

APPENDIX 1:
Federal Independent Dispute Resolution (IDR) Process: Selection of Certified IDR Entity Data Elements

The Departments of the Treasury, Labor, and Health and Human Services (Departments) and the Office of Personnel Management (OPM) have issued regulations that implement the provisions of the No Surprises Act, including rules to establish a Federal independent dispute resolution process (Federal IDR process) that nonparticipating providers or facilities, nonparticipating providers of air ambulance services, and group health plans, health insurance issuers offering group or individual health insurance coverage, or Federal Employees Health Benefits (FEHB) Program carriers may use following the end of an unsuccessful open negotiation period to determine the out-of-network rate for certain items and services. More specifically, the Federal IDR process may be used to determine the out-of-network rate for emergency items and services furnished by nonparticipating providers or facilities, nonemergency items and services furnished by nonparticipating providers at participating health care facilities, and for air ambulance services furnished by nonparticipating providers of air ambulance services where an All-Payer Model Agreement or specified state law does not apply.

The Departments and OPM have issued proposed rules that would introduce certain changes to the certified IDR entity selection process. Under the proposed rules, after exhaustion of the open negotiation period, if a party initiates the Federal IDR process, the initiating party identifies its preferred certified IDR entity in the notice of IDR initiation. The non-initiating party would be required, within 3 business days after the date of IDR initiation, to agree or object to the to the initiating party's preferred certified IDR entity in the notice of IDR initiation response. If the non-initiating party agrees or fails to object to the preferred certified IDR entity identified in the notice of IDR initiation within 3 business days of IDR initiation, that certified IDR entity would be preliminarily selected and would be considered jointly agreed to by the parties on the third business day after the date of IDR initiation. If the non-initiating party objects to the selection of the initiating party's preferred certified IDR entity by designating an alternative preferred certified IDR entity, the initiating party would then be required to agree or object to the alternative preferred certified IDR entity by notifying the Departments through the Federal IDR portal within 3 business days after the date of IDR initiation.

If a certified IDR entity is not jointly selected because the initiating party objects to the non-initiating party's alternative preferred certified IDR entity reflected in the notice of IDR initiation response, either party may select an alternative preferred certified IDR entity by submitting the notice of certified IDR entity selection until the earlier of the date that the parties agree on the alternative preferred certified IDR entity or the deadline for joint selection, which is 3 business days after the date of IDR initiation. Once a party submits a notice of certified IDR entity selection, it may not submit another notice of IDR entity selection until after it receives a responding notice of certified IDR entity selection from the other party.

The parties would be required to provide these data elements when either agreeing to or objecting to the alternative preferred certified IDR entity selection through the Federal IDR portal.

DATA ELEMENT	DESCRIPTION
Agreement or objection	A statement indicating the party's agreement with or objection to the other party's alternative preferred certified IDR entity
Objection rationale (if objecting based on a conflict of interest)	An explanation of any conflict of interest with the alternative preferred certified IDR entity
Identification of alternate preferred certified IDR entity (if objecting within 3 business days after the date of IDR initiation)	Certified IDR entity's legal name as written on business license and the certified IDR entity's IDR entity number
Signature of submitting party	Signature, full name, and date from the party submitting the notice or its authorized representative.

Paperwork Reduction Act Statement

According to the Paperwork Reduction Act of 1995 (Pub. L. 104-13) (PRA), no persons are required to respond to a collection of information unless such collection displays a valid Office of Management and Budget (OMB) control number. The Departments and OPM note that a Federal agency cannot conduct or sponsor a collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number, and the public is not required to respond to a collection of information unless it displays a currently valid OMB control number. See 44 U.S.C. 3507. Also, notwithstanding any other provisions of law, no person shall be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. See 44 U.S.C. 3512.

The public reporting burden for this voluntary collection of information is estimated to be approximately 30 minutes - 1 hour per response, including time for reviewing general information about requesting assistance, gathering information, completing and reviewing the collection of information, and uploading attachments if applicable. Interested parties are encouraged to send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Employee Benefits Security Administration, Office of Research and Analysis, Attention: PRA Clearance Officer, 200 Constitution Avenue, N.W., Room N-5718, Washington, DC 20210 or email ebbsa.opr@dol.gov and reference the OMB Control Number 1210-0169.

Note: Please do not submit the data elements or notice described in this document to ebbsa.opr@dol.gov. All Federal IDR process data elements and notices must be submitted through the Federal IDR portal at <https://www.nsa-idr.cms.gov/>.