnished certified cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data,

(2) a subcontractor or prospective subcontractor furnished the Service Provider certified cost or pricing data that were not complete, accurate, and current as certified in the Service Provider's Certificate of Current Cost or Pricing Data, or

(3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the IGSA shall be modified to reflect the reduction.

This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.

(c) Any reduction in the IGSA price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or

(2) the actual cost to the Service Provider, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Service Provider; provided, that the actual subcontract price was not itself affected by defective certified cost or pricing data.

(d)(1) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made, the Service Provider agrees not to raise the following matters as a defense:

(i) The Service Provider or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the IGSA would not have been modified even if accurate, complete, and current certified cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the certified cost or pricing data in issue were defective even though the Service Provider or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The IGSA was based on an agreement about the total cost of the IGSA and there was no agreement about the cost of each item procured under the IGSA.

(iv) The Service Provider or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)

(i) Except as prohibited by subdivision (d)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a IGSA price reduction if -

(A) The Service Provider certifies to the Contracting Officer that, to the best of the Service Provider's knowledge and belief, the Service Provider is entitled to the offset in the amount requested; and

(B) The Service Provider proves that the certified cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if -

(A) The understated data were known by the Service Provider to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Government proves that the facts demonstrate that the IGSA price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

(e) If any reduction in the IGSA price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Service Provider shall be liable to and shall pay the United States at the time such overpayment is repaid

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Service Provider to the date the Government is repaid by the Service Provider at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

(2) A penalty equal to the amount of the overpayment, if the Service Provider or subcontractor knowingly submitted certified cost or pricing data that were incomplete, inaccurate, or noncurrent.

**Certificate of Current Cost or Pricing Data**

This is to certify that, to the best of my knowledge and belief, the cost or pricing data submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of No 1 \* are accurate, complete, and current as of 5/25/18 \*. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Service Provider Inmate Calling Solutions, LLC ICSolutions

Signature Ki Bascoe

Name KEVIN BASCOE

Title SHERIFF

Date of execution\*\*\* 05/08/2018

\* Identify the proposal, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., RFP No.).

\*\* Insert the day, month, and year when price negotiations were concluded and price agreement was reached or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on price.

\*\*\* Insert the day, month, and year of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

**Article 25. Combating Trafficking in Persons**

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

“Coercion” means

- (1) Threats of serious harm to or physical restraint against any person;
- (2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (3) The abuse or threatened abuse of the legal process.

“Commercial sex act” means any sex act on account of which anything of value is given to or received by any person.

“Debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a

security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

“Employee” means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

“Forced Labor” means knowingly providing or obtaining the labor or services of a person—

- (1) By threats of serious harm to, or physical restraint against, that person or another person;
- (2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
- (3) By means of the abuse or threatened abuse of law or the legal process.

“Involuntary servitude” includes a condition of servitude induced by means of

- (1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or
- (2) The abuse or threatened abuse of the legal process.

“Severe forms of trafficking in persons” means

- (1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

“Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(b) *Policy.* The United States Government has adopted a zero tolerance policy regarding trafficking in persons. Contractors and contractor employees shall not—

- (1) Engage in severe forms of trafficking in persons during the period of performance of the contract;
- (2) Procure commercial sex acts during the period of performance of the contract; or
- (3) Use forced labor in the performance of the contract.

(c) *Contractor requirements.* The Contractor shall

(1) Notify its employees of

(i) The United States Government's zero tolerance policy described in paragraph (b) of this clause; and

(ii) The actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(2) Take appropriate action, up to and including termination, against employees or subcontractors that violate the policy in paragraph (b) of this clause.

(d) *Notification.* The Contractor shall inform the Contracting Officer immediately of

(1) Any information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy; and

(2) Any actions taken against Contractor employees, subcontractors, or subcontractor employees pursuant to this clause.

(e) *Remedies.* In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), or (f) of this clause may result in

(1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract;

(2) Requiring the Contractor to terminate a subcontract;

(3) Suspension of contract payments;

(4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non compliance;

(5) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or

(6) Suspension or debarment.

(f) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts.

(g) *Mitigating Factor.* The Contracting Officer may consider whether the Contractor had a Trafficking in Persons awareness program at the time of the violation as a mitigating factor when determining remedies. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/g/tip>.

## **Article 26. Order of Precedence**

Should there be a conflict between the NDS 2019 and other any other term and/or condition of the IGSA, the Service Provider shall contact the Contracting Officer for clarification.

## **Article 27. Information Governance and Privacy**

### **ICE Information Governance and Privacy Requirements Clause (JUL 2017)**

**Guidance:** In addition to FAR 52.224-1 Privacy Act Notification (APR 1984), 52.224-2 Privacy Act (APR 1984), FAR 52.224-3 Privacy Training (JAN 2017), and HSAR Clauses, the following IGP clause must be included in its entirety in all contracts. No section of this clause may be read as self-deleting unless the terms of the contract meet the requirements for self-deletion as specified in this clause.

#### **A. Limiting Access to Privacy Act and Other Sensitive Information**

##### *(1) Privacy Act Information*

In accordance with FAR 52.224-1 Privacy Act Notification (APR 1984), and FAR 52.224-2 Privacy Act (APR 1984), if this contract requires contractor personnel to have access to information protected by the Privacy Act of 1974 the contractor is advised that the relevant DHS system of records notices (SORNs) applicable to this Privacy Act information may be found at [www.dhs.gov/privacy](http://www.dhs.gov/privacy). Applicable SORNS of other agencies may be accessed through the agencies' websites or by searching FDsys, the Federal Digital System, available at <http://www.gpo.gov/fdsys/>. SORNs may be updated at any time.

##### *(2) Prohibition on Performing Work Outside a Government Facility/Network/Equipment*

The Contractor shall perform all tasks on authorized Government networks, using Government-furnished IT and other equipment and/or Workplace as a Service (WaaS) if WaaS is authorized by the statement of work. Government information shall remain within the confines of authorized Government networks at all times. Except where telework is specifically authorized within this contract, the Contractor shall perform all tasks described in this document at authorized Government facilities; the Contractor is prohibited from performing these tasks at or removing Government-furnished information to any other facility; and Government information shall remain within the confines of authorized Government facilities at all times. Contractors may only access classified materials on government furnished equipment in authorized government owned facilities regardless of telework authorizations.

##### *(3) Prior Approval Required to Hire Subcontractors*

The Contractor is required to obtain the Contracting Officer's approval prior to engaging in any contractual relationship (Subcontractor) in support of this contract requiring the disclosure of information, documentary material and/or records generated under or relating to this contract. The Contractor (and any Subcontractor) is required to abide by Government and Agency guidance for protecting sensitive and proprietary information.

*(4) Separation Checklist for Contractor Employees*

Contractor shall complete a separation checklist before any employee or Subcontractor employee terminates working on the contract. The separation checklist must verify: (1) return of any Government-furnished equipment; (2) return or proper disposal of sensitive personally identifiable information (PII), in paper or electronic form, in the custody of the employee or Subcontractor employee including the sanitization of data on any computer systems or media as appropriate; and (3) termination of any technological access to the Contractor's facilities or systems that would permit the terminated employee's access to sensitive PII.

In the event of adverse job actions resulting in the dismissal of an employee or Subcontractor employee, the Contractor shall notify the Contracting Officer's Representative (COR) within 24 hours. For normal separations, the Contractor shall submit the checklist on the last day of employment or work on the contract.

As requested, contractors shall assist the ICE Point of Contact (ICE/POC), Contracting Officer, or COR with completing ICE Form 50-005/Contractor Employee Separation Clearance Checklist by returning all Government-furnished property including but not limited to computer equipment, media, credentials and passports, smart cards, mobile devices, PIV cards, calling cards, and keys and terminating access to all user accounts and systems.

**B. Privacy Training, Safeguarding, and Remediation**

***If the Safeguarding of Sensitive Information (MAR 2015) and Information Technology Security and Privacy Training (MAR 2015) clauses are included in this contract, section B of this clause is deemed self-deleting.***

*(1) Required Security and Privacy Training for Contractors*

Contractor shall provide training for all employees, including Subcontractors and independent contractors who have access to sensitive personally identifiable information (PII) as well as the creation, use, dissemination and/or destruction of sensitive PII at the outset of the employee's work on the contract and every year thereafter. Training must include procedures on how to properly handle sensitive PII, including security requirements for the transporting or transmission of sensitive PII, and reporting requirements for a suspected breach or loss of sensitive PII. All Contractor employees are required to take the *Privacy at DHS: Protecting Personal Information* training course. This course, along with more information about DHS security and training requirements for Contractors, is available at [www.dhs.gov/dhs-security-and-training-requirements-contractors](http://www.dhs.gov/dhs-security-and-training-requirements-contractors). The Federal Information Security Management Act (FISMA) requires all individuals accessing ICE information to take the annual Information Assurance Awareness Training course. These courses are available through the ICE intranet site



or the Agency may also make the training available through hypertext links or CD. The Contractor shall maintain copies of employees' certificates of completion as a record of compliance and must submit an annual e-mail notification to the ICE Contracting Officer's Representative that the required training has been completed for all the Contractor's employees.

*(2) Safeguarding Sensitive PII Requirement*

Contractor employees shall comply with the Handbook for Safeguarding sensitive PII at DHS at all times when handling sensitive PII, including the encryption of sensitive PII as required in the Handbook. This requirement will be flowed down to all subcontracts and lower tiered subcontracts as well.

*(3) Non-Disclosure Agreement Requirement*

All Contractor personnel that may have access to PII or other sensitive information shall be required to sign a Non-Disclosure Agreement (DHS Form 11000-6) prior to commencing work. The Contractor shall maintain signed copies of the NDA for all employees as a record of compliance. The Contractor shall provide copies of the signed NDA to the Contracting Officer's Representative (COR) no later than two (2) days after execution of the form.

*(4) Prohibition on Use of PII in Vendor Billing and Administrative Records*

The Contractor's invoicing, billing, and other financial/administrative records/databases may not store or include any sensitive Government information, such as PII that is created, obtained, or provided during the performance of the contract. It is acceptable to list the names, titles and contact information for the Contracting Officer, Contracting Officer's Representative, or other ICE personnel associated with the administration of the contract in the invoices as needed.

*(5) Reporting Suspected Loss of Sensitive PII*

Contractors must report the suspected loss or compromise of sensitive PII to ICE in a timely manner and cooperate with ICE's inquiry into the incident and efforts to remediate any harm to potential victims.

1. The Contractor must develop and include in its security plan (which is submitted to ICE) an internal system by which its employees and Subcontractors are trained to identify and report the potential loss or compromise of sensitive PII.
2. The Contractor must report the suspected loss or compromise of sensitive PII by its employees or Subcontractors to the ICE Security Operations Center (480-496-6627), the Contracting Officer's Representative (COR), and the Contracting Officer within one (1) hour of the initial discovery.
3. The Contractor must provide a written report to ICE within 24 hours of the suspected loss or compromise of sensitive PII by its employees or Subcontractors. The report must contain the following information:
  - a. Narrative or detailed description of the events surrounding the suspected loss or compromise of information.

- b. Date, time, and location of the incident.
- c. Type of information lost or compromised.
- d. Contractor's assessment of the likelihood that the information was compromised or lost and the reasons behind the assessment.
- e. Names of person(s) involved, including victim, Contractor employee/Subcontractor and any witnesses.
- f. Cause of the incident and whether the company's security plan was followed and, if not, which specific provisions were not followed.
- g. Actions that have been or will be taken to minimize damage and/or mitigate further compromise.
- h. Recommendations to prevent similar situations in the future, including whether the security plan needs to be modified in any way and whether additional training may be required.

4. The Contractor shall provide full access and cooperation for all activities determined by the Government to be required to ensure an effective incident response, including providing all requested images, log files, and event information to facilitate rapid resolution of sensitive information incidents.

5. At the Government's discretion, Contractor employees or Subcontractor employees may be identified as no longer eligible to access sensitive PII or to work on that contract based on their actions related to the loss or compromise of sensitive PII.

*(6) Victim Remediation*

The Contractor is responsible for notifying victims and providing victim remediation services in the event of a loss or compromise of sensitive PII held by the Contractor, its agents, or its Subcontractors, under this contract. Victim remediation services shall include at least 18 months of credit monitoring and, for serious or large incidents as determined by the Government, call center help desk services for the individuals whose sensitive PII was lost or compromised. The Contractor and ICE will collaborate and agree on the method and content of any notification that may be required to be sent to individuals whose sensitive PII was lost or compromised.

**C. Government Records Training, Ownership, and Management**

*(1) Records Management Training and Compliance*

(a) The Contractor shall provide DHS basic records management training for all employees and Subcontractors that have access to sensitive PII as well as to those involved in the creation, use, dissemination and/or destruction of sensitive PII. This training will be provided at the outset of the Subcontractor's/employee's work on the contract and every year thereafter. This training can be obtained via links on the ICE intranet site or it may be made available through other means (e.g., CD or online). The Contractor shall maintain copies of certificates as a record of compliance and must submit an e-mail notification annually to the Contracting Officer's Representative verifying that all employees working under this contract have completed the required records management training.

(b) The Contractor agrees to comply with Federal and Agency records management policies, including those policies associated with the safeguarding of records covered by the Privacy Act of 1974. These policies include the preservation of all records created or received regardless of format, mode of transmission, or state of completion.

*(2) Records Creation, Ownership, and Disposition*

(a) The Contractor shall not create or maintain any records not specifically tied to or authorized by the contract using Government IT equipment and/or Government records or that contain Government Agency data. The Contractor shall certify in writing the destruction or return of all Government data at the conclusion of the contract or at a time otherwise specified in the contract.

(b) Except as stated in the Performance Work Statement and, where applicable, the Contractor's Commercial License Agreement, the Government Agency owns the rights to all electronic information (electronic data, electronic information systems or electronic databases) and all supporting documentation and associated metadata created as part of this contract. All deliverables (including all data and records) under the contract are the property of the U.S. Government and are considered federal records, for which the Agency shall have unlimited rights to use, dispose of, or disclose such data contained therein. The Contractor must deliver sufficient technical documentation with all data deliverables to permit the agency to use the data.

(c) The Contractor shall not retain, use, sell, disseminate, or dispose of any government data/records or deliverables without the express written permission of the Contracting Officer or Contracting Officer's Representative. The Agency and its contractors are responsible for preventing the alienation or unauthorized destruction of records, including all forms of mutilation. Willful and unlawful destruction, damage or alienation of Federal records is subject to the fines and penalties imposed by 18 U.S.C. § 2701. Records may not be removed from the legal custody of the Agency or destroyed without regard to the provisions of the Agency records schedules.

**D. Data Privacy and Oversight**

*Section D applies to information technology (IT) contracts. If this is not an IT contract, section D may read as self-deleting.*

*(1) Restrictions on Testing or Training Using Real Data Containing PII*

The use of real data containing sensitive PII from any source for testing or training purposes is generally prohibited. The Contractor shall use synthetic or de-identified real data for testing or training whenever feasible. ICE policy requires that any proposal to use of real data or de identified data for IT system testing or training be approved by the ICE Privacy Officer and Chief Information Security Officer (CISO) in advance. In the event performance of the contract requires or necessitates the use of real data for system-testing or training purposes, the Contractor in coordination with the Contracting Officer or Contracting Officer's Representative and Government program manager shall obtain approval from the ICE Privacy Office and CISO and complete any required documentation.

*If this IT contract contains the Safeguarding of Sensitive Information (MAR 2015) and Information Technology Security and Privacy Training (MAR 2015) clauses, section D(2) of this clause is deemed self-deleting.*

*(2) Requirements for Contractor IT Systems Hosting Government Data*

The Contractor is required to obtain a Certification and Accreditation for any IT environment owned or controlled by the Contractor or any Subcontractor on which Government data shall reside for the purposes of IT system development, design, data migration, testing, training, maintenance, use, or disposal.

*(3) Requirement to Support Privacy Compliance*

(a) The Contractor shall support the completion of the Privacy Threshold Analysis (PTA) document when it is required. PTAs are triggered by the creation, modification, upgrade, or disposition of an IT system, and must be renewed at least every three years. Upon review of the PTA, the DHS Privacy Office determines whether a Privacy Impact Assessment (PIA) and/or Privacy Act System of Records Notice (SORN), or modifications thereto, are required. The Contractor shall provide adequate support to complete the PIA in a timely manner, and shall ensure that project management plans and schedules include the PTA, PIA, and SORN (to the extent required) as milestones. Additional information on the privacy compliance process at DHS, including PTAs, PIAs, and SORNs, is located on the DHS Privacy Office website ([www.dhs.gov/privacy](http://www.dhs.gov/privacy)) under "Compliance." DHS Privacy Policy Guidance Memorandum 2008-02 sets forth when a PIA will be required at DHS, and the Privacy Impact Assessment Guidance and Template outline the requirements and format for the PIA.

(b) If the contract involves an IT system build or substantial development or changes to an IT system that may require privacy documentation, the Contractor shall assign or procure a Privacy Lead, to be listed under "Key Personnel." The Privacy Lead shall be responsible for providing adequate support to DHS to ensure DHS can complete any required PTA, PIA, SORN, or other supporting documentation to support privacy compliance. The Privacy Lead shall work with personnel from the program office, the ICE Privacy Office, the Office of the Chief Information Officer, and the Records Management Branch to ensure that the privacy documentation is kept on schedule, that the answers to questions in the PIA are thorough and complete, and that questions asked by the ICE Privacy Office and other offices are answered in a timely fashion. The Privacy Lead:

- Must have excellent writing skills, the ability to explain technology clearly for a non-technical audience, and the ability to synthesize information from a variety of sources.
- Must have excellent verbal communication and organizational skills.
- Must have experience writing PIAs. Ideally the candidate would have experience writing PIAs for DHS.
- Must be knowledgeable about the Privacy Act of 1974 and the E-Government Act of 2002.
- Must be able to work well with others.

(c) If a Privacy Lead is already in place with the program office and the contract involves IT system builds or substantial changes that may require privacy documentation, the requirement for a separate Private Lead specifically assigned under this contract may be waived provided the Contractor agrees to have the existing Privacy Lead coordinate with and support the ICE Privacy POC to ensure privacy concerns are proactively reviewed and so ICE can complete any required PTA, PIA, SORN, or other supporting documentation to support privacy compliance if required. The Contractor shall work with personnel from the program office, the ICE Office of Information Governance and Privacy, and the Office of the Chief Information Officer to ensure that the privacy documentation is kept on schedule, that the answers to questions in any privacy documents are thorough and complete, that all records management requirements are met, and that questions asked by the ICE Privacy Office and other offices are answered in a timely fashion.

(End of Clause)

## **Article 28. Quality Control**

- A. The Service Provider is responsible for management and quality control actions necessary to meet the quality standards set forth in the Agreement. The Service Provider must provide a Quality Control Plan (QCP) that meets the requirements specified in the Performance Requirements Summary (PRS), Attachment 3 to the CO for concurrence prior to award of the IGSA (or as directed by the CO). The CO will notify the Service Provider of concurrence or required modifications to the plan before the Agreement start date. If a modification to the plan is required, the Service Provider must make appropriate modifications and obtain concurrence of the revised plan by the CO before the contract start date.
- B. The Service Provider shall provide an overall QCP that addresses critical operational performance standards for the services required under this contract. The QCP shall ensure that services will be maintained at a uniform and acceptable level. At a minimum, the Service Provider shall periodically review and update the QCP policies and procedures at least on an annual basis. The Service Provider shall audit facility's operations associated with ICE and ICE detainees monthly for compliance with the QCP. The Service Provider shall notify the Government 48 hours in advance of the audit to ensure the COR is available to participate. The Service Provider's QCP shall identify deficiencies, appropriate corrective action(s), and timely implementation plans to the COR.
- C. If the Service Provider proposes changes in the QCP after contract award, the Service Provider shall submit them to the COR for review. If the COR concurs with the changes, the COR shall submit the changes to the CO. The CO may modify the contract to include these changes.

**Article 29. Quality Assurance Surveillance Program (QASP)**

- A. The Government’s Quality Assurance Surveillance Program is based on the premise that the Service Provider, and not the Government, is responsible for management and quality control actions to meet the terms of the Agreement. The Quality Assurance Surveillance Plan (QASP) procedures recognize that unforeseen problems do occur. Good management and use of an adequate Quality Control Plan will allow the facility to operate within acceptable quality levels.
- B. Each phase of the services rendered under this Agreement is subject to inspection both during the Service Provider’s operations and after completion of the tasks.
- C. When the Service Provider is advised of any unsatisfactory condition(s), the Service Provider shall submit a written report to the COR addressing corrective/preventive actions taken. The QASP is not a substitute for quality control by the Service Provider.
- D. The COR may check the Service Provider’s performance and document any noncompliance; only the Contracting Officer may take formal action against the Service Provider for unsatisfactory performance.
- E. The Government may reduce the invoice or otherwise withhold payment for any individual item of nonconformance observed. The Government may apply various inspection and extrapolation techniques (i.e., 100 % surveillance, random sampling, planned sampling, unscheduled inspections) to determine the quality of services, the appropriate reductions, and the total payment due.
- F. Attachment 3 of this Agreement sets forth the procedures and guidelines that ICE will use to inspect the technical performance of the Service Provider. It presents the financial values and mechanisms for applying adjustments to the Service Provider's invoices as dictated by work performance measured to the desired level of accomplishment.
  - 1. The purpose of the QASP is to:
    - a. Define the roles and responsibilities of participating Government officials.
    - b. Define the types of work to be performed.
    - c. Describe the evaluation methods that will be employed by the Government in assessing the Service Provider's performance.
    - d. Describe the process of performance documentation.
  - 2. Roles and Responsibilities of Participating Government Officials
    - a. The COR(s) will be responsible for monitoring, assessing, recording, and reporting on the technical performance of the Service Provider on a day-to-day basis. The COR(s) will have primary responsibility for completing

"Quality Assurance Surveillance Forms" to document their inspection and evaluation of the Service Provider's work performance.

- b. The Contracting Officer (CO) or designee has overall responsibility for evaluating the Service Provider's performance in areas of contract compliance, contract administration, and cost and property control. The CO shall review the COR's evaluation of the Service Provider's performance and invoices. If applicable, deductions will be assessed in accordance with the evaluation of the Service Provider's performance, e.g., monetary adjustments for inadequate performance.

The rights of the Government and remedies described in this section are in addition to all other rights and remedies set forth in this Agreement. Any reductions in the Service Provider's invoice shall reflect the contract's reduced value resulting from the Service Provider's failure to perform required services. The Service Provider shall not be relieved of full performance of the services hereunder and may be terminated for default based upon inadequate performance of services, even if a reduction was previously taken for any inadequate performance.

**(End of Document)**

Bed Space Tracking Initiative (BSTI) Contract Requirement

The Custody Management – ServiceNow platform portal (Custody SNOW) is a consolidated portal that will enable ICE to meet detention facility reporting requirements. Detention facilities are required to complete the attached template and submit it twice daily via e-mail to [BSTI@ice.dhs.gov](mailto:BSTI@ice.dhs.gov) at 9:00am EST and 4:00pm EST. In the future, the data platform may include, but not limited to, the Bed Space Tracking Initiative (BSTI), Segregation Management Reporting System (SMRS), Prison Rape Elimination Act (PREA) and Sexual Abuse and Assault Prevention and Intervention (SAAPI) compliance, national detention standards compliance, as well as other detention-related compliance and initiative reports being developed by ICE. Applicable submission forms and reporting templates will be made available to the detention facilities via email, the Custody SNOW portal or other electronically transmitted medium of the governments choice. Data input may be required on an as-required basis, such as, per incident or an established reporting time of day requirement, based on the specific subject, and as required under applicable Federal law, ICE policies, and/or program procedures. The Government reserves the right to update the Custody SNOW portal and associated forms, user access, and submission process for uploading the required data to correct issues, expand capabilities, and improve performance of the system.



2. AMENDMENT/MODIFICATION NO. P00001	3. EFFECTIVE DATE See Block 16C	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)
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6. ISSUED BY ICE/Detention Compliance & Removals Immigration and Customs Enforcement Office of Acquisition Management 801 I Street, NW S [REDACTED] WASHINGTON DC 20536	7. ADMINISTERED BY (If other than Item 6) CODE
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8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code)  FINNEY COUNTY OF ATTN [REDACTED] 304 N 9TH STREET GARDEN CITY KS 678465371	9A. AMENDMENT OF SOLICITATION NO.  9B. DATED (SEE ITEM 11)  9C. DATED (SEE ITEM 11)
CODE 0468452280000      FACILITY CODE	10A. MODIFICATION OF CONTRACT/ORDER NO. 70CDCR20DIG000008  10B. DATED (SEE ITEM 13) 07/22/2020

**11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS**

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers  is extended,  is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing items 8 and 15, and returning \_\_\_\_\_ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)  
See Schedule

**13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.**

CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
X	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
	D. OTHER (Specify type of modification and authority)

E. IMPORTANT Contractor  is not,  is required to sign this document and return \_\_\_\_\_ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)  
DUNS Number: 046845228  
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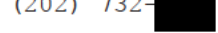
Contracting Officer's Representative:  
[REDACTED]  
(312) 890-[REDACTED]

Program Office:  
[REDACTED]  
(312) 347-[REDACTED]  
Continued ...

Except as provided herein, all terms and conditions of the document referenced in Item 9 A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)	
15B. CONTRACTOR/OFFEROR  <i>(Signature of person authorized to sign)</i>	15C. DATE SIGNED

NAME OF OFFEROR OR CONTRACTOR  
FINNEY COUNTY OF

ITEM NO. (A)	SUPPL ES/SERVICES (B)	QUANTITY (C)	UNIT (D)	UNIT PRICE (E)	AMOUNT (F)
	<p>Contracting Officer:              (202) 732-            ---</p> <p>The purpose of this modification to Intergovernmental Service Agreement (IGSA) number 70CDCR20DIG000008 is to correct the period of performance start date. The period of performance shall commence on July 22, 2020 and will remain in effect indefinitely unless terminated by either party in accordance with Articles 8 and/or 11 of the IGSA.</p> <p>---</p> <p>Note: There shall be no public disclosures regarding this agreement made by the Service Provider (or any subcontractors) without review and approval of such disclosure by ICE.</p> <p>---</p> <p>Period of Performance: 07/22/2020 to 07/21/2120            ---</p> <p>All other terms and conditions remain unchanged.</p>				