252.228-7007 Public Aircraft and State Aircraft Operations—Liability.

As prescribed in 228.371(f), use the following clause:

PUBLIC AIRCRAFT AND STATE AIRCRAFT OPERATIONS—LIABILITY (MAR 2023)

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

"Civil aircraft" means an aircraft other than a public aircraft or state aircraft.

"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, 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 when the aircraft is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

“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 such status cannot be deemed without a written designation by an authorized Government official.

(b) *Combined regulation/instruction*. Upon award, for contract performance to be conducted as a public aircraft operation, the Contractor shall be bound by the operating procedures contained in the combined regulation/instruction entitled “Contractor’s Flight and Ground Operations” (Air Force Instruction 10-220, Army Regulation 95-20, NAVAIR Instruction 3710.1 (Series), Coast Guard Instruction M13020.3 (Series), and Defense Contract Management Agency Instruction 8210-1 (Series)) in effect on the date of contract award.

(c) *Contractor liability for operations for contract performance conducted as public aircraft operations or state aircraft operations*.

(1) The Contractor assumes responsibility for all damage or injury to persons or property, including the Contractor’s employees and property, and Government personnel and property, occasioned through the use, maintenance, and operation of the Contractor’s aircraft or other equipment by, or the action of, the Contractor or the Contractor’s employees and agents.

(2) The Contractor, at the Contractor’s expense, shall maintain adequate public liability and property damage insurance, including hull insurance for the Contractor’s aircraft, during the duration of this contract, insuring the Contractor against all claims for injury or damage.

(3) The Contractor shall maintain workers’ compensation and other legally required insurance with respect to the Contractor’s own employees and agents.

(4) The Government will in no event be liable or responsible for damage or injury to any person or property occasioned through the use, maintenance, or operation of any aircraft or other equipment by, or the action of, the Contractor or the Contractor’s employees and agents in performing under this contract, and the Government shall be indemnified and saved harmless against claims for damage or injury in such cases.

(End of clause)

Parent topic: 252.228 RESERVED