

(ii) A performance bond in an equal amount if available at no additional cost.

[56 FR 36404, July 31, 1991, as amended at 57 FR 42631, Sept. 15, 1992; 58 FR 28469, May 13, 1993; 60 FR 29499, June 5, 1995]

**228.105 Other types of bonds.**

Fidelity and forgery bonds generally are not required but may be used when—

- (1) Necessary for the protection of the Government or the contractor; or
- (2) The investigative and claims services of a surety company are desired.

**228.106 Administration.**

**228.106-7 Withholding contract payments.**

(a) Withholding may be appropriate in other than construction contracts (see 232.970-1(b)).

[57 FR 42707, Sept. 16, 1992]

**228.170 Solicitation provision.**

When a requirement for a performance bond or other security is included in a solicitation for dismantling, demolition, or removal of improvements (see FAR 37.300), use the provision at 252.228-7004, Bonds or Other Security. Set a period of time (normally ten days) for return of executed bonds.

**Subpart 228.3—Insurance**

**228.304 Risk-pooling arrangements.**

The DoD has established the National Defense Projects Rating Plan, also known as the Special Casualty Insurance Rating Plan, as a risk-pooling arrangement to minimize the cost to the Government of purchasing the liability insurance listed in FAR 28.307-2. Use the plan in accordance with the following guidelines when it provides the necessary coverage more advantageously than commercially available coverage.

(1) The plan—

(i) Is implemented by attaching an endorsement to standard insurance policy forms for workers' compensation, employer's liability, comprehensive general, and automobile liability. The endorsement states that the instant

policy is subject to the National Defense Projects Rating Plan.

(ii) Applies to eligible Defense projects of one or more departments/agencies. For purposes of this section, a Defense project is any eligible contract or group of contracts with the same contractor.

(A) A Defense project is eligible when—

- (1) Eligible contracts represent, at the inception of the plan, at least 90 percent of the payroll for the total operations at project locations; and
- (2) The annual insurance premium is estimated to be at least \$10,000.

(B) A contract is eligible when it is—

- (1) Either domestic or foreign;
- (2) Cost-reimbursement type; or
- (3) Fixed price with redetermination provisions.

(2) Under construction contracts, include construction subcontractors in the prime contractor's plan only when subcontractor operations are at the project site, and the subcontract provides that the prime contractor will furnish insurance.

(3) Use the agreement in Table 28-1, Insurance Rating Plan Agreement, when the Government assumes contractor premium payments upon contract termination or completion.

(4) The Federal Tort Claims Act provides protection for Government employees while driving Government-owned vehicles in the performance of their assigned duties. Include the endorsement in Table 28-2, Automobile Insurance Policy Endorsement, in automobile liability insurance policies provided under the National Defense Projects Rating Plan.

*Table 28-1.—Insurance Rating Plan Rating Agreement*

Special Casualty Insurance Rating Plan Assignment-Assumption of Premium Obligations

It is agreed that 100 percent\* of the return premiums and premium refunds (and dividends) due or to become due the prime contractor under the policies to which the National Defense Projects Rating Plan Endorsement made a part of policy \_\_\_\_\_

\*In the event the Government has less than a 100 percent interest in premium funds

*Continued*

**228.305**

applies are hereby assigned to and shall be paid to the United States of America, and the prime contractor directs the Company to make such payments to the office designated for contract administration acting for and on account of the United States of America.

The United States of America hereby assumes and agrees to fulfill all present and future obligations of the prime contractor with respect to the payment of 100 percent of the premiums under said policies.

This agreement, upon acceptance by the prime contractor, the United States of America, and the Company shall be effective from \_\_\_\_\_

Accepted \_\_\_\_\_  
(Date)

(Name of Insurance Company) \_\_\_\_\_

By \_\_\_\_\_  
(Title of Official Signing)

Accepted \_\_\_\_\_  
(Date)

United States of America

By \_\_\_\_\_  
(Authorized Representative)

Accepted \_\_\_\_\_  
(Date)

(Prime Contractor) \_\_\_\_\_

By \_\_\_\_\_  
(Authorized Representative)

*Table 28-2.—Automobile Insurance Policy Endorsement*

It is agreed that insurance provided by the policy with respect to the ownership, maintenance, or use of automobiles, including loading and unloading thereof, does not apply to the following as insureds: The United States of America, any of its agencies, or any of its officers or employees.

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

(d) Submit requests for waiver through department/agency channels. Include the following—

- (i) Name and address of contractor;
- (ii) Contract number;
- (iii) Date of award;
- (iv) Place of performance;
- (v) Name of insurance company providing Defense Base Act coverage;
- (vi) Nationality of employees to whom waiver is to apply; and
- (vii) Reason for waiver.

\_\_\_\_\_ or dividends, modify the assignment to reflect the percentage of interest and extent of the Government's assumption of additional premium obligation.

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**228.307 Insurance under cost-reimbursement contracts.**

**228.307-1 Group insurance plans.**

The Defense Department Group Term Insurance Plan is available for contractor use under cost-reimbursement type contracts when approved as provided in department or agency regulations. A contractor is eligible if—

- (a) The number of covered employees is 500 or more; and
- (b) The contractor has all cost-reimbursement contracts; or
- (c) At least 90 percent of the payroll for contractor operations to be covered by the Plan is under cost-reimbursement contracts.

**228.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.**

**228.311-1 Contract clause.**

Use the clause at FAR 52.228-7, Insurance—Liability to Third Persons, in solicitations and contracts, other than those for construction and those for architect-engineer services, when a cost-reimbursement contract is contemplated, unless the head of the contracting activity waives the requirement for use of the clause.

[56 FR 36404, July 31, 1991. Redesignated at 61 FR 50454, Sept. 26, 1996]

**228.370 Additional clauses.**

- (a) Use the clause at 252.228-7000, Reimbursement for War-Hazard Losses, when—
  - (1) The clause at FAR 52.228-4, Worker's Compensation and War-Hazard Insurance Overseas, is used; and
  - (2) The head of the contracting activity decides not to allow the contractor to buy insurance for war-hazard losses.
- (b)(1) Use the clause at 252.228-7001, Ground and Flight Risk, in negotiated fixed-price contracts for aircraft production, modification, maintenance, repair, or overhaul, unless—
  - (i) The aircraft is being acquired for a foreign military sale and the foreign government has not agreed to assume the risk; or
  - (ii) The cost of insurance for damage, loss, or destruction of aircraft does not