52.216-7 Allowable Cost and Payment.

As prescribed in 16.307(a), insert the following clause:

Allowable Cost and Payment (Aug 2018)

(a) Invoicing.

(1) The Government will make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the *Contracting Officer* in accordance with Federal *Acquisition* Regulation (FAR) subpart 31.2 in effect on the date of this contract and the terms of this contract. The Contractor *may* submit to an authorized representative of the *Contracting Officer*, in such form and reasonable detail as the representative *may* require, an *invoice* or voucher supported by a statement of the claimed allowable cost for performing this contract.

(2) Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act. Interim payments made prior to the final payment under the contract are contract financing payments, except interim payments if this contract contains *Alternate* I to the clause at 52.232-25.

(3) The designated payment office will make interim payments for contract financing on the _____ *[Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "30th"] day* after the designated billing office receives a proper payment request. In the event that the Government requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

(b) Reimbursing costs.

(1) For the purpose of reimbursing allowable costs (except as provided in paragraph (b)(2) of this clause, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only—

(i) Those recorded costs that, at the time of the request for reimbursement, the Contractor has paid by cash, check, or other form of actual payment for items or services purchased directly for the contract;

(ii) When the Contractor is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for-

(A) *Supplies* and services purchased directly for the contract and associated financing payments to subcontractors, provided payments determined due will be made–

(1) In accordance with the terms and conditions of a subcontract or *invoice*; and

(2) Ordinarily within 30 days of the submission of the Contractor’s payment request to the Government;

(B) Materials issued from the Contractor's inventory and placed in the production process for use on the contract;

(C) Direct labor;

(D) Direct travel;

(E) Other direct in-house costs; and

(F) Properly allocable and allowable *indirect costs*, as shown in the records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts; and

(iii) The amount of financing payments that have been paid by cash, check, or other forms of payment to subcontractors.

(2) Accrued costs of Contractor contributions under employee pension plans *shall* be excluded until actually paid unless-

(i) The Contractor's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid 30 days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid *shall* be excluded from the Contractor's *indirect costs* for payment purposes).

(3) Notwithstanding the audit and adjustment of *invoices* or vouchers under paragraph (g) of this clause, allowable *indirect costs* under this contract *shall* be obtained by applying *indirect cost rates* established in accordance with paragraph (d) of this clause.

(4) Any statements in specifications or other documents incorporated in this contract by reference designating performance of services or furnishing of materials at the Contractor's expense or at no cost to the Government *shall* be disregarded for purposes of cost-reimbursement under this clause.

(c) *Small business concerns*. A small business concern *may* receive more frequent payments than every 2 weeks.

(d) *Final indirect cost rates*.

(1) Final annual *indirect cost rates* and the appropriate bases *shall* be established in accordance with subpart 42.7 of the Federal *Acquisition* Regulation (FAR) in effect for the period covered by the *indirect cost rate* proposal.

(2)

(i) The Contractor *shall* submit an adequate *final indirect cost rate* proposal to the *Contracting Officer* (or *cognizant Federal agency* official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, *may* be requested *in writing* by the Contractor and granted *in writing* by the *Contracting Officer*. The Contractor *shall* support its proposal with adequate supporting data.

(ii) The proposed rates *shall* be based on the Contractor's actual cost experience for that period. The appropriate Government representative and the Contractor *shall* establish the *final indirect cost*

rates as promptly as practical after receipt of the Contractor's proposal.

(iii) An adequate *indirect cost rate* proposal *shall* include the following data unless otherwise specified by the *cognizant Federal agency* official:

(A) Summary of all claimed indirect expense rates, including pool, base, and calculated indirect rate.

(B) *General and Administrative expenses (final indirect cost pool)*. Schedule of claimed expenses by element of cost as identified in accounting records (Chart of Accounts).

(C) *Overhead expenses (final indirect cost pool)*. Schedule of claimed expenses by element of cost as identified in accounting records (Chart of Accounts) for each final *indirect cost* pool.

(D) *Occupancy expenses (intermediate indirect cost pool)*. Schedule of claimed expenses by element of cost as identified in accounting records (Chart of Accounts) and expense reallocation to final *indirect cost* pools.

(E) Claimed allocation bases, by element of cost, used to distribute *indirect costs*.

(F) *Facilities capital cost of money* factors computation.

(G) Reconciliation of books of account (*i.e.*, General Ledger) and claimed *direct costs* by major cost element.

(H) Schedule of *direct costs* by contract and subcontract and indirect expense applied at claimed rates, as well as a subsidiary schedule of Government participation percentages in each of the allocation base amounts.

(I) Schedule of cumulative direct and *indirect costs* claimed and billed by contract and subcontract.

(J) *Subcontract information*. Listing of subcontracts awarded to companies for which the contractor is the prime or upper-tier contractor (include prime and subcontract numbers; subcontract value and award type; amount claimed during the fiscal year; and the subcontractor name, address, and point of contact information).

(K) Summary of each time-and-materials and labor-hour contract information, including labor categories, labor rates, hours, and amounts; direct materials; other *direct costs*; and, indirect expense applied at claimed rates.

(L) Reconciliation of total payroll per IRS form 941 to total labor costs distribution.

(M) Listing of decisions/agreements/approvals and description of accounting/organizational changes.

(N) Certificate of final *indirect costs* (see 52.242-4, Certification of Final *Indirect Costs*).

(O) Contract closing information for contracts physically completed in this fiscal year (include contract number, period of performance, contract ceiling amounts, contract fee computations, level of effort, and indicate if the contract is ready to close).

(iv) The following supplemental information is not required to determine if a proposal is adequate, but *may* be required during the audit process:

(A) Comparative analysis of indirect expense pools detailed by account to prior fiscal year and budgetary data.

(B) General organizational information and limitation on allowability of compensation for certain contractor personnel. See 31.205-6(p). Additional salary reference information is available at https://www.whitehouse.gov/wp-content/uploads/2017/11/ContractorCompensationCapContractsAwardedBeforeJune24.pdf and https://www.whitehouse.gov/wp-content/uploads/2017/11/ContractorCompensationCapContractsAwardedafterJune24.pdf.

(C) Identification of prime contracts under which the contractor performs as a subcontractor.

(D) Description of accounting system (excludes contractors required to submit a CAS Disclosure Statement or contractors where the description of the accounting system has not changed from the previous year's submission).

(E) Procedures for identifying and excluding *unallowable costs* from the costs claimed and billed (excludes contractors where the procedures have not changed from the previous year's submission).

(F) Certified financial statements and other financial data (*e.g.*, trial balance, compilation, review, *etc.*).

(G) Management letter from outside CPAs concerning any internal control weaknesses.

(H) Actions that have been and/or will be implemented to correct the weaknesses described in the management letter from subparagraph (G) of this section.

(I) List of all internal audit reports issued since the last disclosure of internal audit reports to the Government.

(J) Annual internal audit plan of scheduled audits to be performed in the fiscal year when the *final indirect cost rate* submission is made.

(K) Federal and State income tax returns.

(L) Securities and Exchange Commission 10-K annual report.

(M) Minutes from board of directors meetings.

(N) Listing of delay *claims* and termination *claims* submitted which contain costs relating to the subject fiscal year.

(O) Contract briefings, which generally include a synopsis of all pertinent contract provisions, such as: contract type, contract amount, product or service(s) to be provided, contract performance period, rate ceilings, advance approval requirements, pre-contract cost allowability limitations, and billing limitations.

(v) The Contractor *shall* update the billings on all contracts to reflect the final settled rates and update the schedule of cumulative direct and *indirect costs* claimed and billed, as required in paragraph (d)(2)(iii)(I) of this section, within 60 days after settlement of *final indirect cost rates*.

(3) The Contractor and the appropriate Government representative *shall* execute a written understanding setting forth the *final indirect cost rates*. The understanding *shall* specify (i) the agreed-upon final annual *indirect cost rates*, (ii) the bases to which the rates apply, (iii) the periods for which the rates apply, (iv) any specific *indirect cost* items treated as *direct costs* in the settlement, and (v) the affected contract and/or subcontract, identifying any with advance

agreements or special terms and the applicable rates. The understanding *shall* not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The understanding is incorporated into this contract upon execution.

(4) Failure by the parties to agree on a final annual *indirect cost rate shall* be a dispute within the meaning of the Disputes clause.

(5) Within 120 days (or longer period if approved *in writing* by the *Contracting Officer*) after settlement of the final annual *indirect cost rates* for all years of a physically complete contract, the Contractor *shall* submit a completion *invoice* or voucher to reflect the settled amounts and rates. The completion *invoice* or voucher *shall* include settled subcontract amounts and rates. The prime contractor is responsible for settling subcontractor amounts and rates included in the completion *invoice* or voucher and providing status of subcontractor audits to the *contracting officer* upon request.

(6)

(i) If the Contractor fails to submit a completion *invoice* or voucher within the time specified in paragraph (d)(5) of this clause, the *Contracting Officer may*-

(A) Determine the amounts due to the Contractor under the contract; and

(B) Record this determination in a unilateral modification to the contract.

(ii) This determination constitutes the final decision of the *Contracting Officer* in accordance with the Disputes clause.

(e) *Billing rates*. Until final annual *indirect cost rates* are established for any period, the Government *shall* reimburse the Contractor at billing rates established by the *Contracting Officer* or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates-

(1) *Shall* be the anticipated final rates; and

(2) *May* be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

(f) *Quick-closeout procedures*. Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

(g) *Audit*. At any time or times before final payment, the *Contracting Officer may* have the Contractor's *invoices* or vouchers and statements of cost audited. Any payment *may* be-

(1) Reduced by amounts found by the *Contracting Officer* not to constitute allowable costs; or

(2) Adjusted for prior overpayments or underpayments.

(h) Final payment.

(1) Upon approval of a completion *invoice* or voucher submitted by the Contractor in accordance with paragraph (d)(5) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government *shall* promptly pay any balance of allowable costs and that part of the fee

(if any) not previously paid.

(2) The Contractor *shall* pay to the Government any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Contractor or any assignee under this contract, to the extent that those amounts are properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses incurred by the Contractor for securing refunds, rebates, credits, or other amounts *shall* be allowable costs if approved by the *Contracting Officer*. Before final payment under this contract, the Contractor and each assignee whose assignment is in effect at the time of final payment *shall* execute and deliver-

(i) An assignment to the Government, in form and substance satisfactory to the *Contracting Officer*, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and *claims* arising out of or under this contract, except-

(A) Specified *claims* stated in exact amounts, or in estimated amounts when the exact amounts are not known;

(B) *Claims* (including reasonable incidental expenses) based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that the *claims* are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the *claims in writing* to the *Contracting Officer* within 6 years following the release date or notice of final payment date, whichever is earlier; and

(C) *Claims* for reimbursement of costs, including reasonable incidental expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

(End of clause)

Alternate I (Feb 1997). As prescribed in 16.307 (a)(2), substitute the following paragraph (b)(1)(iii) for paragraph (b)(1)(iii) of the basic clause:

(iii) The amount of progress and other payments to the Contractor's subcontractors that either have been paid, or that the Contractor is required to pay pursuant to the clause of this contract entitled "Prompt Payment for *Construction* Contracts." Payments *shall* be made by cash, check, or other form of payment to the Contractor's subcontractors under similar cost standards.

Alternate II (Aug 2012). As prescribed in 16.307 (a)(3), substitute the following paragraph (a)(1) for paragraph (a)(1) of the basic clause:

(a)(1) The Government will make payments to the Contractor when requested as work progresses, but not more often than once every two weeks, in amounts determined to be allowable by the *Contracting Officer* in accordance with subpart 31.3 in effect on the date of this contract and the terms of this contract. The Contractor *may* submit to an authorized representative of the *Contracting Officer*, in such form and reasonable detail as the representative *may* require, an *invoice* or voucher supported by a statement of the claimed allowable cost for performing this contract.

Alternate III (Aug 2012). As prescribed in 16.307 (a)(4), substitute the following paragraph (a)(1) for paragraph (a)(1) of the basic clause:

(a)(1) The Government will make payments to the Contractor when requested as work progresses, but not more often than once every two weeks, in amounts determined to be allowable by the *Contracting Officer* in accordance with subpart 31.6 in effect on the date of this contract and the terms of this contract. The Contractor *may* submit to an authorized representative of the *Contracting Officer*, in such form and reasonable detail as the representative *may* require, an *invoice* or voucher supported by a statement of the claimed allowable cost for performing this contract.

Alternate IV (Aug 2012). As prescribed in 16.307 (a)(5), substitute the following paragraph (a)(1) for paragraph (a)(1) of the basic clause:

(a)(1) The Government will make payments to the Contractor when requested as work progresses, but not more often than once every two weeks, in amounts determined to be allowable by the *Contracting Officer* in accordance with subpart 31.7 in effect on the date of this contract and the terms of this contract. The Contractor *may* submit to an authorized representative of the *Contracting Officer*, in such form and reasonable detail as the representative *may* require, an *invoice* or voucher supported by a statement of the claimed allowable cost for performing this contract.

Parent topic: 52.216 [Reserved]