

the Miller Act. When an employee's request for information is involved, the contracting officer shall inform the inquirer that such investigation will be made. Such investigation is required pursuant to the provisions of the Davis-Bacon Act, Contract Work Hours and Safety Standards Act, and Copeland (Anti-Kickback) Act for assuring proper payment to such employees.

(c) When furnishing a copy of a payment bond and contract in accordance with (FAR) 48 CFR 28.106-6(c), the requirement for a copy of the contract may be satisfied by furnishing a machine-duplicate copy of the contractor's first pages which show the contract number and date, the contractor's name and signature, the contracting officer's signature, and the description of the contract work. The contracting officer furnishing the copies shall place the statement "Certified to be a true and correct copy" followed by his/her signature, title and name of the OA. The fee for furnishing the requested certified copies shall be determined in accordance with the DOT Freedom of Information Act regulation, 49 CFR part 7, ((TAR) 48 CFR 1224.202).

1228.106-70 Execution and administration of bonds.

(a) The surety shall be notified, as soon as feasible, of the contractor's failure to perform in accordance with the terms of the contract.

(b) When a partnership is a principal on a bond, the names of all the members of the firm shall be listed in the bond following the name of the firm, and the phrase "a partnership composed of." If a principal is a corporation, the state of incorporation must also appear on the bond.

(c) Performance or payment bond other than an annual bond shall not antedate the contract to which it pertains.

(d) Bonds shall be filed with the original contract to which they apply, or all bonds shall be separately maintained and reviewed quarterly for validity. If separately maintained, each contract file shall cross-reference the applicable bonds.

1228.106-490 Contract clause. (USCG)

The contracting officer shall insert the USCG clause at (TAR) 48 CFR 1252.228-90, Notification of Miller Act Payment Bond Protection, in solicitations and contracts, and shall require its first-tier subcontractors to insert the clause in all of their subcontracts, when payment bonds are required.

Subpart 1228.3—Insurance

1228.306 Insurance under fixed-price contracts.

1228.306-70 Contracts for lease of aircraft.

(a) The contracting officer shall insert the clauses at (TAR) 48 CFR 1252.228-70 through 1252.228-72, unless otherwise indicated by the specific instructions for their use, in any contract for the lease of aircraft (including aircraft used in out-service flight training).

(b) The contracting officer shall insert the clause at (TAR) 48 CFR 1252.228-70, Loss of or Damage to Leased Aircraft, in any contract for the lease of aircraft, except in the following circumstances:

(1) When the hourly rental rate does not exceed \$250 and the total rental cost for any single transaction is not in excess of \$2,500;

(2) When the cost of hull insurance does not exceed 10 percent of the contract rate; or

(3) When the lessor's insurer does not grant a credit for uninsured hours, thereby preventing the lessor from granting the same to the Government.

(c) The contracting officer shall insert the clause at (TAR) 48 CFR 1252.228-71, Fair Market Value of Aircraft, when fair market value of the aircraft can be determined.

(d) Section 504 of the Federal Aviation Act of 1958, as amended, provides that no lessor of an aircraft under a bona fide lease of 30 days or more shall be liable by reason of his interest as lessor or title-holder of the aircraft for any injury to or death of persons, or damage to or loss of property, unless such aircraft is in the actual possession or control of such person at the time of such injury, death, damage or loss. On short-term or intermittent-use leases,

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however, the owner may be liable for damage caused by operation of the aircraft. It is usual for the aircraft owner to retain insurance covering this liability during the term of such lease. Such insurance can, often for little or no increase in premium, be made to cover the Government's exposure to liability as well. In order to take advantage of this coverage, the Risks and Indemnities clause at (TAR) 48 CFR 1252.228-72 prescribed in paragraph (d)(1) of this section shall be used.

(1) The contracting officer shall insert the clause at (TAR) 48 CFR 1252.228-72, Risk and Indemnities, in any contract for out-service flight training or for the lease of aircraft when the Government will have exclusive use of the aircraft for a period of less than thirty days.

(2) Any contract for out-service flight training shall include a clause in the contract schedule stating substantially that the contractor's personnel shall at all times during the course of the training be in command of the aircraft, and that at no time shall other personnel be permitted to take command of the aircraft.

PART 1231—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 1231.2—Contracts With Commercial Organizations

Sec.

1231.205 Selected costs.

1231.205-32 Precontract costs.

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418(b); 48 CFR 3.1.

Subpart 1231.2—Contracts With Commercial Organizations

1231.205 Selected costs.

1231.205-32 Precontract costs.

(a) The decision to incur precontract costs is that of the contractor. No DOT employee can authorize, demand, or require a contractor to incur precontract costs. The contracting officer may advise the prospective contractor that any costs incurred before contract award are at the contractor's sole risk and that if negotiations fail to result in a binding contract, payment of these

costs may not be made by the Government.

(b) When the contracting officer determines that incurring precontract costs was necessary to meet the proposed contract delivery schedule of a cost-reimbursement contract, the clause at (TAR) 48 CFR 1252.231-70, Date of Incurrence of Costs, may be inserted in the resultant contract.

[59 FR 40282, Aug. 8, 1994]

PART 1232—CONTRACT FINANCING

Subpart 1232.70—Contract Payments

Sec.

1232.7002 Invoice and voucher review and approval.

APPENDIX A TO SUBPART 1232.70—INSTRUCTIONS FOR COMPLETING THE SF 1034

APPENDIX B TO SUBPART 1232.70—INSTRUCTIONS FOR COMPLETING THE SF 1035

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418(b); 48 CFR 3.1.

SOURCE: 59 FR 40282, Aug. 8, 1994, unless otherwise noted.

Subpart 1232.70—Contract Payments

1232.7002 Invoice and voucher review and approval.

(a) Under fixed-price contracts, the contracting officer shall require the contractor to submit an invoice or voucher in order to receive payment under the contract. The invoice or voucher may be on a form or company letterhead as long as it meets the requirements of the Prompt Payment Act as implemented by OMB Circular A-125—Prompt Payment, (FAR) 48 CFR subpart 32.9, and the contract.

(b) Under other than fixed-price contracts, the contracting office shall require the contractor to submit the SF 1034, Public Voucher for Purchases and Services Other Than Personal, and the SF 1035, Public Voucher for Purchases and Services Other Than Personal (Continuation Sheet), to request payments. The forms must be completed as required by Appendix A, Instructions for Completing the SF 1034, and Appendix B, Instructions for Completing the SF 1035.