31.205-19 Insurance and indemnification.

(a) *Insurance* by purchase or by self-insuring includes-

(1) Coverage the contractor is required to carry or to have approved, under the terms of the contract; and

(2) Any other coverage the contractor maintains in connection with the general conduct of its business.

(b) For purposes of applying the provisions of this subsection, the Government considers *insurance* provided by captive insurers (insurers owned by or under control of the contractor) as *self-insurance*, and charges for it *shall* comply with the provisions applicable to *self-insurance costs* in this subsection. However, if the captive insurer also sells *insurance* to the general public in substantial quantities and it can be demonstrated that the charge to the contractor is based on competitive market forces, the Government will consider the *insurance* as purchased *insurance*.

(c) Whether or not the contract is subject to CAS, *self-insurance charges* are allowable subject to paragraph (e) of this subsection and the following limitations:

(1) The contractor *shall* measure, assign, and *allocate costs* in accordance with 48 CFR9904.416, Accounting for *Insurance Costs*.

(2) The contractor *shall* comply with (48 CFR) part 28. However, approval of a contractor's *insurance* program in accordance with part 28 does not constitute a determination as to the allowability of the program's cost.

(3) If purchased *insurance* is available, any *self-insurance charge* plus *insurance* administration expenses in excess of the cost of comparable purchased *insurance* plus associated *insurance* administration expenses is unallowable.

(4) *Self-insurance charges* for risks of catastrophic losses are unallowable (see 28.308(e)).

(d) Purchased *insurance costs* are allowable, subject to paragraph (e) of this subsection and the following limitations:

(1) For contracts subject to full CAS coverage, the contractor *shall* measure, assign, and *allocate costs* in accordance with 48 CFR9904.416.

(2) For all contracts, premiums for *insurance* purchased from fronting *insurance companies* (*insurance companies* not related to the contractor but who reinsure with a captive insurer of the contractor) are unallowable to the extent they exceed the sum of-

(i) The amount that would have been allowed had the contractor insured directly with the captive insurer; and

(ii) Reasonable fronting *company* charges for services rendered.

(3) Actual losses are unallowable unless expressly provided for in the contract, except-

(i) Losses incurred under the nominal deductible provisions of purchased *insurance*, in keeping with

sound business practice, are allowable; and

(ii) Minor losses, such as spoilage, breakage, and disappearance of small hand tools that occur in the ordinary course of business and that are not covered by *insurance*, are allowable.

(e) *Self-insurance* and purchased *insurance costs* are subject to the cost limitations in the following paragraphs:

(1) *Costs* of *insurance* required or approved pursuant to the contract are allowable.

(2) *Costs* of *insurance* maintained by the contractor in connection with the general conduct of its business are allowable subject to the following limitations:

(i) Types and extent of coverage *shall* follow sound business practice, and the rates and premiums *shall* be reasonable.

(ii) *Costs* allowed for business interruption or other similar *insurance shall* be limited to exclude coverage of profit.

(iii) The cost of property *insurance* premiums for *insurance* coverage in excess of the *acquisition* cost of the insured assets is allowable only when the contractor has a formal written policy assuring that in the event the insured property is involuntarily converted, the new asset *shall* be valued at the book value of the replaced asset plus or minus adjustments for differences between *insurance* proceeds and actual replacement cost. If the contractor does not have such a formal written policy, the cost of premiums for *insurance* coverage in excess of the *acquisition* cost of the insured asset is unallowable.

(iv) *Costs* of *insurance* for the risk of loss of Government property are allowable to the extent that-

(A) The contractor is liable for such loss;

(B) The *contracting officer* has not revoked the Government's assumption of risk (see 45.104(b)); and

(C) Such *insurance* does not cover loss of Government property that results from willful misconduct or lack of good faith on the part of any of the contractor's managerial personnel (as described in FAR 52.245-1(h)(1)(ii)).

(v) *Costs* of *insurance* on the lives of officers, partners, proprietors, or employees are allowable only to the extent that the *insurance* represents additional compensation (see 31.205-6).

(3) The cost of *insurance* to protect the contractor against the *costs* of correcting its own defects in materials and workmanship is unallowable. However, *insurance costs* to cover fortuitous or casualty losses resulting from defects in materials or workmanship are allowable as a normal business expense.

(4) Premiums for retroactive or backdated *insurance* written to cover losses that have occurred and are known are unallowable.

(5) The Government is obligated to indemnify the contractor only to the extent authorized by law, as expressly provided for in the contract, except as provided in paragraph (d)(3) of this subsection.

(6) Late premium payment charges related to employee *deferred compensation* plan *insurance* incurred pursuant to Section 4007 (29 U.S.C. 1307) or Section 4023 (29 U.S.C. 1323) of the

Employee Retirement Income Security Act of1974 are unallowable.

Parent topic: 31.205 Selected costs.