1652.204-74 Large provider agreements.

As prescribed by 1604.7202, the contracting officer will insert the following clause in all FEHB Program contracts based on cost analysis (experience-rated):

Large Provider Agreements (OCT 2005)

(a) *Notification and Information Requirements.*

(1) The experience-rated Carrier must provide notice to the contracting officer of its intent to enter into or to make a significant modification of a Large Provider Agreement:

(i) Not less than 60 days before entering into any Large Provider Agreement; and

(ii) Not less than 60 days before exercising a renewal or other option, or significant modification to a Large Provider Agreement, when such action would result in total costs to the FEHB Program of an additional 20 percent or more above the existing contract. However, if a carrier is exercising a simple renewal or other option contemplated by a Large Provider Agreement that OPM previously reviewed, and there are no significant changes, then a statement to the effect that the renewal or other option is being exercised along with the dollar amount is sufficient notice.

(2) The carrier's notification to the contracting officer must be in writing and must, at a minimum:

(i) Describe the supplies and/or services the proposed provider agreement will require;

(ii) Identify the proposed basis for reimbursement;

(iii) Identify the proposed provider agreement, explain why the carrier selected the proposed provider, and what contracting method it used, where applicable, including the kind of competition obtained;

(iv) Describe the methodology the carrier used to compute the provider's profit; and,

(v) Describe provider risk provisions.

(3) The Contracting officer may request from the carrier any additional information on a proposed provider agreement and its terms and conditions prior to a provider award and during the performance of the agreement.

(4) Within 30 days of receiving the carrier's notification, the Contracting officer will give the carrier either written comments or written notice that there will be no comments. If the Contracting officer comments, the carrier must respond in writing within 10 calendar days, and explain how it intends to address any concerns.

(5) When computing the carrier's service charge, the Contracting officer will consider how well the carrier complies with the provisions of this section, including the advance notification requirements, as an aspect of the carrier's performance factor.

(6) The Contracting officer's review of any Large Provider Agreement, option, renewal, or modification will not constitute a determination of the acceptability of the terms and conditions of any provider agreement or of the allowability of any costs under the carrier's contract, nor will it

relieve the carrier of any responsibility for performing the contract.

(b) *Records and Inspection.* The carrier must insert in all Large Provider Agreements the requirement that the provider will retain and make available to the Government all records relating to the agreement that support the annual statement of operations and enrollee records—Retain for 6 years after the agreement term ends.

(c) *Audit and Records—Negotiation.* The provisions of FAR 52.215-2, "Audit and Records—Negotiation," when required, or FEHBAR 1652.246-70, "FEHB Inspection" apply to all experience-rated Carriers' Large Provider Agreements. The Carrier will insert the clauses at FAR 52.215-2, when applicable, or FEHBAR 1652.246-70 in all Large Provider Agreements. In FAR 52.215-2 the carrier will substitute:

(1) The term "Large Provider" for the term "Contractor" throughout the clause, and

(2) The term "Large Provider Agreement" for the term "Subcontracts" in paragraph (g) of FAR 52.215-2. The term "Contracting officer" will mean the FEHB Program Contracting officer at OPM. The carrier will be responsible for ensuring the Large Provider complies with the provisions set forth in the clause.

(d) *Prohibited Agreements.* No provider agreement made under this contract will provide for payment on a cost-plus-a-percentage-of-cost basis.

(e) The carrier will insert this clause, 1652.204-74, in all Large Provider Agreements.

(End of clause)

Parent topic: Subpart 1652.2—Texts of FEHBP Clauses