

Department of Energy

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The Department may, however, terminate the contract for convenience if it deems such termination to be in the best interest of the Government.

(2) In the event that the contractor was aware of facts required to be disclosed or the existence of an actual or potential organizational conflict of interest and did not disclose such facts or such conflict of interest to the contracting officer, DOE may terminate this contract for default.

(d) Remedies. For breach of any of the above restrictions or for nondisclosure or misrepresentation of any facts required to be disclosed concerning this contract, including the existence of an actual or potential organizational conflict of interest at the time of or after award, the Government may terminate the contract for default, disqualify the contractor from subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this contract.

(e) Waiver. Requests for waiver under this clause shall be directed in writing to the contracting officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, the contracting officer may grant such a waiver in writing.

(End of clause)

ALTERNATE I: In accordance with 909.507-2 and 970.0905, include the following alternate in the specified types of contracts.

(f) Subcontracts. (1) The contractor shall include a clause, substantially similar to this clause, including this paragraph (f), in subcontracts expected to exceed the simplified acquisition threshold determined in accordance with FAR part 13 and involving the performance of advisory and assistance services as that term is defined at FAR 37.201. The terms "contract," "contractor," and "contracting officer" shall be appropriately modified to preserve the Government's rights.

(2) Prior to the award under this contract of any such subcontracts for advisory and assistance services, the contractor shall obtain from the proposed subcontractor or consultant the disclosure required by DEAR 909.507-1, and shall determine in writing whether the interests disclosed present an actual or significant potential for an organizational conflict of interest. Where an actual or significant potential organizational conflict of interest is identified, the contractor shall take actions to avoid, neutralize, or mitigate the organizational conflict to the satisfaction of the contractor. If the conflict cannot be avoided or neutralized, the contractor must obtain the approval of the DOE contracting

officer prior to entering into the subcontract.

(End of alternate)

[62 FR 40752, July 30, 1997]

952.211 Clauses related to contract delivery or performance.

952.211-70 Priorities and allocations for energy programs (solicitations).

As prescribed in 911.604(a), insert the following provision in solicitations that will result in the award of a contract in support of DOE atomic energy programs.

PRIORITIES AND ALLOCATIONS (ATOMIC ENERGY) (JUN 1996)

Contracts or purchase orders awarded as a result of this solicitation shall be assigned a β α DO-Rating; β α DX-Rating; and certified for national defense use in accordance with the Defense Priorities and Allocations System (DPAS) regulation (15 CFR part 700) (Contracting officer check appropriate box.).

Alternate I As prescribed in 911.604(d), insert the following provision in solicitations in support of a program or project which may be determined to maximize domestic energy supplies:

PRIORITIES AND ALLOCATIONS (DOMESTIC ENERGY SUPPLIES) (JUN 1996)

Contracts or purchase orders awarded as a result of this solicitation may be eligible for priorities and allocations support in accordance with 10 CFR part 216 and section 101(c) of the Defense Production Act of 1950, as amended.

[52 FR 38425, Oct. 16, 1987, as amended at 59 FR 9109, Feb. 25, 1994. Redesignated and amended at 61 FR 21977, May 13, 1996; 61 FR 30823, June 18, 1996]

952.211-71 Priorities and allocations for energy programs (contracts).

As prescribed in 911.604(b), insert the following clause in contracts and purchase orders that are placed in support of authorized DOE atomic energy programs pursuant to the Atomic Energy Act of 1954, as amended.

PRIORITIES AND ALLOCATIONS (ATOMIC ENERGY) (JUN 1996)

The Contractor shall follow the provisions of Defense Priorities and Allocations System

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(DPAS) regulation (15 CFR part 700) in obtaining controlled materials and other products and materials needed to fill this contract.

Alternate I As prescribed in 911.604(e), insert the following clause in contracts if they are placed in support of programs or projects which may be determined to maximize domestic energy supplies:

PRIORITIES AND ALLOCATIONS (DOMESTIC ENERGY SUPPLIES) (JUN 1996)

(a) This contract may be eligible for priorities and allocations support, as provided for by section 101(c) of the Defense Production Act of 1950, as amended by the Energy Policy and Conservation Act (Pub. L. 94-163, 42 U.S.C. 6201 *et seq.*) if its purpose is determined to be to maximize domestic energy supplies. Eligibility is dependent on an executive decision on a case-by-case basis with the decision being jointly made by the Departments of Energy and Commerce.

(b) DOE regulations regarding material allocations and priority performance under contracts or orders to maximize domestic energy supplies can be found at part 216 of title 10 of the Code of Federal Regulations (10 CFR part 216).

(c) Additional guidance is provided by DOE Publication MA-0192, "Priorities and Allocations Support for Energy: Keeping Energy Programs on Schedule," dated August 1985, as it may from time to time be revised. Copies may be obtained by written request to: Department of Energy, Office of Scientific and Technical Information (OSTI), Post Office Box 62, Oak Ridge, Tennessee 37830.

[52 FR 38426, Oct. 16, 1987, as amended at 59 FR 9109, Feb. 25, 1994. Redesignated and amended at 61 FR 21977, May 13, 1996; 61 FR 30823, June 18, 1996]

952.211-72—952.211-73 [Reserved]

952.215-70 Key Personnel.

As prescribed in 48 CFR 915.408-70, the contracting officer shall insert the following clause:

KEY PERSONNEL (DEC 2000)

(a) The personnel listed below or elsewhere in this contract [Insert cross-reference, if applicable] are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel, the Contractor must: (1) Notify the Contracting Officer reasonably in advance; (2) submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract; and (3) obtain the Contracting Officer's written approval.

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Notwithstanding the foregoing, if the Contractor deems immediate removal or suspension of any member of its management team is necessary to fulfill its obligation to maintain satisfactory standards of employee competency, conduct, and integrity under the clause at 48 CFR 970.5203-3, Contractor's Organization, the Contractor may remove or suspend such person at once, although the Contractor must notify Contracting Officer prior to or concurrently with such action.

(b) The list of personnel may, with the consent of the contracting parties, be amended from time to time during the course of the contract to add or delete personnel.

[Insert List of Key Personnel unless listed elsewhere in the contract]

(End of clause)

[65 FR 81008, Dec. 22, 2000]

952.216 Clauses related to types of contracts.

952.216-7 Allowable cost and payment.

Alternate I: If the contract is with a nonprofit organization, other than an educational institution; or a State or local government, modify the clause at FAR 52.216-7 Allowable Cost and Payment by deleting from paragraph (a) the phrase "Subpart 31.2" and substituting for it "Subpart 31.7."

Alternate II: When contracting with a commercial organization modify paragraph (a) of the clause at FAR 52.216-7 by adding the phrase "as supplemented by Subpart 931.2 of the Department of Energy Acquisition Regulations (DEAR)," after the acronym "(FAR)".

952.216-15 Predetermined indirect cost rates.

Alternate (APR 1994): As prescribed in 916.307(j), modify paragraph (c) of the clause at FAR 52.216-15, Predetermined Indirect Cost Rates, by deleting the words "Subpart 31.3" and substituting for them "Subpart 31.6" and insert the clause in solicitations and contracts when a cost-reimbursement research and development contract with a State or local government is contemplated and predetermined indirect cost rates are to be used.

[49 FR 12042, Mar. 28, 1984, as amended at 59 FR 9109, Feb. 25, 1994; 62 FR 2312, Jan. 16, 1997]