52.215-23 Limitations on Pass-Through Charges.

As prescribed in 15.408(n)(2), use the following clause:

Limitations on Pass-Through Charges (Jun 2020)

(a) *Definitions*. As used in this clause-

Added value means that the Contractor performs *subcontract* management functions that the *Contracting Officer* determines are a benefit to the Government (*e.g.*, processing orders of parts or services, maintaining inventory, reducing delivery lead times, managing multiple sources for contract requirements, coordinating deliveries, performing quality assurance functions).

Excessive pass-through charge, with respect to a Contractor or *subcontractor* that adds *no or negligible value* to a contract or *subcontract*, means a charge to the Government by the Contractor or *subcontractor* that is for *indirect costs* or profit/fee on work performed by a *subcontractor* (other than charges for the costs of managing *subcontracts* and any applicable *indirect costs* and associated profit/fee based on such costs).

No or negligible value means the Contractor or *subcontractor* cannot demonstrate to the *Contracting Officer* that its effort added value to the contract or *subcontract* in accomplishing the work performed under the contract (including task or delivery orders).

Subcontract means any contract, as defined in Federal *Acquisition* Regulation (FAR)2.101, entered into by a *subcontractor* to furnish *supplies* or services for performance of the contract or a *subcontract*. It includes but is not limited to *purchase orders*, and changes and modifications to *purchase orders*.

Subcontractor, as defined in FAR 44.101, means any supplier, distributor, vendor, or firm that furnishes *supplies* or services to or for a prime Contractor or another *subcontractor*.

(b) *General*. The Government will not pay excessive pass-through charges. The *Contracting Officer shall* determine if excessive pass-through charges exist.

(c) *Reporting*. Required reporting of performance of work by the Contractor or a *subcontractor*. The Contractor *shall* notify the *Contracting Officer in writing* if-

(1) The Contractor changes the amount of *subcontract* effort after award such that it exceeds 70 percent of the total cost of work to be performed under the contract, task order, or *delivery order*. The notification *shall* identify the revised cost of the *subcontract* effort and *shall* include verification that the Contractor will provide added value; or

(2) Any *subcontractor* changes the amount of lower-tier *subcontractor* effort after award such that it exceeds 70 percent of the total cost of the work to be performed under its *subcontract*. The notification *shall* identify the revised cost of the *subcontract* effort and *shall* include verification that the *subcontractor* will provide added value as related to the work to be performed by the lower-tier *subcontractor*(s).

(d) *Recovery of excessive pass-through charges*. If the *Contracting Officer* determines that excessive

pass-through charges exist;

(1) For other than fixed-price contracts, the excessive pass-through charges are unallowable in accordance with the provisions in FAR subpart 31.2; and

(2) For applicable DoD fixed-price contracts, as identified in 15.408(n)(2)(i)(B), the Government *shall* be entitled to a price reduction for the amount of excessive pass-through charges included in the contract price.

(e) *Access to records*.

(1) The *Contracting Officer*, or authorized representative, *shall* have the right to examine and audit all the Contractor's records (as defined at FAR 52.215-2(a)) necessary to determine whether the Contractor proposed, billed, or claimed excessive pass-through charges.

(2) For those *subcontracts* to which paragraph (f) of this clause applies, the *Contracting Officer*, or authorized representative, *shall* have the right to examine and audit all the *subcontractor*'s records (as defined at FAR 52.215-2(a)) necessary to determine whether the *subcontractor* proposed, billed, or claimed excessive pass-through charges.

(f) *Subcontracts*. The Contractor *shall* insert the substance of this clause, including this paragraph (f), in all cost-reimbursement *subcontracts* under this contract that exceed the *simplified acquisition threshold*, as defined in FAR 2.101 on the date of *subcontract* award, except if the contract is with DoD, then insert in all cost-reimbursement *subcontracts* and fixed-price *subcontracts*, except those identified in FAR 15.408(n)(2)(i)(B)(*2*), that exceed the threshold for obtaining *cost or pricing data* in FAR 15.403-4 on the date of *subcontract* award.

(End of clause)

Alternate I (Oct 2009). As prescribed in 15.408 (n)(2)(iii), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b) *General*. The Government will not pay excessive pass-through charges. The *Contracting Officer* has determined that there will be no excessive pass-through charges, provided the Contractor performs the disclosed value-added functions.

Parent topic: 52.215 [Reserved]