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242.7503 Contract clause.

Parent topic: Defense Federal Acquisition Regulation

242.002 Interagency agreements.

(b)(i) DoD requires reimbursement, at a rate set by the Under Secretary of Defense (Comptroller/Chief Financial Officer), from non-DoD organizations, except for—

(A) Quality assurance, contract administration, and audit services provided under a no-charge reciprocal agreement;

(B) Services performed under subcontracts awarded by the Small Business Administration under FAR Subpart 19.8; and

(C) Quality assurance performed for the Canadian Department of National Defence and pricing services performed for Public Works and Government Services Canada (PWGSC), operating as Public Services and Procurement Canada (PSPC).

(ii) Departments and agencies may request an exception from the reimbursement policy in paragraph (b)(i) of this section from the Under Secretary of Defense (Comptroller/Chief Financial Officer). A request must show that an exception is in the best interest of the Government.

(iii) Departments and agencies must pay for services performed by non-DoD activities, foreign governments, or international organizations, unless otherwise provided by reciprocal agreements.

(S-70)(i) Foreign governments and international organizations may request contract administration services on their direct purchases from U.S. producers. Direct purchase is the purchase of defense supplies in the United States through commercial channels for use by the foreign government or international organization.

(ii) PWGSC, operating as PSPC, is permitted to submit its requests for contract administration services directly to the cognizant contract administration office.

(iii) Other foreign governments (including Canadian government organizations other than PSPC and international organizations send their requests for contract administration services to the DoD Central Control Point (CCP) at the Headquarters, Defense Contract Management Agency, International and Federal Business Team. Contract administration offices provide services only upon request from the CCP. The CCP shall follow the procedures at PGI 242.002 (S-70)(iii).

Subpart 242.1 - (REMOVED)

(November 09, 1999)

Subpart 242.2 - CONTRACT ADMINISTRATION SERVICES

242.200 RESERVED

242.200-70 Scope of subpart.

This subpart does not address the contract administration role of a contracting officer's representative (see 201.602).

242.202 Assignment of contract administration.

(a)(i) DoD activities shall not retain any contract for administration that requires performance of any contract administration function at or near contractor facilities, except contracts for—

(A) The National Security Agency;

(B) Research and development with universities;

(C) Flight training;

(D) Management and professional support services;

(E) Mapping, charting, and geodesy services;

(F) Base, post, camp, and station purchases;

(G) Operation or maintenance of, or installation of equipment at, radar or communication network sites;

(H) Communications services;

(I) Installation, operation, and maintenance of space-track sensors and relays;

(J) Dependents Medicare program contracts;

(K) Stevedoring contracts;

(L) Construction and maintenance of military and civil public works, including harbors, docks, port facilities, military housing, development of recreational facilities, water resources, flood control, and public utilities;

(M) Architect-engineer services;

(N) Airlift and sealift services (Air Mobility Command and Military Sealift Command may perform contract administration services at contractor locations involved solely in performance of airlift or sealift contracts);

(O) Subsistence supplies;

(P) Ballistic missile sites (contract administration offices may perform supporting administration of these contracts at missile activation sites during the installation, test, and checkout of the missiles and associated equipment);

(Q) Operation and maintenance of, or installation of equipment at, military test ranges, facilities, and installations; and

(R) The Defense Energy Support Center, Defense Logistics Agency.

(ii) Contract administration functions for base, post, camp, and station contracts on a military installation are normally the responsibility of the installation or tenant commander. However, the Defense Contract Management Agency (DCMA) shall, upon request of the military department, and subject to prior agreement, perform contract administration services on a military installation.

(iii) DCMA shall provide preaward survey assistance for post, camp, and station work performed on a military installation. The contracting office and the DCMA preaward survey monitor should jointly determine the scope of the survey and individual responsibilities.

(iv) To avoid duplication, contracting offices shall not locate their personnel at contractor facilities, except—

(A) In support of contracts retained for administration in accordance with paragraph (a)(i) of this section; or

(B) As permitted under Subpart 242.74.

(e)(1)(A) In special circumstances, a contract administration office may request support from a component not listed in the Federal Directory of Contract Administration Services Components (available via the Internet at https://piee.eb.mil/pcm/xhtml/unauth/index.xhtml). An example is a situation where the contractor's work site is on a military base and a base organization is asked to provide support. Before formally sending the request, coordinate with the office concerned to ensure that resources are available for, and capable of, providing the support.

(B) When requesting support on a subcontract that includes foreign military sale (FMS) requirements, the contract administration office shall—

(1) Mark “FMS Requirement” on the face of the documents; and

(2) For each FMS case involved, provide the FMS case identifier, associated item quantities, DoD prime contract number, and prime contract line/subline item number.

Subpart 242.3 - CONTRACT ADMINISTRATION OFFICE FUNCTIONS

242.301 General.

Contract administration services performed outside the United States should be performed in accordance with FAR 42.301 unless there are no policies and procedures covering a given situation. In this case, coordinate proposed actions with the appropriate U.S. country teams or commanders of unified and specified commands.

242.302 Contract administration functions.

(a)(7) See 242.7502 for ACO responsibilities with regard to receipt of an audit report identifying significant accounting system or related internal control weaknesses or deficiencies.

(9) For additional contract administration functions related to IR&D projects and B&P projects performed by major contractors, see 242.771-3(a).

(12) Also perform all payment administration in accordance with any applicable payment clauses.

(13)(A) Do not delegate the responsibility to make payments to the Defense Contract Management Agency (DCMA).

(B) Follow the procedures at PGI 242.302(a)(13)(B) (DFARS/PGI view) for designation of payment offices.

(39) See 223.370 for contract administration responsibilities on contracts for ammunition and explosives.

(56) Within DoD, maintaining surveillance of aircraft flight and ground operations is accomplished by incorporating into the contract, task order, or delivery order the requirements of the applicable version of the combined regulation/instruction entitled “Contractor’s Flight and Ground Operations” (Air Force Instruction 10-220, Army Regulation 95-20, Naval Air Systems Command (NAVAIR) Instruction 3710.1 (Series), Coast Guard Instruction M13020.3 (Series), and Defense Contract Management Agency Instruction 8210-1 (Series)). See PGI 242.302(a)(56).

(67) Also support program offices and buying activities in precontractual efforts leading to a solicitation or award.

(S-70) Serve as the single point of contact for all Single Process Initiative (SPI) Management Council activities. The ACO shall negotiate and execute facility wide class modifications and agreements for SPI processes, when authorized by the affected components.

(S-71) DCMA has responsibility for reviewing earned value management system (EVMS) plans and for verifying initial and continuing contractor compliance with DoD EVMS criteria. The contracting officer shall not retain this function.

(S-72) Ensure implementation of the Synchronized Predeployment and Operational Tracker (SPOT) by the contractor and maintain surveillance over contractor compliance with SPOT business rules available at the website provided at PGI 207.105 (b)(20)(C)(9) for contracts incorporating the clause at 252.225-7040 , Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States. See PGI 242.302 (a)(S-72) for guidance on assessing contractor’s implementation of SPOT.

(S-73) Maintain surveillance over contractor compliance with trafficking in persons requirements for

all DoD contracts for services incorporating the clause at FAR 52.222-50, Combating Trafficking in Persons, and, when necessary, its Alternate I, as identified in the clause prescription at FAR 22.1705. (See PGI 222.1703 .)

(S-74) Approve or disapprove contractor business systems, as identified in the clause at 252.242-7005 , Contractor Business Systems.

(S-75) See PGI 242.302 (a)(S-75) for guidelines for monitoring contractor costs.

(S-76) Review and audit contractor identification of contractor-approved suppliers for the acquisition of electronic parts, as identified in the clause at 252.246-7008 , Sources of Electronic Parts.

(b)(S-70) Issue, negotiate, and execute orders under basic ordering agreements for overhaul, maintenance, and repair.

(S-71)(A) Except for classified contracts, negotiate or settle questioned direct costs in an incurred cost audit. The procuring contracting officer may delegate this authority to the contract administration office (CAO) only upon prior coordination and agreement with the CAO. Upon such delegation, the procuring contracting officer shall provide the CAO access within 30 days to all supporting documentation in their possession related to the questioned direct costs in an incurred cost audit.

(B) After settlement of the questioned direct costs, the CAO shall provide the procuring contracting office the results of the settlement. The procuring contracting office shall make any adjustments resulting from the settlement on affected contracts and report such adjustments to the CAO.

Subpart 242.4 - Reserved

Subpart 242.5 - POSTAWARD ORIENTATION

242.503 Postaward conferences.

242.503-2 Postaward conference procedure.

(a) DD Form 1484, Post-Award Conference Record, may be used in conducting the conference and in preparing the conference report.

(b) For contracts that include the clause at 252.234-7004 , Cost and Software Data Reporting, postaward conferences shall include a discussion of the contractor’s standard cost and software data reporting (CSDR) process that satisfies the guidelines contained in the DoD 5000.04-M-1, CSDR Manual, and the requirements in the Government-approved CSDR plan for the contract, DD Form 2794, and related Resource Distribution Table.

Subpart 242.6 - CORPORATE ADMINISTRATIVE

CONTRACTING OFFICER

242.602 Assignment and location.

(c)(2) If the agencies cannot agree, refer the matter to the Principal Director, Defense Pricing, Contracting, and Acquisition Policy.

Subpart 242.7 - INDIRECT COST RATES

242.705 Final indirect cost rates.

See DoD Class Deviation 2012-O0013, DCAA Policy and Procedure for Sampling Low-Risk Incurred Cost Proposals, issued on July 24, 2012. Effective immediately, for the purposes of satisfying the audit requirements at FAR 4.804-5(a)(12), 42.705-1(b)(2), and 42.705-2(b)(2)(i), Department of Defense contracting officers shall continue to rely on either a DCAA audit report or a DCAA memorandum documenting that, based on a risk assessment and a proposal adequacy evaluation pursuant to FAR 42.705-1(b)(1)(iii), DCAA deemed the incurred cost proposal to be low-risk and did not select it for further audit in accordance with the attached DCAA Policy dated July 6, 2012. This deviation is effective until incorporated in the DFARS or rescinded.

242.705-1 Contracting officer determination procedure.

(a) *Applicability and responsibility.*

(1) The corporate administrative contracting officer and individual administrative contracting officers shall jointly decide how to conduct negotiations. Follow the procedures at 242.705-1 (a)(1) when negotiations are conducted on a coordinated basis.

242.705-2 Auditor determination procedure.

(b) *Procedures.*

(2)(iii) When agreement cannot be reached with the contractor, the auditor will issue a DCAA Form 1, Notice of Contract Costs Suspended and/or Disapproved, in addition to the advisory report to the administrative contracting officer.

242.708 Quick-closeout procedure.

(a) Defense Contract Management Agency administrative contracting officers are authorized to negotiate the settlement of direct and indirect costs for a specific contract, task order, or delivery order to be closed in advance of the determination of final direct costs and indirect rates set forth in FAR 42.705, regardless of the dollar value or percentage of unsettled direct or indirect costs allocable to the contract, task order, or delivery order.

(2) In lieu of the thresholds at FAR 42.708(a)(2)(i) and (ii), the amount of unsettled direct costs and indirect costs to be allocated to the contract, task order, or delivery order will be considered relatively insignificant when the total unsettled direct costs and indirect costs to be allocated to any one contract, task order, or delivery order do not exceed $2 million, regardless of the total contract, task order, or delivery order amount.

242.770 Reserved.

242.771 Independent research and development and bid and proposal costs.

242.771-1 Scope.

This section implements 10 U.S.C. 3762, Independent research and development costs: allowable costs; 10 U.S.C. 3763, Bid and proposal costs: allowable costs; and 10 U.S.C. 3847, Defense Contract Audit Agency: annual report.

242.771-2 Policy.

Defense contractors are encouraged to engage in independent research and development (IR&D) projects that will advance the needs of DoD for future technology and advanced capability (see 231.205-18(c)(iii)).

242.771-3 Responsibilities.

(a) The cognizant administrative contracting officer (ACO) or corporate ACO shall determine cost allowability of IR&D costs and bid and proposal (B&P) costs as set forth in 231.205-18 and FAR 31.205-18.

(b) The Defense Contract Audit Agency (DCAA) shall—

(1) For the DoD-wide B&P program, submit an annual report to the Principal Director, Defense Pricing, Contracting, and Acquisition Policy, Office of the Under Secretary of Defense for Acquisition and Sustainment, in connection with 10 U.S.C. 3763(c); the Defense Contract Management Agency or the military department responsible for performing contract administration functions is responsible for providing DCAA with statistical information, as necessary; and

(2) For IR&D costs and B&P costs incurred under any DoD contract in the previous Government fiscal year, submit an annual report to the congressional defense committees as required by 10 U.S.C. 3847.

(c) The Office of the Under Secretary of Defense for Research and Engineering (OASD R&E), is responsible for establishing a regular method for communication—

(1)(i) From DoD to contractors, of timely and comprehensive information regarding planned or expected needs of DoD for future technology and advanced capability, by posting information on communities of interest and upcoming meetings on the Defense Technical Information Center (DTIC)

website at https://defenseinnovationmarketplace.dtic.mil/communities-of-interest ; and

(ii) From contractors to DoD, of brief technical descriptions of contractor IR&D projects; and

(2) By providing OUSD(R&E) contact information: osd.pentagon.ousd-re.mbx.communications@mail.mil.

Subpart 242.8 - DISALLOWANCE OF COSTS

242.803 Disallowing costs after incurrence.

(a) *Contracting officer receipt of vouchers.* Contracting officer receipt of vouchers is applicable only for cost-reimbursement contracts with the Canadian Commercial Corporation. See 225.870-5 (b) for invoice procedures.

(b) *Auditor receipt of voucher.*

(i) The contract auditor is the authorized representative of the contracting officer for—

(A) Receiving vouchers from contractors electronically or by other delivery methods as directed by the terms of the contract;

(B) Approving interim vouchers, that were selected using sampling methodologies for provisional payment and sending them to the disbursing office after a pre-payment review. Interim vouchers not selected for a pre-payment review will be considered to be provisionally approved and will be sent directly to the disbursing office. All provisionally approved interim vouchers are subject to a later audit of actual costs incurred;

(C) Reviewing completion/final vouchers and sending them to the administrative contracting officer; and

(D) Issuing DCAA Forms 1, Notice of Contract Costs Suspended and/or Disapproved, to deduct costs where allowability is questionable.

(ii) The administrative contracting officer—

(A) Approves all completion/final vouchers and sends them to the disbursing officer; and

(B) May issue or direct the issuance of DCAA Form 1 on any cost when there is reason to believe it should be suspended or disallowed.

Subpart 242.11 - PRODUCTION SURVEILLANCE AND REPORTING

242.1104 Surveillance requirements.

(a) The cognizant contract administration office (CAO)—

(i) Shall perform production surveillance on all contractors that have Criticality Designator A or B contracts;

(ii) Shall not perform production surveillance on contractors that have only Criticality Designator C contracts, unless specifically requested by the contracting officer; and

(iii) When production surveillance is required, shall—

(A) Conduct a periodic risk assessment of the contractor to determine the degree of production surveillance needed for all contracts awarded to that contractor. The risk assessment shall consider information provided by the contractor and the contracting officer;

(B) Develop a production surveillance plan based on the risk level determined during a risk assessment;

(C) Modify the production surveillance plan to incorporate any special surveillance requirements for individual contracts, including any requirements identified by the contracting officer; and

(D) Monitor contract progress and identify potential contract delinquencies in accordance with the production surveillance plan. Contracts with Criticality Designator C are exempt from this requirement unless specifically requested by the contracting officer.

242.1105 Assignment of criticality designator.

(1) Contracting officers shall—

(i) Assign criticality designator A to items with a priority 01, 02, 03, or 06 (if emergency supply of clothing) under DoD Manual 4140.01, Volume 5, DoD Supply Chain Materiel Management Procedures: Delivery of Materiel; and

(ii) Ordinarily assign criticality designator C to unilateral purchase orders.

(2) Only the contracting officer shall change the assigned designator.

242.1106 Reporting requirements.

(a) See DoDI 5000.2, Operation of the Defense Acquisition System, for reporting requirements for defense technology projects and acquisition programs.

(b)(i) Within four working days after receipt of the contractor's report, the CAO must provide the report and any required comments to the contracting officer and, unless otherwise specified in the contract, the inventory control manager.

(ii) If the contractor's report indicates that the contract is on schedule and the CAO agrees, the CAO does not need to add further comments. In all other cases, the CAO must add comments and recommend a course of action.

242.1107 Contract clause.

(b) When using the clause at FAR 52.242-2, include the following instructions in the contract schedule—

(i) Frequency and timing of reporting (normally five working days after each reporting period);

(ii) Contract line items, exhibits, or exhibit line items requiring reports;

(iii) Offices (with addressees/codes) where reports should be sent (always include the contracting office and contract administration office); and

(iv) The following requirements for report content—

(A) The problem, actual or potential, and its cause;

(B) Items and quantities affected;

(C) When the delinquency started or will start;

(D) Actions taken to overcome the delinquency;

(E) Estimated recovery date; and/or

(F) Proposed schedule revision.

Subpart 242.12 - NOVATION AND CHANGE-OF-NAME AGREEMENTS

242.1203 Processing agreements.

The responsible contracting officer shall process and execute novation and change-of-name agreements in accordance with the procedures at PGI 242.1203 .

242.1204 Applicability of novation agreements.

(i) When a novation agreement is required and the transferee intends to incur restructuring costs as defined at 231.205-70 , the cognizant contracting officer shall include the following provision as paragraph (b)(7) of the novation agreement instead of the paragraph (b)(7) provided in the sample format at FAR 42.1204(i):

“(7)(i) Except as set forth in subparagraph (7)(ii) below, the Transferor and the Transferee agree that the Government is not obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer or this Agreement, other than those that the Government in the absence of this transfer or Agreement would have been obligated to pay or reimburse under the terms of the contracts.

(ii) The Government recognizes that restructuring by the Transferee incidental to the acquisition/merger may be in the best interests of the Government. Restructuring costs that are allowable under Part 31 of the Federal Acquisition Regulation (FAR) or Part 231 of the Defense Federal Acquisition Regulation Supplement (DFARS) may be reimbursed under flexibly-priced novated contracts, provided the Transferee demonstrates that the restructuring will reduce overall costs to the Department of Defense (DoD) (and to the National Aeronautics and Space Administration (NASA), where there is a mix of DoD and NASA contracts), and the requirements included in DFARS 231.205-70 are met. Restructuring costs shall not be allowed on novated contracts unless there is an audit of the restructuring proposal; a determination by the contracting officer of overall reduced costs to DoD/NASA; and an Advance Agreement setting forth a cumulative cost ceiling for restructuring projects and the period to which such costs shall be assigned."

Subpart 242.14 - TRAFFIC AND TRANSPORTATION MANAGEMENT

Subpart 242.15 - CONTRACTOR PERFORMANCE INFORMATION

242.1502 Policy.

(g) Past performance evaluations in the Contractor Performance Assessment Reporting System—

(i) Shall include an assessment of the contractor's performance against, and efforts to achieve, the goals identified in its comprehensive small business subcontracting plan when the contract contains the clause at 252.219-7004, Small Business Subcontracting Plan (Test Program);

(ii) Shall, unless exempted by the head of the contracting activity, include a notation on contractors that have denied multiple requests for submission of data other than certified cost or pricing data over the preceding 3-year period, but nevertheless received an award (10 U.S.C. 3705(b)(2)(B)); and

(iii) In accordance with 10 U.S.C. 2631(d), shall include information on contractor compliance with requirements of the clause at 252.247-7023, Transportation of Supplies by Sea (see 10 U.S.C. 2631(a), (b), and (c)).

Subpart 242.70 - CONTRACTOR BUSINESS SYSTEMS

242.7000 Contractor business system deficiencies.

(a) *Definitions.* As used in this subpart——

"Acceptable contractor business systems" means contractor business systems that comply with the terms and conditions of the applicable business system clauses listed in the definition of "contractor business systems" in this section.

*Contractor business systems*means—

(i) Accounting system, if the contract includes the clause at 252.242-7006, Accounting System Administration;

(ii) Earned value management system, if the contract includes the clause at 252.234-7002, Earned Value Management System;

(iii) Estimating system, if the contract includes the clause at 252.215-7002, Cost Estimating System Requirements;

(iv) Material management and accounting system, if the contract includes the clause at 252.242-7004, Material Management and Accounting System;

(v) Property management system, if the contract includes the clause at 252.245-7003, Contractor Property Management System Administration; and

(vi) Purchasing system, if the contract includes the clause at 252.244-7001, Contractor Purchasing System Administration.

"Covered contract" means a contract that is subject to the Cost Accounting Standards under 41 U.S.C. chapter 15, as implemented in regulations found at48 CFR 9903.201-1 (10 U.S.C. 3841note prec., as amended by section 816 ofPub. L. 112-81).

(b) *Determination to withhold payments*. If the contracting officer makes a final determination to disapprove a contractor's business system in accordance with the clause at 252.242-7005 , Contractor Business Systems, the contracting officer shall—

(1) In accordance with agency procedures, identify one or more covered contracts containing the clause at 252.242-7005 from which payments will be withheld. When identifying the covered contracts from which to withhold payments, the contracting officer shall ensure that the total amount of payment withholding under 252.242-7005 does not exceed 10 percent of progress payments, performance-based payments, and interim payments under cost-reimbursement, labor-hour, and time-and-materials contracts billed under each of the identified covered contracts. Similarly, the contracting officer shall ensure that the total amount of payment withholding under the clause at 252.242-7005 for each business system does not exceed 5 percent of progress payments, performance-based payments, and interim payments under cost-reimbursement, labor-hour, and time-and-materials contracts billed under each of the identified covered contracts. The contracting officer has the sole discretion to identify the covered contracts from which to withhold payments.

(2) Promptly notify the contractor, in writing, of the contracting officer's determination to implement payment withholding in accordance with the clause at 252.242-7005. The notice of payment withholding shall be included in the contracting officer's written final determination for the contractor business system and shall inform the contractor that—

(i) Payments shall be withheld from the contract or contracts identified in the written determination in accordance with the clause at 252.242-7005, until the contracting officer determines that there are no remaining material weaknesses; and

(ii) The contracting officer reserves the right to take other actions within the terms and conditions of the contract.

(3) Provide a copy of the determination to all contracting officers administering the selected contracts from which payments will be withheld. The contracting officer shall also provide a copy of the determination to the auditor; payment office; affected contracting officers at the buying activities; and cognizant contracting officers in contract administration activities.

(c) *Monitoring contractor's corrective action.* The contracting officer, in consultation with the auditor or functional specialist, shall monitor the contractor's progress in correcting the weaknesses. The contracting officer shall notify the contractor of any decision to decrease or increase the amount of payment withholding in accordance with the clause at 252.242-7005.

(d) *Correction of significant deficiencies*.

(1) If the contractor notifies the contracting officer that the contractor has corrected the material weaknesses, the contracting officer shall request the auditor or functional specialist to review the correction to verify that the weaknesses have been corrected. If, after receipt of verification, the contracting officer determines that the contractor has corrected all material weaknesses as directed by the contracting officer's final determination, the contracting officer shall discontinue the withholding of payments, release any payments previously withheld, and approve the system, unless other material weaknesses remain.

(2) Prior to the receipt of verification, the contracting officer may discontinue withholding payments pending receipt of verification, and release any payments previously withheld, if the contractor submits evidence that the material weaknesses have been corrected, and the contracting officer, in consultation with the auditor or functional specialist, determines that there is a reasonable expectation that the corrective actions have been implemented and are expected to correct the material weaknesses.

(3) Within 90 days of receipt of the contractor notification that the contractor has corrected the material weaknesses, the contracting officer shall—

(i) Make a determination that—

(A) The contractor has corrected all material weaknesses as directed by the contracting officer's final determination in accordance with paragraph (d)(1) of this section;

(B) There is a reasonable expectation that the corrective actions have been implemented in accordance with paragraph (d)(2) of this section; or

(C) The contractor has not corrected all material weaknesses as directed by the contracting officer's final determination in accordance with paragraph (d)(1) of this section, or there is not a reasonable expectation that the corrective actions have been implemented in accordance with paragraph (d)(2) of this section; or

(ii)Reduce withholding directly related to the material weaknesses covered under the corrective action plan by at least 50 percent of the amount being withheld from progress payments and performance-based payments, and direct the contractor, in writing, to reduce the percentage withheld on interim cost vouchers by at least 50 percent, until the contracting officer makes a determination in accordance with paragraph (d)(3)(i) of this section.

(4) If, at any time, the contracting officer determines that the contractor has failed to correct the material weaknesses identified in the contractor's notification, the contracting officer will continue, reinstate, or increase withholding from progress payments and performance-based payments, and direct the contractor, in writing, to continue, reinstate, or increase the percentage withheld on

interim cost vouchers to the percentage initially withheld, until the contracting officer determines that the contractor has corrected all material weaknesses as directed by the contracting officer's final determination.

(e) Sample formats. For sample formats for written notifications of contracting officer determinations to initiate payment withholding, reduce payment withholding, and discontinue payment withholding in accordance with the clause at 252.242-7005, see PGI 242.7000.

242.7001 Contract clause.

Use the clause at 252.242-7005, Contractor Business Systems, in solicitations and contracts (other than in contracts with educational institutions, Federally Funded Research and Development Centers (FFRDCs), or University Affiliated Research Centers (UARCs) operated by educational institutions) when—

(a) The resulting contract will be a covered contract as defined in 242.7000 (a); and

(b) The solicitation or contract includes any of the following clauses:

(1) 252.215-7002 , Cost Estimating System Requirements.

(2) 252.234-7002 , Earned Value Management System.

(3) 252.242-7004 , Material Management and Accounting System.

(4) 252.242-7006 , Accounting System Administration.

(5) 252.244-7001 , Contractor Purchasing System Administration.

(6) 252.245-7003 , Contractor Property Management System Administration.

Subpart 242.71 - VOLUNTARY REFUNDS

242.7100 General.

A voluntary refund is a payment or credit (adjustment under one or more contracts or subcontracts) to the Government from a contractor or subcontractor that is not required by any contractual or other legal obligation. Follow the procedures at PGI 242.7100 for voluntary refunds.

Subpart 242.72 - CONTRACTOR MATERIAL MANAGEMENT AND ACCOUNTING SYSTEM

242.7200 Scope of subpart.

(a) This subpart provides policies, procedures, and standards for use in the evaluation of a

contractor's material management and accounting system (MMAS).

(b) The policies, procedures, and standards in this subpart—

(1) Apply only when the contractor has contracts exceeding the simplified acquisition threshold that are not for the acquisition of commercial products or commercial services and are either—

(i) Cost-reimbursement contracts; or

(ii) Fixed-price contracts with progress payments made on the basis of costs incurred by the contractor as work progresses under the contract; and

(2) Do not apply to small businesses, educational institutions, or nonprofit organizations.

242.7201 Definitions.

As used in this subpart—

“Acceptable material management and accounting system” means a material management and accounting system that generally complies with the system criteria in paragraph (d) of the clause at 252.242-7004 , Material Management and Accounting System.

“Material management and accounting system (MMAS)” means the contractor’s system or systems for planning, controlling, and accounting for the acquisition, use, issuing, and disposition of material. Material management and accounting systems may be manual or automated. They may be stand-alone systems, or they may be integrated with planning, engineering, estimating, purchasing, inventory, accounting, or other systems.

“Valid time-phased requirements” means material that is—

(1) Needed to fulfill the production plan, including reasonable quantities for scrap, shrinkage, yield, etc.; and

(2) Charged or billed to contracts or other cost objectives in a manner consistent with the need to fulfill the production plan.

242.7202 Policy.

(a) DoD policy is for its contractors to have an MMAS that conforms to the standards in paragraph (d) of the clause at 252.242-7004 , Material Management and Accounting System, so that the system—

(1) Reasonably forecasts material requirements;

(2) Ensures the costs of purchased and fabricated material charged or allocated to a contract are based on valid time-phased requirements; and

(3) Maintains a consistent, equitable, and unbiased logic for costing of material transactions.

(b) The cognizant contracting officer, in consultation with the auditor and functional specialist, if

appropriate, shall—

(1) Determine the acceptability of the contractor’s MMAS and approve or disapprove the system; and

(2) Pursue correction of any weaknesses or deficiencies.

(c) In evaluating the acceptability of the contractor’s MMAS, the contracting officer, in consultation with the auditor and functional specialist, if appropriate, shall determine whether the contractor’s MMAS complies with the system criteria for an acceptable MMAS as prescribed in the clause at 252.242-7004 , Material Management and Accounting System.

242.7203 Review procedures.

(a) *Criteria for conducting reviews.*Conduct an MMAS review when—

(1) A contractor has $40 million of qualifying sales to the Government during the contractor's preceding fiscal year; and

(2) The administrative contracting officer (ACO), with advice from the auditor, determines an MMAS review is needed based on a risk assessment of the contractor's past experience and current vulnerability.

(b) *Qualifying sales*. Qualifying sales are sales for which certified cost or pricing data were required under 10 U.S.C. 3702, as implemented in FAR 15.403, or that are contracts priced on other than a firm-fixed-price or fixed-price with economic price adjustment basis. Sales include prime contracts, subcontracts, and modifications to such contracts and subcontracts.

(c) *Disposition of findings—*

(1) *Reporting of findings*. The auditor or functional specialist shall document findings and recommendations in a report to the contracting officer. If the auditor or functional specialist identifies any material weakness, the report shall describe the weaknesses or deficiencies in sufficient detail to allow the contracting officer to understand the weaknesses or deficiencies.

(2) *Initial determination*.

(i) The contracting officer shall review findings and recommendations and, if there are no material weaknesses, shall promptly notify the contractor, in writing, that the contractor’s MMAS is acceptable and approved; or

(ii) If the contracting officer finds that there are one or more http://www.acq.osd.mil/dpap/dars/dfars/html/current/252242.htm#252.242-7004 material weaknesses due to the contractor’s failure to meet one or more of the MMAS system criteria in the clause at 252.242-7004, the contracting officer shall—

(A) Promptly make an initial written determination on any material weaknesses and notify the contractor, in writing, providing a description of each material weakness in sufficient detail to allow the contractor to understand the weakness or deficiency;

(B) Request the contractor to respond, in writing, to the initial determination within 30 days; and

(C) Promptly evaluate the contractor's response to the initial determination in consultation with the auditor or functional specialist and make a final determination (see PGI 242.7203(c)(2)).

(3) *Final determination*.

(i) The ACO shall make a final determination and notify the contractor that—

(A) The contractor's MMAS is acceptable and approved, and no deficiencies remain; or

(B) Material weaknesses remain. The notice shall identify any remaining material weaknesses and indicate the adequacy of any proposed or completed corrective action. The contracting officer shall—

(*1*) Request that the contractor, within 45 days of receipt of the final determination, either correct the weaknesses or submit an acceptable corrective action plan showing milestones and actions to eliminate the weaknesses;

(*2*) Disapprove the system in accordance with the clause at 252.242-7004; and

(*3*) Withhold payments in accordance with the clause at 252.242-7005 , Contractor Business Systems, if the clause is included in the contract.

(ii) Follow the procedures relating to monitoring a contractor's corrective action and the correction of material weaknesses in PGI 242.7203 (c)(3) .

(d) *System approval*. The contracting officer shall promptly approve a previously disapproved MMAS and notify the contractor when the contracting officer determines that there are no remaining material weaknesses.

(e) *Contracting officer notifications*. The cognizant contracting officer shall promptly distribute copies of a determination to approve a system, disapprove a system and withhold payments, or approve a previously disapproved system and release withheld payments to the auditor; payment office; affected contracting officers at the buying activities; and cognizant contracting officers in contract administration activities.

242.7204 Contract clause.

Use the clause at 252.242-7004 , Material Management and Accounting System, in all solicitations and contracts exceeding the simplified acquisition threshold that are not for the acquisition of commercial products or commercial services and—

(a) Are not awarded to small businesses, educational institutions, or nonprofit organizations; and

(b) Are either—

(1) Cost-reimbursement contracts; or

(2) Fixed-price contracts with progress payments made on the basis of costs incurred by the contractor as work progresses under the contract.

Subpart 242.73 - CONTRACTOR INSURANCE/PENSION REVIEW

242.7301 General.

(a) The administrative contracting officer (ACO) is responsible for determining the allowability of insurance/pension costs in Government contracts and for determining the need for a Contractor/Insurance Pension Review (CIPR). Defense Contract Management Agency (DCMA) insurance/pension specialists and Defense Contract Audit Agency (DCAA) auditors assist ACOs in making these determinations, conduct CIPRs when needed, and perform other routine audits as authorized under FAR 42.705 and 52.215-2. A CIPR is a DCMA/DCAA joint review that—

(1) Provides an in-depth evaluation of a contractor's—

(i) Insurance programs;

(ii) Pension plans;

(iii) Other deferred compensation plans; and

(iv) Related policies, procedures, practices, and costs; or

(2) Concentrates on specific areas of the contractor’s insurance programs, pension plans, or other deferred compensation plans.

(b) DCMA is the DoD Executive Agent for the performance of all CIPRs.

(c) DCAA is the DoD agency designated for the performance of contract audit responsibilities related to Cost Accounting Standards administration as described in FAR subparts 30.2 and 30.6 as they relate to a contractor’s insurance programs, pension plans, and other deferred compensation plans.

242.7302 Requirements.

(a)(1) An in-depth CIPR as described at DFARS 242.7301 (a)(1) shall be conducted only when—

(i) A contractor has $50 million of qualifying sales to the Government during the contractor’s preceding fiscal year; and

(ii) The ACO, with advice from DCMA insurance/pension specialists and DCAA auditors, determines a CIPR is needed based on a risk assessment of the contractor’s past experience and current vulnerability.

(2) Qualifying sales are sales for which certified cost or pricing data were required under 10 U.S.C. 3702, as implemented in FAR 15.403, or that are contracts priced on other than a firm-fixed-price or fixed-price with economic price adjustment basis. Sales include prime contracts, subcontracts, and modifications to such contracts and subcontracts.

(b) A special CIPR that concentrates on specific areas of a contractor’s insurance programs, pension plans, or other deferred compensation plans shall be performed for a contractor (including, but not

limited to, a contractor meeting the requirements in paragraph (a) of this section) when any of the following circumstances exists, but only if the circumstance(s) may result in a material impact on Government contract costs:

(1) Information or data reveals a deficiency in the contractor's insurance/pension program.

(2) The contractor proposes or implements changes in its insurance, pension, or deferred compensation plans.

(3) The contractor is involved in a merger, acquisition, or divestiture.

(4) The Government needs to follow up on contractor implementation of prior CIPR recommendations.

(c) The DCAA auditor shall use relevant findings and recommendations of previously performed CIPRs in determining the scope of any audits of insurance and pension costs.

(d) When a Government organization believes that a review of the contractor’s insurance/pension program should be performed, that organization should provide a recommendation for a review to the ACO. If the ACO concurs, the review should be performed as part of an ACO-initiated special CIPR or as part of a CIPR already scheduled for the near future.

242.7303 Responsibilities.

Follow the procedures at PGI 242.7303 when conducting a CIPR.

Subpart 242.74 - TECHNICAL REPRESENTATION AT CONTRACTOR FACILITIES

242.7400 General.

(a) Program managers may conclude that they need technical representation in contractor facilities to perform non-contract administration service (CAS) technical duties and to provide liaison, guidance, and assistance on systems and programs. In these cases, the program manager may assign technical representatives under the procedures in 242.7401 .

(b) A technical representative is a representative of a DoD program, project, or system office performing non-CAS technical duties at or near a contractor facility. A technical representative is not—

(1) A representative of a contract administration or contract audit component; or

(2) A contracting officer's representative (see 201.602).

242.7401 Procedures.

When the program, project, or system manager determines that a technical representative is

required, follow the procedures at PGI 242.7401 .

Subpart 242.75 - CONTRACTOR ACCOUNTING SYSTEMS AND RELATED CONTROLS

242.7501 Definitions.

“Acceptable accounting system” means a system that complies with the system criteria in paragraph (c) of the clause at 252.242-7006, Accounting System Administration,to provide reasonable assurance that—

(1) Applicable laws and regulations are complied with;

(2) The accounting system and cost data are reliable;

(3) Risk of misallocations and mischarges are minimized; and

(4) Contract allocations and charges are consistent with billing procedures.

“Accounting system” means the contractor’s system or systems for accounting methods, procedures, and controls established to gather, record, classify, analyze, summarize, interpret, and present accurate and timely financial data for reporting in compliance with applicable laws, regulations, and management decisions, and may include subsystems for specific areas such as indirect and other direct costs, compensation, billing, labor, and general information technology.

242.7502 Policy.

(a) Contractors receiving cost-reimbursement, incentive type, time-and-materials, or labor-hour contracts, or contracts which provide for progress payments based on costs or on a percentage or stage of completion, shall maintain an accounting system.

(b) The cognizant contracting officer, in consultation with the auditor or functional specialist, shall—

(1) Determine the acceptability of a contractor’s accounting system and approve or disapprove the system; and

(2) Pursue correction of any weaknesses or deficiencies.

(c) In evaluating the acceptability of a contractor’s accounting system, the contracting officer, in consultation with the auditor or functional specialist, shall determine whether the contractor’s accounting system complies with the system criteria for an acceptable accounting system as prescribed in the clause at 252.242-7006 , Accounting System Administration.

(d) *Disposition of findings—*

(1) *Reporting of findings*. The auditor shall document findings and recommendations in a report to the contracting officer. If the auditor identifies any material weakness, the report shall describe the weaknesses or deficiencies in sufficient detail to allow the contracting officer to understand the

weaknesses or deficiencies. Follow the procedures at PGI 242.7502 for reporting of deficiencies.

(2) *Initial determination*.

(i) The contracting officer shall review findings and recommendations and, if there are no material weaknesses, shall promptly notify the contractor, in writing, that the contractor's accounting system is acceptable and approved; or

(ii) If the contracting officer finds that there are one or more http://www.acq.osd.mil/dpap/dars/dfars/html/current/252242.htm#252.242-7006 material weaknesses due to the contractor's failure to meet one or more of the accounting system criteria in the clause at 252.242-7006, the contracting officer shall—

(A) Promptly make an initial written determination on any material weaknesses and notify the contractor, in writing, providing a description of each material weakness in sufficient detail to allow the contractor to understand the weakness (see PGI 242.7502(d)(2));

(B) Request the contractor to respond, in writing, to the initial determination within 30 days; and

(C) Promptly evaluate the contractor's response to the initial determination, in consultation with the auditor or functional specialist, and make a final determination.

(3) *Final determination*.

(i) The contracting officer shall make a final determination and notify the contractor, in writing, that-

(A) The contractor's accounting system is acceptable and approved, and no material weaknesses remain; or

(B) Material weaknesses remain. The notice shall identify any remaining material weaknesses and indicate the adequacy of any proposed or completed corrective action. The contracting officer shall—

(*1*) Request that the contractor, within 45 days of receipt of the final determination, either correct the weaknesses or submit an acceptable corrective action plan showing milestones and actions to eliminate the weaknesses;

(*2*) Make a determination to disapprove the system in accordance with the clause at 252.242-7006; and

(*3*) Withhold payments in accordance with the clause at 252.242-7005 , Contractor Business Systems, if the clause is included in the contract.

(ii) Follow the procedures relating to monitoring a contractor's corrective action and the correction of material weaknesses in PGI 242.7502 (d)(3).

(e) *System approval*. The contracting officer shall promptly approve a previously disapproved accounting system and notify the contractor when the contracting officer determines that there are no remaining material weaknesses.

(f) *Contracting officer notifications*. The cognizant contracting officer shall promptly distribute copies of a determination to approve a system, disapprove a system and withhold payments, or approve a previously disapproved system and release withheld payments to the auditor; payment

office; affected contracting officers at the buying activities; and cognizant contracting officers in contract administration activities.

(g) *Mitigating the risk of deficiencies on specific proposals*.

(1) Field pricing teams shall discuss identified deficiencies and their impact in all reports on contractor proposals until the deficiencies are resolved.

(2) The contracting officer responsible for negotiation of a proposal generated by an accounting system with an identified deficiency shall evaluate whether the deficiency impacts the negotiations. See PGI 242.7502 (g)(2). If it does not, the contracting officer should proceed with negotiations. If it does, the contracting officer should consider other alternatives, e.g.—

(i) Allowing the contractor additional time to correct the accounting system deficiency and submit a corrected proposal;

(ii) Considering another type of contract;

(iii) Using additional cost analysis techniques to determine the reasonableness of the cost elements affected by the deficiency;

(iv) Reducing the negotiation objective for profit or fee; or

(v) Including a contract (reopener) clause that provides for adjustment of the contract amount after award.

(3) The contracting officer who incorporates a reopener clause into the contract is responsible for negotiating price adjustments required by the clause. Any reopener clause necessitated by a deficiency should—

(i) Clearly identify the amounts and items that are in question at the time of negotiation;

(ii) Indicate a specific time or subsequent event by which the contractor will submit a supplemental proposal, including certified cost or pricing data, identifying the cost impact adjustment necessitated by the deficient accounting system;

(iii) Provide for the contracting officer to adjust the contract price unilaterally if the contractor fails to submit the supplemental proposal; and

(iv) Provide that failure of the Government and the contractor to agree to the price adjustment shall be a dispute under the Disputes clause.

242.7503 Contract clause.

Use the clause at 252.242-7006 , Accounting System Administration, in solicitations and contracts when contemplating—

(a) A cost-reimbursement, incentive type, time-and-materials, or labor-hour contract; or

(b) A contract with progress payments made on the basis of costs incurred by the contractor or on a percentage or stage of completion.