PART 452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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Subpart 452.2—Texts of Provisions and Clauses

452.204-70 Modification for Contract Closeout.

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Parent topic: SUBCHAPTER H—CLAUSES AND FORMS

Subpart 452.2—Texts of Provisions and Clauses

452.204-70 Modification for Contract Closeout.

As prescribed in AGAR 404.804, 413.302-5, and 416.102, insert the following clause:

Modification for Contract Closeout (Month Year)

“Upon contract closeout for contracts utilizing anything other than cost reimbursement:

(a) If unliquidated funds in the amount of $1000 or less remain on the contract, the Contracting Officer (CO) shall issue a unilateral modification for deobligation. The contractor will receive a copy of the modification but will not be required to provide a signature. The CO shall immediately proceed with contract closeout upon completion of the period of performance, receipt and acceptance of supplies or services, and final payment.

(b) Upon contract closeout for contracts utilizing SAP: if unliquidated funds of more than $1000 remain on the contract, the CO shall issue a bilateral modification for deobligation. The contractor will receive a copy of the modification and will be required to provide a signature. (The CO may also request a “Contractor Release of Claims” be completed by the contractor, although not required for contracts and orders using SAP.) If the bilateral modification and Release of Claims are not returned to the CO within 60 days, the CO shall release the modification as unilateral and proceed with contract closeout upon completion of the period of performance, receipt and acceptance of supplies or services, and final payment.

(c) Upon contract closeout for contracts utilizing anything other than cost reimbursement, if unliquidated funds of more than $1000 remain on the contract, the CO shall issue a bilateral modification for deobligation. The contractor will receive a copy of the modification and a “Contractor Release of Claims” and will be required to provide a signature on both forms. If the

bilateral modification and Release of Claims are not returned to the CO within 120 days, the CO shall release the modification as unilateral and proceed with contract closeout upon completion of the period of performance, receipt and acceptance of supplies or services, and final payment.

(End of Clause)

452.204-71 Personal Identity Verification of Contractor Employees.

As prescribed in AGAR 404.1303, insert the following clause:

Personal Identity Verification of Contractor Employees (Month Year)

(a) The contractor shall comply with the personal identity verification (PIV) policies and procedures established by the United States Department of Agriculture (USDA) Directives 4620-002 series.

(b) Should the USDA Directives 4620-002 require the exclusion of a contractor's employee, the contracting officer will notify the contractor in writing. The contractor must appoint a representative to manage compliance with the PIV policies established by the USDA Directives 4620-002 and to maintain a list of employees eligible for a USDA LincPass required for performance of the work.

(c) The responsibility of maintaining a sufficient workforce remains with the contractor. Contractor employees may be barred by the Government from performance of work should they be found ineligible or to have lost eligibility for a USDA LincPass. Failure to maintain a sufficient workforce of employees eligible for a USDA LincPass may be grounds for termination of the contract.

(d) The contractor shall insert this clause in all subcontracts when the subcontractor is required to have routine unaccompanied physical access to a Federally controlled facility and/or routine unaccompanied access to a Federally controlled information system.

(e) The PIV Sponsor for this contract is a designated program point of contact, which in most cases is the COR, unless otherwise specified in this contract. The PIV Sponsor will be available to receive contractor identity information from [hours and days to be added by CO] to [hours and days to be added by CO] at [office address for registration to be added by CO]. The Government will notify the contractor if there is a change in the PIV Sponsor, the office address, or the office hours for registration; however, it is the contractor's responsibility to meet all aspects of paragraphs (c), (d), and (e).

(End of Clause)

452.232-70 Limitation of Government's Obligation.

As prescribed in AGAR 432.703, insert the following clause:

Limitation of Government's Obligation (Month Year)

(a) Contract line item(s) listed below is/are incrementally funded. For this/these item(s), the sum of $ [Contracting Officer insert after negotiations] of the total price is presently available for payment and allotted to this contract.

Line item	Description	Total contract value	Funded amount	Unfunded amount	Funding date
(Add line items as needed)					

An allotment schedule is set forth in paragraph (j) below.

(b) For item(s) identified in paragraph (a) as not fully funded, the Contractor agrees to perform up to the point at which the total amount payable by the Government, including reimbursement of costs in the event of termination of those item(s) for the Government's convenience, approximates the total amount currently allotted to the contract. The Contractor is not authorized to continue work on those item(s) beyond that point. The Government will not be obligated in any event to reimburse the Contractor more than the amount allotted to the contract for those item(s) regardless of anything to the contrary in the clause entitled “Termination for Convenience of the Government”. The total amount payable by the Government in the event of termination of applicable contract line item(s) for convenience includes costs, profit, and estimated termination settlement costs for those item(s).

(c) Notwithstanding the dates specified in the allotment schedule in paragraph (j), the Contractor will notify the contracting officer in writing at least [30, 60, or 90, as appropriate] days prior to the date when, in the Contractor's best judgment, the work will reach the point at which the total amount payable by the Government, including any cost for termination for convenience, will approximate 85 percent of the total amount currently allotted to the contract for performance of the applicable item(s). The notification will state

(1) the estimated date when that point will be reached and (2) an estimate of additional funding, if any, needed to continue performance of applicable line items up to the next scheduled date for allotment of funds identified in paragraph (j), or to a mutually agreed upon substitute date. The notification will also advise the contracting officer of the estimated amount of additional funds that will be required for the timely performance of the item(s) funded, for a subsequent period as may be specified in the allotment schedule in paragraph (j) or otherwise agreed to by the parties. If after such notification additional funds are not allotted by the date identified in the Contractor's notification, or by an agreed substitute date, the contracting officer will terminate any item(s) for which additional funds have not been allotted, pursuant to the clause of this contract entitled “Termination for Convenience of the Government”.

(d) When additional funds are allotted for continued performance of the contract line item(s) identified in paragraph (a) above, the parties will agree as to the period of contract performance which will be covered by the funds. The provisions of paragraphs (b) through (d) will apply similarly to the additional allotted funds and agreed substitute date, and the contract will be modified accordingly.

(e) If, solely by reason of failure of the Government to allot additional funds, by the dates indicated below, in amounts sufficient for timely performance of the contract line item(s) identified in paragraph (a), the Contractor incurs additional costs or is delayed in the performance of the work under this contract and if additional funds are allotted, an equitable adjustment will be made in the price or prices (including appropriate target, billing, and ceiling prices where applicable) of the item(s), or in the time of delivery, or both. Failure to agree to any such equitable adjustment

hereunder will be a dispute concerning a question of fact within the meaning of the clause entitled “Disputes.”

(f) The Government may at any time prior to termination allot additional funds for the performance of the contract line item(s) identified in paragraph (a) above.

(g) The termination provisions do not limit the rights of the Government under the clauses entitled “Default” and “Termination for Cause”. The provisions are limited to the work and allotment of funds for the contract line item(s) set forth in paragraph (a) above. These terms no longer apply once the contract is fully funded except with regard to the rights or obligations of the parties concerning equitable adjustments negotiated under paragraphs (e) and (f) above.

(h) Nothing herein affects the right of the Government to terminate this contract pursuant to the clause of this contract entitled “Termination for Convenience of the Government”.

(i) Nothing herein shall be construed as authorization of voluntary services whose acceptance is otherwise prohibited under 31 U.S.C. 1342.

(j) The parties agree that the Government will allot funds to this contract in accordance with the following schedule:

On execution of contract $

(month) (day), (year) $

(month) (day), (year) $

(month) (day), (year) $

(End of Clause)

452.236-70 Emergency Response, Fire Suppression, and Liability.

As prescribed in AGAR 436.570, the following clause shall be used in Forest Service Integrated Resource Service Contracts (IRSCs), and is optional for non-IRSCs:

Emergency Response, Fire Suppression and Liability (Month Year)

(a) *Contractor's Responsibility for Responding to Emergencies.* When directed by the contracting officer, the Contractor shall allow the Government to temporarily use employees and equipment from the work site for emergency work (anticipated to be restricted to firefighting). This is considered to be within the general scope of the contract. An equitable adjustment for the temporary use of employees and equipment will be made under the CHANGES clause, FAR 52.243-4.

(b) *Contractor's Responsibility for Fire Fighting.* The Contractor, under the provisions of FAR 52.236-9, Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements, shall immediately extinguish all fires on the work site other than those fires in use as a part of the work. The Contractor may be held liable for all damages and for all costs incurred by the Government for labor, subsistence, equipment, supplies, and transportation deemed necessary to control or suppress a fire set or caused by the Contractor or the Contractor's agents, subcontractors, or employees subject to the fire classifications listed in subsection (c).

(c) *Fire Suppression Costs.* The Contractor's obligations for cost of fire suppression vary according to three classifications of fires as follows:

(1) *Operations Fire.* An “operations fire” is a fire caused by the Contractor's operations other than a negligent fire. The Contractor agrees to reimburse the Forest Service for such cost for each operations fire, subject to a maximum dollar amount of [Contracting Officer insert amount]. The cost of the Contractor's actions, supplies, and equipment expended or used on suppressing any such fire, or otherwise provided at the request of Forest Service, shall be credited toward such maximum. If the Contractor's actual cost exceeds the contractor's maximum obligation stated above, the Forest Service shall reimburse the contractor for the excess.

(2) *Negligent Fire.* A “negligent fire” is a fire caused by the negligence or fault of the Contractor's operations including, but not limited to, one caused by smoking by persons engaged in the Contractor's operations during the course of their employment, or during rest or lunch periods; or if the Contractor's failure to comply with requirements under this contract results in a fire starting or permits a fire to spread. Damages and the cost of suppressing negligent fires shall be borne by the Contractor.

(3) *Other Fires on Contract Area.* The Forest Service shall pay the Contractor, at firefighting rates common in the area or at prior agreed rates, for equipment or personnel furnished by the Contractor at the request of the Forest Service, on any fire on the contract area other than an operations fire or a negligent fire.

(d) *Contractor's Responsibility for Notification in Case of Fire.* The Contractor shall immediately notify the Government of any fires sighted on or in the vicinity of the work site.

(e) *Performance by the Contractor.* Where the Contractor's employees, agents, contractors, subcontractors, or their employees or agents perform the Contractor's operations in connection with fire responsibilities, the Contractor's obligations shall be the same as if performance was by the Contractor.

(f) *State Law.* The Contractor shall not be relieved by the terms of this contract of any liability to the United States for fire suppression costs recovered in an action based on State law, except for such costs resulting from operations fires. Amounts due to the Contractor for firefighting expenditures on operations fires shall not be withheld pending settlement of any such claim or action based on State law.

(End of Clause)