

## SUBCHAPTER H—CLAUSES AND FORMS

### PART 1652—CONTRACT CLAUSES

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1652.245-70 Government property (negotiated benefits contracts).  
1652.246-70 FEHB Inspection.  
1652.249-70 Renewal and withdrawal of approval.  
1652.249-71 FEHBP termination for convenience of the government—negotiated benefits contracts.  
1652.249-72 FEHBP termination for default—negotiated benefits contracts.

#### Subpart 1652.3—FEHBP Clause Matrix

1652.370 Use of the matrix.

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

SOURCE: 52 FR 16044, May 1, 1987, unless otherwise noted.

#### 1652.000 Applicable clauses.

The clauses of FAR subpart 52.2 shall be applicable to FEHBP contracts as specified in the FEHBP Clause Matrix in subpart 1652.3.

#### Section and Clause Title

52.202-1 Definitions.  
52.203-3 Gratuities.  
52.203-5 Covenant Against Contingent Fees.  
52.203-7 Anti-Kickback Procedures.  
52.203-12 Limitation on Payments to Influence Certain Federal Transactions.  
52.209-6 Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment.  
52.215-2 Audit and Records—Negotiation.  
52.215-22 Price Reduction for Defective Cost or Pricing Data.  
52.215-24 Subcontractor Cost or Pricing Data.  
52.215-27 Termination of Defined Benefit Pension Plans.  
52.215-30 Facilities Capital Cost of Money.  
52.215-31 Waiver of Facilities Capital Cost of Money.  
52.215-39 Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB).  
52.219-8 Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns.  
52.222-1 Notice to the Government of Labor Disputes.  
52.222-3 Convict Labor.  
52.222-4 Contract Work Hours and Safety Standards Act—Overtime Compensation—General.  
52.222-21 Certification of Nonsegregated Facilities.  
52.222-26 Equal Opportunity.  
52.222-28 Equal Opportunity Preaward Clearance of Subcontracts.  
52.222-29 Notification of Visa Denial.  
52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans.  
52.222-36 Affirmative Action for Handicapped Workers.  
52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era.  
52.223-2 Clean Air and Water.  
52.223-6 Drug-Free Workplace.  
52.227-1 Authorization and Consent.  
52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement.  
52.229-3 Federal, State, and Local Taxes.  
52.229-4 Federal, State, and Local Taxes (Noncompetitive Contract).  
52.229-5 Taxes—Contracts Performed in U.S. Possessions or Puerto Rico.  
52.230-2 Cost Accounting Standards.  
52.230-3 Disclosure and Consistency of Cost Accounting Practices.  
52.230-5 Administration of Cost Accounting Standards.  
52.232-8 Discounts for Prompt Payment.  
52.232-17 Interest.

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- 52.232-23 Assignment of Claims.
- 52.232-33 Mandatory Information For Electronic Funds Transfer Payment.
- 52.233-1 Disputes.
- 52.242-1 Notice of Intent to Disallow Costs.
- 52.242-3 Penalties for Unallowable Costs.
- 52.242-13 Bankruptcy.
- 52.244-5 Competition in Subcontracting.
- 52.244-6 Subcontracts for Commercial Items and Commercial Components.
- 52.246-25 Limitation of Liability—Services.
- 52.247-63 Preference for U.S.-Flag Air Carriers.
- 52.251-1 Government Supply Sources.
- 52.232-2 Clauses Incorporated by Reference.
- 52.252-4 Alterations in Contract.
- 52.252-6 Authorized Deviations in Clauses.

[62 FR 47576, Sept. 10, 1997]

### Subpart 1652.2—Texts of FEHBP Clauses

#### 1652.203-70 Misleading, deceptive, or unfair advertising.

As prescribed in 1603.7003, the following clause shall be inserted in all FEHBP contracts:

##### MISLEADING, DECEPTIVE, OR UNFAIR ADVERTISING (JAN 1991)

(a) The Carrier agrees that any advertising material, including that labeled promotional material, marketing material, or supplemental literature, shall be truthful and not misleading.

(b) Criteria to assess compliance with paragraph (a) of this clause are available in the FEHB Supplemental Literature Guidelines which are developed by OPM and should be used, along with the additional guidelines set forth in FEHBAR 1603.702, as the primary guide in preparing material; further guidance is provided in the NAIC “Rules Governing Advertising of Accident and Sickness Insurance With Interpretive Guidelines.” Guidelines are periodically updated and provided to the Carrier by OPM.

(c) Failure to conform to paragraph (a) of this clause may result in a reduction in the service charge, if appropriate, and corrective action to protect the interest of Federal Members. Corrective action will be appropriate to the circumstances and may include, but is not limited to the following actions by OPM:

- (1) Directing the Carrier to cease and desist distribution, publication, or broadcast of the material;
- (2) Directing the Carrier to issue corrections at the Carrier’s expense and in the same manner and media as the original material was made; and
- (3) Directing the Carrier to provide, at the Carrier’s expense, the correction in writing by certified mail to all enrollees of the

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Plan(s) that had been the subject of the original material.

(d) Egregious or repeated offenses may result in the following action by OPM:

- (1) Suspending new enrollments in the Carrier’s Plan(s);
- (2) Providing Enrollees an opportunity to transfer to another plan; and
- (3) Terminating the contract in accordance with Section 1.15, Renewal and Withdrawal of Approval.

(e) Prior to taking action as described in paragraphs (c) and (d) of this clause, the OPM will notify the Carrier and offer an opportunity to respond.

(f) The Carrier shall incorporate this clause in subcontracts with its underwriter, if any, and other subcontractors directly involved in the preparation or distribution of such advertising material and shall substitute “Contractor” or other appropriate reference for the term “Carrier.”

(End of clause)

[55 FR 27415, July 2, 1990, as amended at 62 FR 47576, Sept. 10, 1997]

#### 1652.204-70 Contractor records retention.

As prescribed in 1604.705 the following clause will be inserted in all FEHB Program contracts.

##### CONTRACTOR RECORDS RETENTION (JUL 2005)

Notwithstanding the provisions of Section 5.7 (FAR 52.215-2(f)) “Audit and Records—Negotiation” the carrier will retain and make available all records applicable to a contract term that support the annual statement of operations and, for contracts that equal or exceed the threshold at FAR 15.403-4(a)(1), the rate submission for that contract term for a period of six years after the end of the contract term to which the records relate. This includes all records of Large Provider Agreements and subcontracts that equal or exceed the threshold requirements. In addition, individual enrollee and/or patient claim records will be maintained for six years after the end of the contract term to which the claim records relate. This clause is effective prospectively as of the 2005 contract year.

(End of clause)

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

#### 1652.204-71 Coordination of Benefits.

As prescribed in 1604.7001, the following clause shall be inserted in all FEHBP contracts: