

**Subpart 3528.3—Insurance****3528.301 Policy.**

(b) In addition to the requirements of FAR 28.301(b), designated contractors (see 3525.801-73(a)), as prescribed at paragraph 7 of Article XVIII of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977, shall, upon initiation of work or construction activities, obtain appropriate insurance to cover civil liabilities in the Republic of Panama that may arise as a result of acts or omissions done in the performance of official duty by their employees. The insurance coverage shall include coverage for the tortious conduct of their employees. Such insurance may be obtained from insurance companies licensed to engage in such business within the Republic of Panama.

**3528.305 Overseas workers' compensation and war-hazard insurance.**

(d) Pursuant to a waiver granted by the Secretary of Labor, effective January 22, 1980, the provisions of the Defense Base Act are not applicable to any public-work contract awarded by the Panama Canal Commission in the Panama Canal area with respect to non-U.S. citizen employees, i.e., any Panamanian or other foreign national, employed under such contracts. The waiver does not apply, however, to employees who are:

- (1) Hired in the United States by any contractor;
- (2) Residents of the United States; or
- (3) Citizens of the United States.

The waiver was granted with the proviso that the non-U.S. citizen employees thus exempted from the provisions of the Defense Base Act will be provided workers' compensation benefits prescribed in the Panamanian Social Security System.

**3528.309 Contract clause for workers' compensation insurance.**

(a) In addition to FAR clause 52.228-3, Workers' Compensation Insurance (Defense Base Act), prescribed at FAR 28.309(a)(1), the contracting officer shall insert the clause at 3552.228-73, Non-U.S. Workers' Compensation Insurance, in all public-work solicitations and contracts in which the em-

ployment of Panamanian or other foreign nationals is anticipated (see 3528.305(d)).

**3528.370 Contract clause for special Panama insurance.**

The contracting officer shall insert the clause at 3552.228-74, Special Panama Insurance, in all public-work solicitations and contracts:

- (a) Which are to be performed in whole or in part in the Republic of Panama, and
- (b) For which offers are anticipated from, or contracts are awarded to, U.S. contractors.

**PART 3529—TAXES****Subpart 3529.4—Contract Clauses**

3529.402 Foreign contracts.

3529.402-1 Foreign fixed-price contracts.

AUTHORITY: 40 U.S.C. 486(c); Articles XI and XII of the Agreements in Implementation of Articles III and IV of the Panama Canal Treaty of 1977, respectively.

**Subpart 3529.4—Contract Clauses****3529.402 Foreign contracts.****3529.402-1 Foreign fixed-price contracts.**

(a) *Procedures regarding FAR clause 52.229-6.* In recognition of the fundamental purpose of paragraph 2(e) of Articles XI and XII of the Agreements in Implementation of Articles III and IV of the Panama Canal Treaty of 1977, respectively, representatives of the Governments of the United States and Panama approved an Agreement on Taxation of Contractors on August 6, 1986. This taxation agreement impacts on U.S. contractors in certain circumstances. In order to alert prospective contractors to this possibility, the following procedures shall apply regarding FAR clause 52.229-6:

(1) The contracting officer shall supplement FAR clause 52.229-6, Taxes—Foreign Fixed-Price Contracts, by inserting the following note at the end of the clause in all solicitations and contracts, unless the acquisition is a small purchase under FAR part 13 that:

- (i) Will not require the contractor's presence in Panama, or
- (ii) Does not solicit U.S. offerors:

NOTE: If the Contractor is a U.S. contractor, such contractor is advised that, pursuant to a taxation agreement between the Governments of the United States and Panama, U.S. contractors and subcontractors, including their U.S. citizen or U.S. permanent resident employees, may be required to file tax returns with, as well as provide corresponding U.S. tax information to, the Government of Panama on income arising under or relating to Panama Canal Commission contracts. This requirement is applicable when the contractor, subcontractor, or individual employee is present in the Republic of Panama in connection with one or more Commission contracts for more than 90 calendar days during the relevant tax year. This description of the stated requirement is not intended, nor should it be construed, to be a legal analysis of the taxation agreement. The Commission assumes no responsibility or liability for a contractor's or individual's obligation under the taxation agreement, nor for the interpretation of such agreement. A copy of the taxation agreement will be provided to the contractor or prospective contractor upon request to the contracting officer.

(2) If clause 52.229-6 is incorporated by reference, rather than in full text, insert the note directly below the title of the clause.

(3) Include elsewhere in the body of the solicitation the following note to alert offerors that clause 52.229-6 has been supplemented. In supply and service solicitations, this note should normally be inserted in Section B following the blanks provided for offerors to insert line item prices. In construction solicitations, the note should normally be attached to Standard Form 1442 or inserted in the solicitation's Special Conditions. In small purchase acquisitions, the note is to be included in the document requesting prices or by separate attachment to the document. If a U.S. contractor wins the small purchase award, the note shall be incorporated either (i) in full text, or (ii) by reference, on the purchase order or other award document.

NOTE: Offerors' attention is directed to the note added at the end of clause 52.229-6, Taxes—Foreign Fixed-Price Contracts. The note is an advisory notice regarding possible tax obligations under certain circumstances of U.S. contractors, subcontractors, and their employees to the Government of Panama. If the circumstances appear to be applicable, offerors may obtain additional information by contacting the contracting office at the address or phone number provided elsewhere in this solicitation.

(4) If additional information regarding the taxation agreement is requested of Panama Canal Commission employees, either before or after award, the individual who receives the request shall promptly notify the contracting officer and the Office of General Counsel who shall determine, in conjunction with the Office of Executive Administration, the appropriate action to be taken.

(5) Contracting officers shall serve as the official liaison, for purposes of the taxation agreement, between offerors/contractors and the Commission. The taxation agreement provides for the classification of contractors into two categories, resident and non-resident, by representatives of the Governments of the United States and Panama according to criteria set forth in the agreement. The representative of the United States Government is the Assistant Director, Policy and Programs, Office of Executive Administration. Classifications, when confirmed by the two representatives, will be communicated to the respective contractors by the contracting officer.

[55 FR 7657, Mar. 2, 1990]

### **PART 3531—CONTRACT COST PRINCIPLES AND PROCEDURES**

AUTHORITY: 40 U.S.C. 486(c).

#### **Subpart 3531.2—Contracts with Commercial Organizations**

##### **3531.205-46 Travel costs.**

(a) Fixed-price type contracts that provide for separate reimbursement of travel and per diem shall state that such reimbursement will not exceed rates established in applicable Federal Travel Regulations.

(b) The clause at 3552.231-70, Travel Costs, shall be included in contracts as described in paragraph (a) of this subsection.

[55 FR 7658, Mar 2, 1990]

### **PART 3532—CONTRACT FINANCING**

Sec.  
3532.000 Scope of part.