5552.247-9001 Requirement for Authorization to Engage in Air Transportation.

As prescribed in 5547.4-100 (b)(1), insert the following clause in solicitations and contracts when the air carriers hold a current Air Carrier Operating Certificate issued by the Federal Aviation Agency under Part 121 of the Federal Aviation Regulation, or a comparable foreign carrier operating certificate issued by a foreign government body:

REQUIREMENT FOR AUTHORIZATION TO ENGAGE IN AIR TRANSPORTATION (AUG 2007)

(a) This contract is conditioned upon the Contractor (if the contractor is a team arrangement, applies to each team member)being an air carrier and holding a Certificate of Public Convenience and Necessity issued under Section 401 of the Federal Aviation Act (FAA of 1958, as amended), or otherwise authorized by the Department of Transportation (DOT) to engage in direct air transportation services, holding an Air Carrier's Operating Certificate issued by the FAA under Part 121 of the Federal Aviation Regulations (14 CFR 121) for airlift operated by the offeror, and participating in the CRAF, if applicable. Furthermore, the Contractor shall not be in a suspension or temporary nonuse status in accordance with clause 5552.247-9000 , “AIR SAFETY.”

(b) If at any time during the performance period of this contract the contractor is not in compliance with the requirements of paragraph (a) above, including, but not limited to, instances when the certificate demonstrating compliance with paragraph a above is (i) suspended by the pertinent regulatory body for any period of time even though the effect of the suspension is stayed pending review by a court of competent jurisdiction, (ii) canceled or revoked in its entirety by the pertinent regulatory body even though the effect of the cancellation or revocation is stayed pending review by a court of competent jurisdiction, or (iii) such certificate or interim operating authority has expired and has not been renewed, then the contracting officer may elect any one or a combination of the following courses of action:

(1) Suspend the contractor from further performance of all or any part of this contract until such time as the suspension/temporary nonuse imposed by the pertinent regulatory body shall have expired or until such time as the suspension, temporary nonuse, cancellation, or revocation shall have been finally set aside, removed, or otherwise terminated. The period of suspension of this contract will begin at the time that notice thereof is given by the contracting officer to the contractor's designee named in accordance with paragraph ____ of Section ____ of this contract. All flights, which were scheduled to be flown during the time any such suspension is in effect, will be canceled. A unilateral modification reflecting the cancellation and reducing the government's obligation accordingly will be issued by the contracting officer at the termination of the period during which this contract is suspended or after the expiration of the period of performance of this contract. Any such cancellation is not for the convenience of the government and is not a termination within the meaning of clause 52.249-2 , “Termination for Convenience of the Government (Fixed-Price).” Such cancellation will be accomplished at no cost to either party, and the substitute service provisions of this contract will not apply to such canceled flights.

(2) Exercise the government's rights under the clause 5552.247-9002 , “Contractor's Failure to Provide Service.”

(3) Terminate this contract in whole or in part under the procedures of the clause entitled "Default." If this contract is terminated for default pursuant to paragraph b, and if it is subsequently determined that termination for default is not appropriate, this contract shall then be considered to have been canceled pursuant to subparagraph b(4) below.

(4) Cancel this contract in whole or in part. Any such cancellation will be accomplished by the issuance of a unilateral modification and will not be a termination under the provisions of clause 52.249-2 , “Termination for Convenience of the Government (Fixed-Price),” and neither party will be liable to the other party for costs incurred as a result of such cancellation.

(c) If at any time an air carrier ceases operations or surrenders their operating certificate to the Federal Aviation Administration (FAA), the air carrier is required to immediately notify the Contracting Officer the next business day and the DOD Commercial Airlift Division at (618) 229-4801, as well as in writing to HQ AMC/A3B, 402 Scott Drive, Unit 3A1 Scott AFB IL 62225-5302, stating the circumstances for ceasing operations and/or surrendering their operating certificate.

(End of Clause)

ALTERNATE I (AUG 2015)

As prescribed by 5547.4-100 (b)(2), when the air carriers hold a current Air Carrier Operating Certificate issued by the Federal Aviation Agency under a part other than Part 121 of the Federal Aviation Regulation, or a comparable foreign carrier operating certificate issued by a foreign government body, substitute the following paragraph (a) for the paragraph (a) of the basic clause.

(a) This contract is conditioned upon the contractor being a commercial air taxi operator within the meaning of the Federal Aviation Act (FAA of 1958, as amended) and holding a current Air Carrier Operating Certificate in accordance with Part 127/135 of the Federal Aviation Regulations and holding a registration under Part 298 of the Department of Transportation (DOT) Regulations. Furthermore, the contractor shall not be in a suspension or temporary nonuse status in accordance with clause 5552.247-9000 , “Air Safety.”

(End of Clause)

ALTERNATE II (AUG 2015)

As prescribed by 5547.4-100 (b)(3), when using FAR Part 12 procedures, substitute the following paragraph (b) for the paragraph (b) of the basic clause.

(b) If at any time during the performance period of this contract the contractor is not in compliance with the requirements of paragraph (a) above, including, but not limited to, instances when the certificate demonstrating compliance with paragraph (a) above is (i) suspended by the pertinent regulatory body for any period of time even though the effect of the suspension is stayed pending review by a court of competent jurisdiction, (ii) canceled or revoked in its entirety by the pertinent regulatory body even though the effect of the cancellation or revocation is stayed pending review by a court of competent jurisdiction, or (iii) such certificate or interim operating authority has expired and has not been renewed, then the contracting officer may elect any one or a combination of the following courses of action:

(1) Suspend the contractor from further performance of all or any part of this contract until such time as the suspension, temporary nonuse, cancellation, or revocation shall have been finally set aside, removed, or otherwise terminated. The period of suspension of this contract will begin when the contracting officer notifies the contractor. Any flights that were scheduled to be flown during the

time any such suspension is in effect will be canceled and the government's obligation reduced by all costs directly attributable to the canceled flights. Any such cancellation is not for the convenience of the government and will be accomplished at no cost to either party, and the substitute service provisions of this contract will not apply to such canceled flights.

(2) Exercise the government's rights under clause 5552.247-9002 , "Contractor's Failure to Provide Service."

(3) Terminate this contract for cause in whole or in part under FAR clause 52.212-4 , "Contract Terms and Conditions—Commercial Items."

(End of Clause)

Parent topic: Part 5552 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES