PART 3028—BONDS AND INSURANCE

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Subpart 3028.1—Bonds and Other Financial Protections

3028.106 Administration.

3028.106-6 Furnishing information.

3028.106-70 Execution and administration of bonds.

3028.106-490 Contract clause (USCG).

Subpart 3028.3—Insurance

3028.306 Insurance under fixed-price contracts.

3028.306-90 Contracts for lease of aircraft (USCG).

3028.307 Insurance under cost-reimbursement contracts.

3028.307-1 Group insurance plans.

3028.310 Contract clause for work on a Government installation.

3028.310-70 Contract clause.

3028.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

3028.311-1 Contract clause.

Parent topic: SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

Subpart 3028.1—Bonds and Other Financial Protections

3028.106 Administration.

3028.106-6 Furnishing information.

(b) The contracting officer shall, upon request, furnish the name and address of the prime contractor's surety or sureties to employees, suppliers, and subcontractors having a contractual or employment relationship with prime contractors, subcontractors or suppliers. When furnishing surety information, the inquirer may also be informed that:

(1) Persons believing that they have legal remedies under the Miller Act are cautioned to consult their own legal advisor regarding the proper steps to take to obtain remedies.

(2) On construction contracts exceeding $2,000, if the contracting officer is informed (through routine compliance checking, a complaint, or a request for information) that a laborer, mechanic, apprentice, trainee, watchman, or guard employed by the contractor or subcontractor at any tier may have been paid wages less than those required by the applicable labor standards provisions of the contract, the contracting officer shall promptly initiate an investigation in accordance with (FAR) 48 CFR subpart 22.4, irrespective of the employee's rights under the Miller Act. When an employee's request for information is involved, the contracting officer shall inform the inquirer that such investigation will be made. Such investigation is required pursuant to the provisions of the Davis-Bacon Act, Contract Work Hours and Safety Standards Act, and Copeland (Anti-Kickback) Act for assuring proper payment to such employees.

(c) When furnishing a copy of a payment bond and contract in accordance with (FAR) 48 CFR 28.106-6(c), the requirement for a copy of the contract may be satisfied by furnishing a machine-duplicate copy of the contract's cover page, showing the contract number and date, the contractor's name and signature, the contracting officer's signature, and the description of the contract work. The contracting officer furnishing the copies shall place the statement “Certified to be a true and correct copy” followed by a signature, title and name of the Component. The fee for furnishing the requested certified copies shall be determined according to the DHS Freedom of Information Act regulation, 6 CFR part 5, subpart B.

3028.106-70 Execution and administration of bonds.

(a) The contracting officer shall notify the surety within 30 days, of the contractor's failure to perform in accordance with the terms of the contract.

(b) When a partnership is a principal on a bond, the names of all the members of the firm shall be listed in the bond following the name of the firm, and the phrase “a partnership composed of.” If a principal is a corporation, the state of incorporation shall also appear on the bond.

(c) Performance or payment bond(s) other than an annual bond shall not predate the contract to which it pertains.

(d) Bonds may be filed with the original contract to which they apply, or all bonds can be separately maintained and reviewed quarterly for validity. If separately maintained, each contract file shall cross-reference the applicable bonds.

3028.106-490 Contract clause (USCG).

For the U.S. Coast Guard, the contracting officer shall insert the USCG clause at (HSAR) 48 CFR 3052.228-90, Notification of Miller Act Payment Bond Protection (USCG), in solicitations and contracts, and shall require its first-tier subcontractors to insert the clause in all of their subcontracts, when payment bonds are required.

Subpart 3028.3—Insurance

3028.306 Insurance under fixed-price contracts.

3028.306-90 Contracts for lease of aircraft (USCG).

(a) For the U.S. Coast Guard, the contracting officer shall insert the clauses at (HSAR) 48 CFR 3052.228-91 through 3052.228-93, unless otherwise indicated by the specific instructions for their use, in any contract for the lease of aircraft (including aircraft used in out-service flight training).

(b) For the U.S. Coast Guard, the contracting officer shall insert the clause at (HSAR) 48 CFR 3052.228-91, Loss of or Damage to Leased Aircraft, in any contract for the lease of aircraft, except in the following circumstances:

(1) When the hourly rental rate does not exceed $250 and the total rental cost for any single transaction is not in excess of $2,500:

(2) When the cost of hull insurance does not exceed 10 percent of the contract rate; or

(3) When the lessor's insurer does not grant a credit for uninsured hours, thereby preventing the lessor from granting the same to the Government.

(c) For the U.S. Coast Guard, the contracting officer shall insert the clause at (HSAR) 48 CFR 3052.228-92, Fair Market Value of Aircraft, when fair market value of the aircraft can be determined.

(d) 49 U.S.C. 44112, as amended, provides that no lessor of an aircraft under a *bona fide* lease of 30 days or more shall be liable by reason of his interest as lessor or title-holder of the aircraft for any injury to or death of persons, or damage to or loss of property, unless such aircraft is in the actual possession or control of such person at the time of such injury, death, damage or loss. On short-term or intermittent-use leases, however, the owner may be liable for damage caused by operation of the aircraft. It is usual for the aircraft owner to retain insurance covering this liability during the term of such lease. Such insurance can, often for little or no increase in premium, be made to cover the Government's exposure to liability as well. In order to take advantage of this coverage, the Risks and Indemnities clause at (HSAR) 48 CFR 3052.228-93 prescribed in paragraph (d)

(1) of this section shall be used.

(1) For the U.S. Coast Guard, the contracting officer shall insert the clause at (HSAR) 48 CFR 3052.228-93, Risk and Indemnities, in any contract for out-service flight training or for the lease of aircraft when the Government will have exclusive use of the aircraft for a period of less than thirty days.

(2) For the U.S. Coast Guard, any contract for out-service flight training shall include a clause in the contract schedule stating substantially that the contractor's personnel shall at all times during the course of the training be in command of the aircraft and that at no time shall other personnel be permitted to take command of the aircraft.

3028.307 Insurance under cost-reimbursement contracts.

3028.307-1 Group insurance plans.

Plans shall be submitted to the contracting officer, who must obtain the advice of legal counsel.

3028.310 Contract clause for work on a Government installation.

3028.310-70 Contract clause.

Insert a clause substantially similar to (HSAR) 48 CFR 3052.228-70, “Insurance,” in all solicitations and contracts that contain the clause at (FAR) 47 CFR 52.228-5.

3028.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

3028.311-1 Contract clause.

Insert a clause substantially similar to (HSAR) 48 CFR 3052.228-70, “Insurance,” in all solicitations and contracts that contain the clause at (FAR) 48 CFR 52.228-7, unless waived by an official one level above the contracting officer.