228.370-1 Definitions.

As used in this section—

“Aircraft” means,unless otherwise provided in the contract Schedule, any item, other than a rocket or missile, intended for flight (e.g., fixed-winged aircraft, blended wing/lifting bodies, helicopters, vertical take-off or landing aircraft, lighter-than-air airships, and unmanned aerial vehicles), including emerging technologies that would commonly be considered aircraft. New production articles become aircraft at a stage of manufacture or production when a wing, portion of a wing, or engine is attached to a fuselage. Blended wing/lifting bodies become aircraft at a stage of manufacture or production when the center portion and a lifting surface become attached.

“Civil aircraft” means an aircraft other than a public aircraft or state aircraft.

“Contractor managerial personnel” means the contractor’s directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of—

(1) All, or substantially all, of the contractor’s business;

(2) All, or substantially all, of the contractor’s operation at any one plant or separate location; or

(3) A separate and complete major industrial operation.

“Covered aircraft” means an aircraft owned by or to be delivered to the Government and, when determined by the contracting officer and specifically identified as such in the contract Schedule, may include contractor-furnished aircraft that are not intended for induction into the DoD inventory, including—

(1) Aircraft furnished by the Government to the contractor under a contract while in the contractor’s possession, care, custody, or control regardless of their location or state of disassembly or reassembly;

(2) Items removed from a Government-furnished aircraft that are—

(i) Intended for reinstallation on that particular aircraft, which retain their status as covered aircraft while awaiting installation; and

(ii) Not intended for reinstallation on that particular aircraft, which lose their status as covered aircraft once removal is complete;

(3) New production aircraft when wholly outside of buildings on the contractor’s premises or other places described in the contract Schedule (e.g., hush houses, run stations, and paint facilities); and

(4) Commercial aircraft, to include commercially available off-the-shelf aircraft, become covered aircraft when the commercial aircraft arrives at the contractor’s place of performance for modification under the terms of the contract.

“Crew member” means, unless otherwise provided in the contract Schedule, personnel required in the flight manual, assigned for the purpose of conducting any flight on behalf of the contractor. It also includes any operator of an unmanned aerial vehicle.

“Flight” means any flight approved in writing by the Government flight representative, to include taxi test made in the performance of the contract, or flight for the purpose of safeguarding the aircraft. All aircraft off the contractor's premises shall be considered to be in flight when on the ground or water for reasonable periods of time following emergency landings, landings made in performance of the contract, or landings approved in writing by the contracting officer.

“Public aircraft” means an aircraft that meets the definition in 49 U.S.C. 40102(a)(41) and the qualifications in 49 U.S.C. 40125. Specifically, a public aircraft means any of the following:

(1) An aircraft used only for the Government, except as provided in paragraphs (5) and (7) of this definition.

(2) An aircraft owned by the Government and operated by any person for purposes related to crew training, equipment development, or demonstration, except as provided in paragraph (7) of this definition.

(3) An aircraft owned and operated by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in paragraph (7) of this definition.

(4) An aircraft exclusively leased for at least 90 continuous days by the government of a State, the District of Columbia, or a territory or possession of the United States or a political subdivision of one of these governments, except as provided in paragraph (7) of this definition.

(5) An aircraft owned or operated by the armed forces or chartered to provide transportation or other commercial air service to the armed forces under the conditions specified by 49 U.S.C. 40125(c). In the preceding sentence, the term “other commercial air service” means an aircraft operation that—

(i) Is within the United States territorial airspace;

(ii) The Administrator of the Federal Aviation Administration determines is available for compensation or hire to the public; and

(iii) Must comply with all applicable civil aircraft rules under title 14, Code of Federal Regulations.

(6) An unmanned aircraft that is owned and operated by, or exclusively leased for at least 90 continuous days by, an Indian Tribal government, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), except as provided in paragraph (7) of this definition.

(7) As described in 49 U.S.C. 40125(b), an aircraft described in paragraph (1), (2), (3), or (4) of this definition does not qualify as a public aircraft in situations where the aircraft is used for commercial purposes or to carry an individual other than a crew member or a qualified non-crew member.

“Public aircraft operation” means operation of an aircraft that meets the legal definition of public aircraft established in 49 U.S.C. 40102(a)(41) and the legal qualifications for public aircraft status outlined in 49 U.S.C. 40125.

“State aircraft” means an aircraft operated by the Government for sovereign, noncommercial purposes such as military, customs, and police services. Military aircraft are afforded status as state aircraft. In very rare circumstances, DoD-contracted aircraft may be designated, in writing, by a responsible Government official pursuant to DoD Directive 4500.54E, DoD Foreign Clearance

Program, to be operated in state aircraft status, and States may choose to treat them as deemed state aircraft when they are operating under a Government contract.

“Workmanship error” means damage to the aircraft that is the result of an incorrectly performed skill-based task, operation, or action that was originally planned or intended.

Parent topic: 228.370 Ground and flight risk.