923.7002 Worker safety and health.

(a) The Atomic Energy Act mandates that DOE shall either pursue civil penalties, as implemented at 10 CFR part 851, for a violation under 42 U.S.C. 2282c, or a contract fee reduction, but not both. For a contract fee reduction—

(1) The clause prescribed at §§ 942.71(d) and 923.7003(f), which is 952.242-71, Conditional Payment of Fee, Profit, or Other Incentives, addresses contract fee reductions (for both non-management and operating contracts and management and operating contracts; for the latter, §§ 942.71(d) and 923.7003(f) refer to clause prescribed in 970.1504-3(b)).

(2) The clause provides, among other things, for an appropriate reduction to the fee, profit, or other incentives under the contract in the event of a violation by the contractor or any contractor employee of any Departmental regulation relating to the enforcement of worker safety and health concerns.

(3) When reviewing performance failures that would warrant a reduction of otherwise earned fee, the Contracting Officer must consider mitigating factors that may warrant a reduction below the applicable range specified in the clause. The mitigating factors are specified in the clause.

(4) The Contracting Officer must obtain the concurrence of the Head of the Contracting Activity: prior to effecting any reduction of fee, profit or other incentives otherwise payable under the clause at 952.942-71, Conditional Payment of Fee, Profit, or Other Incentives; and prior to determining that no reduction is warranted for performance failure(s) that would otherwise warrant a reduction.

(b) In the event of a violation by the contractor or any contractor employee of any Department regulation relating to worker safety and health concerns, before deciding to pursue a contract fee reduction, the Contracting Officer must coordinate with the Office of Nuclear Safety within the Office of Enforcement in the Office of Enterprise Assessments (or designated successor office).

Parent topic: Subpart 923.70—Environmental, Energy and Water Efficiency, Renewable Energy Technologies, and Occupational Safety Programs