

Agency for International Development

752.228-7

752.226-3 Limitation on subcontracting.

As prescribed in 726.7008, insert the following clause:

LIMITATIONS ON SUBCONTRACTING (JUN 1993)

By submission of an offer and execution of a contract, the Offeror/Contractor agrees that in performance of the contract, at least 51 percent of the cost of contract performance incurred for personnel shall be expended for employees of the contractor or employees of other disadvantaged enterprises eligible under the terms of 706.302-71. For the purposes of this clause, independent contractors hired by the contractor shall be considered employees of the contractor.

(End of clause)

[58 FR 42255, Aug. 9, 1993, as amended at 62 FR 40470, July 29, 1997]

752.227-14 Rights in Data—general.

As prescribed in 727.409(b), insert the following clause:

Rights in Data—

GENERAL (OCT 2007)

The following paragraph (d) replaces paragraph (d) of (48 CFR) FAR 52.227-14 Rights in Data—General.

(d) Release, publication and use of data.

(1) For all data first produced or specifically used by the Contractor in the performance of this contract in the United States, its territories, or Puerto Rico, the Contractor shall have the right to use, release to others, reproduce, distribute, or publish such data, except to the extent such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise provided in this paragraph of this clause or expressly set forth in this contract [see paragraph (d)(3) for limitations on contracts performed outside of the US].

(2) The Contractor agrees that to the extent it receives or is given access to data necessary for the performance of this contract which contain restrictive markings, the Contractor shall treat the data in accordance with such markings unless otherwise specifically authorized in writing by the Contracting Officer.

(3) For all data first produced or specifically used by the Contractor in the overseas performance of this contract, the Contractor shall not release, reproduce, distribute, or publish such data without the written permission of the Contracting Officer. The government also may require the contractor to assign copyright to the government or an

other party as circumstances warrant or as specifically stated elsewhere in the contract.

[72 FR 53164, Sept. 18, 2007]

EFFECTIVE DATE NOTE: At 72 FR 53164, Sept. 18, 2007, § 752.227-14 was added, effective October 18, 2007.

752.228-3 Worker's compensation insurance (Defense Base Act).

As prescribed in 728.309, the following supplemental coverage is to be added to the clause specified in FAR 52.228-3 by the USAID contracting officer.

(a) The Contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between USAID and USAID's DBA insurance carrier unless the Contractor has a DBA self insurance program approved by the Department of Labor or has an approved retrospective rating agreement for DBA.

(b) If USAID or the contractor has secured a waiver of DBA coverage (see AIDAR 728.305-70(a)) for contractor's employees who are not citizens of, residents of, or hired in the United States, the contractor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits.

(c) The Contractor further agrees to insert in all subcontracts hereunder to which the DBA is applicable, a clause similar to this clause, including this sentence, imposing on all subcontractors a like requirement to provide overseas workmen's compensation insurance coverage and obtain DBA coverage under the USAID requirements contract.

[53 FR 50631, Dec. 16, 1988, as amended at 54 FR 16122, Apr. 21, 1989; 56 FR 67226, Dec. 30, 1991]

752.228-7 Insurance—liability to third persons.

As prescribed in 728.307-2(c), the following paragraph is to be added to the clause specified in FAR 52.228-7 as either paragraph (h) (if FAR 52.228-7 *Alternate I* is not used) or (i) (if FAR 52.228-7 *Alternate I* is used):

() *Insurance on private automobiles.* If the Contractor or any of its employees or their dependents transport or cause to be transported (whether or not at contract expense) privately owned automobiles to the Cooperating Country, or they or any of them purchase an automobile within the Cooperating Country, the Contractor agrees to make certain that all such automobiles during such ownership within the Cooperating Country

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will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverages or such other minimum coverages as may be set by the Mission Director, payable in United States dollars or its equivalent in the currency of the Cooperating Country: injury to persons, \$10,000/\$20,000; property damage, \$5,000. The premium costs for such insurance shall not be a reimbursable cost under this contract. Copies of such insurance policies shall be preserved and made available as part of the Contractor's records which are required to be preserved and made available by the "Audit and Records—Negotiation" clause of this contract.

[53 FR 50632, Dec. 16, 1988, as amended at 54 FR 16122, Apr. 21, 1989; 62 FR 40470, July 29, 1997]

752.228-9 Cargo insurance.

As prescribed in 728.313(a), the following preface is to be used preceding the text of the clause at FAR 52.228-9:

PREFACE: To the extent that marine insurance is necessary or appropriate under this contract, the contractor shall ensure that U.S. marine insurance companies are offered a fair opportunity to bid for such insurance. This requirement shall be included in all subcontracts under this contract.

[53 FR 50632, Dec. 16, 1988]

752.228-70 Medical Evacuation (MEDEVAC) Services.

As prescribed in 728.307-70, for use in all contracts requiring performance overseas:

MEDICAL EVACUATION (MEDEVAC) SERVICES
(JUL 2007)

(a) Contractor must provide MEDEVAC service coverage to all U.S. citizen, U.S. resident alien, and Third Country National employees and their authorized dependents (hereinafter "individual") while overseas under a USAID-financed direct contract. USAID will reimburse reasonable, allowable, and allocable costs for MEDEVAC service coverage incurred under the contract. The Contracting Officer will determine the reasonableness, allowability, and allocability of the costs based on the applicable cost principles and in accordance with cost accounting standards.

(b) *Exceptions.* (i) The Contractor is not required to provide MEDEVAC insurance to eligible employees and their dependents with a health program that includes sufficient MEDEVAC coverage as approved by the Contracting Officer.

(ii) The Mission Director may make a written determination to waive the requirement

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for such coverage. The determination must be based on findings that the quality of local medical services or other circumstances obviate the need for such coverage for eligible employees and their dependents located at post.

(c) Contractor must insert a clause similar to this clause in all subcontracts that require performance by contractor employees overseas.

[59 FR 33447, June 29, 1994, as amended at 72 FR 19669, Apr. 19, 2007]

752.229-70 Federal, state and local taxes.

For contracts involving performance overseas the clauses prescribed in FAR 29.401-3 or 29.401-4 may be modified to specify that the taxes referred to are United States taxes.

752.231-71 Salary supplements for HG employees.

As prescribed in 731.205-71, for use in all contracts with a possible need or services of a HG employee. The clause should also be inserted in all subsequent sub-contracts.

SALARY SUPPLEMENTS FOR HG EMPLOYEES
(OCT 1998)

(a) Salary supplements are payments made that augment an employee's base salary or premiums, overtime, extra payments, incentive payment and allowances for which the HG employee would qualify under HG rules or practice for the performance of his/hers regular duties or work performed during his/hers regular office hours. Per diem, invitational travel, honoraria and payment for work carried out outside of normal working hours are not considered to be salary supplements.

(b) Salary supplements to HG Employees are not allowable without the written approval of the Contracting Officer.

[64 FR 16649, Apr. 6, 1999]

752.232-7 Payments under time-and-materials and labor-hour contracts.

USAID uses the payment provision contained in FAR 52.232-7 in indefinite quantity contracts for professional services up to 120 days, as provided in USAIDAR 716.501(c). When this provision is used the following preamble will be included:

For the purposes of this clause certain terms shall be interpreted as follows:

The term *contract(s)* includes "delivery order(s)"; "hour(s)", or "hourly" may be calculated in terms of "day(s)" or "daily (8