Subpart 970.28—Bonds and Insurance

Parent topic: PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

970.2803 Insurance.

970.2803-1 Workers' compensation insurance.

(a) *Policies and requirements.*

(1) Workers' compensation insurance protects employers against liability imposed by workers' compensation laws for injury or death to employees arising out of, or in the course of, their employment. This type of insurance is required by state laws unless employers have acceptable programs of self-insurance.

(2) *Special requirements.* Certain workers' compensation laws contain provisions which result in limiting the protection afforded persons subject to such laws. The policy with respect to these limitations as they affect persons employed by management and operating contractors is set forth as follows:

(i) *Elective provisions.* Some worker's compensation laws permit an employer to elect not to be subject to its provisions. It is DOE policy to require these contractors to be subject to workers' compensation laws in jurisdictions permitting election.

(ii) *Statutory immunity.* Under the provisions of some workers' compensation laws, certain types of employers; e.g., nonprofit educational institutions, are relieved from liability. If a contractor has a statutory option to accept liability, it is DOE policy to require the contractor to do so.

(iii) *Limited medical benefits.* Some workers' compensation laws limit the liability of the employer for medical care to a maximum dollar amount or to a specified period of time. In such cases, a contractor's workers' compensation insurance policy should contain a standard extra-statutory medical coverage endorsement.

(iv) *Limits on occupational disease coverage and employers' liability.* Some workers' compensation laws do not provide coverage for all occupational diseases. In such situations, a contractor's workers' compensation insurance policy should contain voluntary coverage for all occupational diseases.

(3) *Contractor "employees' benefit plan"—self-insurers.* The policies and requirements set forth in paragraph (a)(2) of this section apply where management and operating contractors purchase workers' compensation insurance. With respect to self-insured contractors, the objectives specified in paragraph (a)(2) also shall be met through primary or excess workers' compensation and employers' liability insurance policy(ies) or an approved combination thereof. "Employees" benefit plans" which were established in prior years may be continued to contrast termination at existing benefit levels.

(b) *Assignment of responsibilities.*

(1) Office of Acquisition Management, other officials, and the Heads of Contracting Activities,

consistent with their delegations of responsibility, shall assure management and operating contracts are consistent with the policies and requirements of paragraph (a) of this section.

(2) In discharging assigned responsibility, the Heads of Contracting Activities shall—

(i) Periodically review workers' compensation insurance programs of management and operating contractors in the light of applicable workers' compensation statutes to assure conformance with the requirements of paragraph (a) of this section;

(ii) Evaluate the adequacy of coverage of “self-insured” workers” compensation programs; and

(iii) Provide arrangements for the administration of any existing “employees” benefit plans until such plans” are terminated.

(3) Heads of Contracting Activities are responsible for approving management and operating contractor “employees' benefit plans.”

970.2803-2 Contract clause.

The contracting officer shall insert the clause at 970.5228-1, Insurance—Litigation and Claims, instead of the clause at 48 CFR 52.228-7, in all management and operating contracts. Paragraphs (f)(1)(iii)(C) and (g)(2) of that clause apply to a nonprofit contractor only to the extent specifically provided in the individual contract.