

1642.1205

decided by the Contracting Officer after considering the best interests of FEHBP enrollees.

1642.1205 Agreement to recognize carrier's change of name.

(a) (FAR) 42.1205 shall be implemented as provided in this section. The Contracting Officer shall insert the following Agreement in all FEHBP contracts for use when the carrier changes its name and the Government's and contractor's rights and obligations remain unaffected.

CHANGE-OF-NAME AGREEMENT

The (insert new Carrier name), a corporation duly organized and existing under the laws of (insert State), and the UNITED STATES OF AMERICA (Government), enter into this Agreement effective (insert date when the change of name became effective under applicable State law).

(a) THE PARTIES AGREE TO THE FOLLOWING FACTS:

(1) The Government, represented by various Contracting Officers of the Office of Personnel Management (OPM), has entered into Contract Number _____ with the (insert old Carrier name). The term *contracts* as used in this Agreement means the contract cited in this paragraph and all other contracts and purchase orders and all modifications thereto made by the Government and the Contractor before the effective date of this Agreement (whether or not performance and payment have been completed and releases executed if the OPM or the Carrier has any remaining rights, duties, or obligations under these contracts and purchase orders).

(2) The (insert old Carrier name), by an amendment to its certificate of incorporation, dated _____, 19____, has changed its corporate name to (insert new Carrier name).

(3) This amendment accomplishes a change of corporate name only and all rights and obligations of the Government and the Carrier under the contract are unaffected by this change.

(4) Documentary evidence of this change of corporate name has been filed with the Government.

(b) IN CONSIDERATION OF THESE FACTS, THE PARTIES AGREE THAT:

(1) The contract is amended by substituting the name “ (insert new Carrier name)” for the name “(insert old Carrier name)” wherever it appears in the contract; and

(2) Each party has executed this Agreement effective the day and year stated in paragraph (a)(2).

UNITED STATES OF AMERICA,

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_____ Date _____
Title _____
(Enter new Carrier name)

By _____ Date _____

Title _____
(Corporate Seal)

CERTIFICATE

I, _____, certify that I am the Secretary of (insert new Carrier name); that _____, who signed this Agreement for this corporation, was then (insert position held) of this corporation; and that this Agreement was duly signed for and on behalf of this corporation by authority of its governing body and within the scope of its corporate powers.

Witness my hand and the seal of this corporation this _____ day of _____ 19____.

By _____
(Corporate Seal)

(End of agreement)

(b) Failure to submit the properly completed and signed Change-of-Name Agreement in a timely manner may be cause for termination of the contract by OPM in accordance with FEHBP 1652.249-70.

Subpart 1642.70—Management Agreement (in Lieu of Novation Agreement)

1642.7001 Management agreement.

When it is in the best interest of FEHBP enrollees to continue a contract for an interim period after the carrier discontinues its operations and has entered into a Purchase and Sale Agreement (or other descriptive term), but before a successor in interest has been recognized by OPM, the carrier may submit for OPM approval a Management Agreement that enables it to continue a contract through an agreement with a third party to administer the day-to-day performance of the contract. Examples of situations in which a Management Agreement may be accepted by OPM are:

(a) When a transfer of assets does not meet the criteria for a novation;

(b) While a request for a novation is pending;

(c) While awaiting a decision on a request for a novation;

(d) As an interim measure, when the timing of a transfer of assets or the

timing of a carrier's withdrawal make administration of the contract inconvenient;

(e) When it is not in the interests of the Government to either recognize a successor in interest or to immediately terminate the existing FEHBP contract.

PART 1643—CONTRACT MODIFICATIONS

AUTHORITY: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 62 FR 47575, Sept. 10, 1997, unless otherwise noted.

Subpart 1643.2—Changes

1643.205–70 Contract clause.

The clause set forth in section 1652.243–70 shall be inserted in all FEHB Program contracts.

PART 1644—SUBCONTRACTING POLICIES AND PROCEDURES

Subpart 1644.1—General

Sec.

1644.170 Policy for FEHB Program subcontracting.

Subpart 1644.2—Consent to Subcontracts

1644.270 FEHBP contract clause.

AUTHORITY: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 52 FR 16043, May 1, 1987, unless otherwise noted.

Subpart 1644.1—General

1644.170 Policy for FEHB Program subcontracting.

(a) *General policy.* Carriers must follow commercially reasonable procurement procedures that comply, when required, with the Federal Acquisition Regulations (FAR) policies and procedures relating to competition and contract pricing for the acquisition of both commercial and noncommercial items.

(b) *Consent.* For all experience-rated contracts, carriers will notify the Contracting officer in writing at least 30 days in advance of entering into any

subcontract or subcontract modification, or as otherwise specified by the contract, if: the amount of the subcontract or the amount of the subcontract and modification charged to the FEHB Program equals or exceeds \$550,000 and is at least 25 percent of the total subcontract's costs. The amount of the dollar charge to the FEHB Program shall be adjusted by the same amount and at the same time as any change to the threshold for application of the Truth in Negotiations Act pursuant to 41 U.S.C. 254b(a)(7). Failure to provide advance notice may result in a Contracting officer's disallowance of subcontract costs or a penalty when considering the performance aspect of the carriers' service charge.

(1) All subcontracts or subcontract modifications that equal or exceed the threshold are subject to audit under FAR 52.215–2 "Audit and Records-Negotiations" if based on cost analysis, and subject to the provisions of 48 CFR 1646.301 and 1652.246–70 "FEHB Inspection" if based on price analysis.

(2) In determining whether the amount chargeable to the FEHB Program contract for a given subcontract or modification equals or exceeds the \$550,000 threshold, the following rules apply:

(i) For initial advance notification, the carrier shall provide the total cost/price for the base year.

(ii) The carrier shall provide advance notification of any modifications, options, including quantity or service options and option periods, and renewals of "evergreen contracts" that cause the total price to equal or exceed the threshold. OPM's review will be of the modification(s), itself, but documentation for the original subcontract will be required to perform the review.

(iii) The \$550,000 threshold will be adjusted by the same amount and at the same time as any change to the threshold for application of the Truth in Negotiations Act.

[70 FR 31382, June 1, 2005, as amended at 71 FR 3016, Jan. 19, 2006]