852.216-74 Economic Rice Adjustment—Medicaid Labor Rates.

As prescribed in 816.203-4(e)(4), insert the following clause:

Economic Price Adjustment—Medicaid Labor Rates (MAR 2018)

This clause does not apply to rates for non-Medicaid nursing homes.

(a) The Contractor shall notify the Contracting Officer if, at any time during contract performance, the Medicaid rate set by the State Medicaid Agency (SMA) for contract line item increases or decreases in the Schedule. The Contractor shall furnish this notice within 60 days after the increase or decrease, or within any additional period that the Contracting Officer may approve in writing, but not later than the date of final payment under this contract. The notice shall include the Contractor's proposal for an adjustment in the contract unit prices to be negotiated under paragraph (b) of this clause, and shall include, in the form required by the Contracting Officer, supporting data explaining the cause, effective date, and the amount of the increase or decrease and the amount of the Contractor's adjustment proposal.

(b) The Contracting Officer and the Contractor shall negotiate a price adjustment to the contract's unit prices and its effective date upon receipt of the notice and data under paragraph (a) of this clause. However, the Contracting Officer may postpone the negotiations until an accumulation of increases and decreases of the Medicaid labor rates (including fringe benefits) shown in the Schedule results in an adjustment allowable under paragraph (c)(3) of this clause. The Contracting Officer shall modify this contract as follows:

(1) Include the price adjustment and its effective date;

(2) Revise the Medicaid labor rates (including fringe benefits) as shown in the Schedule to reflect the increases or decreases resulting from the SMA adjustment. The Contractor shall continue performance pending agreement on, or determination of, any adjustment and its effective date.

(c) Any price adjustment under this clause is subject to the following limitations:

(1) Adjustment shall be limited to the effect on unit prices of the increases or decreases of the Medicaid rates of pay for labor (including fringe benefits) shown in the Schedule. There shall be no adjustment for changes in rates or unit prices other than those shown in the Schedule.

(2) No upward adjustment shall apply to supplies or services that are required to be delivered or performed before the effective date of the adjustment, unless the Contractor's failure to deliver or perform according to the delivery schedule results from causes beyond the Contractor's control and without its fault or negligence, within the meaning of the Default clause.

(3) There shall be no adjustment for any change in rates of pay for labor (including fringe benefits) or unit prices for material which would not result in a net change of at least three percent of the then-current total contract price. This limitation shall not apply, however, if, after final delivery of all contract line items, either party requests an adjustment under paragraph (b) of this clause.

(4) The aggregate of the increases in any contract unit price made under this clause shall not exceed 10 percent of the original unit price. There is no percentage limitation on the amount of decreases

made under this clause.

(d) The Contracting Officer, precluding certified cost and pricing data may examine the Contractor's books, records, and other supporting data relevant to the cost of labor (including fringe benefits) and material during all reasonable times until the end of 3 years after the date of final payment under this contract or the time periods specified in Subpart 4.7 of the Federal Acquisition Regulation (FAR), whichever is earlier.

(End of clause)

Parent topic: Subpart 852.2—Text of Provisions and Clauses