

204.404 Contract clause.

204.404-70 Additional contract clauses.

(a) Use the clause at 252.204-7000, Disclosure of Information, in solicitations and contracts when the contractor will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public.

(b) Use the clause at 252.204-7003, Control of Government Personnel Work Product, in all solicitations and contracts.

(c) Use the clause at 252.204-7005, Oral Attestation of Security Responsibilities, in solicitations and contracts that include the clause at FAR 52.204-2, Security Requirements.

[57 FR 14992, Apr. 23, 1992, as amended at 64 FR 45197, Aug. 19, 1999]

204.470 U.S.-International Atomic Energy Agency Additional Protocol.

204.470-1 General.

Under the U.S.-International Atomic Energy Agency Additional Protocol (U.S.-IAEA AP), the United States is required to declare a wide range of public and private nuclear-related activities to the IAEA and potentially provide access to IAEA inspectors for verification purposes.

[74 FR 2412, Jan. 15, 2009]

204.470-2 National security exclusion.

(a) The U.S.-IAEA AP permits the United States unilaterally to declare exclusions from inspection requirements for activities, or locations or information associated with such activities, with direct national security significance.

(b) In order to ensure that all relevant activities are reviewed for direct national security significance, both current and former activities, and associated locations or information, are to be considered for applicability for a national security exclusion.

(c) If a DoD program manager receives notification from a contractor that the contractor is required to report any of its activities in accordance with the U.S.-IAEA AP, the program manager will—

(1) Conduct a security assessment to determine if, and by what means, access may be granted to the IAEA; or

(2) Provide written justification to the component or agency treaty office for application of the national security exclusion at that location to exclude access by the IAEA, in accordance with DoD Instruction 2060.03, Application of the National Security Exclusion to the Agreements Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America.

[74 FR 2412, Jan. 15, 2009]

204.470-3 Contract clause.

Use the clause at 252.204-7010, Requirement for Contractor to Notify DoD if the Contractor's Activities are Subject to Reporting Under the U.S.-International Atomic Energy Agency Additional Protocol, in solicitations and contracts for research and development or major defense acquisition programs involving—

(a) Any fissionable materials (e.g., uranium, plutonium, neptunium, thorium, americium);

(b) Other radiological source materials; or

(c) Technologies directly related to nuclear power production, including nuclear or radiological waste materials.

[74 FR 2412, Jan. 15, 2009]

Subpart 204.6—Contract Reporting

204.602 General.

See PGI 204.602 for additional information on the Federal Procurement Data System (FPDS) and procedures for resolving technical or policy issues relating to FPDS.

[74 FR 37644, July 29, 2009]

204.604 Responsibilities.

(1) The process for reporting contract actions to FPDS should, where possible, be automated by incorporating it into contract writing systems.

(2) Data in FPDS is stored indefinitely and is electronically retrievable. Therefore, the contracting officer may reference the contract action report

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(CAR) approval date in the associated Government contract file instead of including a paper copy of the electronically submitted CAR in the file. Such reference satisfies contract file documentation requirements of FAR 4.803(a).

(3) By December 15th of each year, the chief acquisition officer of each DoD component required to report its contract actions shall submit to the Director, Defense Procurement and Acquisition Policy, its annual certification and data validation results for the preceding fiscal year in accordance with the DoD Data Improvement Plan requirements at <http://www.acq.osd.mil/dpap/pdi/eb>. The Director, Defense Procurement and Acquisition Policy, will submit a consolidated DoD annual certification to the Office of Management and Budget by January 5th of each year.

[74 FR 37644, July 29, 2009]

204.606 Reporting data.

In addition to FAR 4.606, follow the procedures at PGI 204.606 for reporting data to FPDS.

[74 FR 37644, July 29, 2009]

Subpart 204.8—Contract Files

204.802 Contract files.

Official contract files shall consist of—

(1) Only original, authenticated or conformed copies of contractual instruments—

(i) *Authenticated copies* means copies that are shown to be genuine in one of two ways—

(A) Certification as true copy by signature of an authorized person; or

(B) Official seal.

(ii) *Conformed copies* means copies that are complete and accurate, including the date signed and the names and titles of the parties who signed them.

(2) Signed or official record copies of correspondence, memoranda, and other documents.

204.804 Closeout of contract files.

Contracting officers shall close out contracts in accordance with the procedures at PGI 204.804. The closeout date for file purposes shall be determined

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and documented by the procuring contracting officer.

[73 FR 4114, Jan. 24, 2008]

204.805 Disposal of contract files.

(1) The sources of the period for which official contract files must be retained are General Records Schedule 3 (Procurement, Supply, and Grant Records) and General Records Schedule 6 (Accountable Officers' Accounts Records). Copies of the General Records Schedule may be obtained from the National Archives and Records Administration, Washington, DC 20408.

(2) Deviations from the periods cannot be granted by the Defense Acquisition Regulatory Council. Forward requests for deviations to both the Government Accountability Office and the National Archives and Records Administration.

(3) Hold completed contract files in the office responsible for maintaining them for a period of 12 months after completion. After the initial 12 month period, send the records to the local records holding or staging area until they are eligible for destruction. If no space is available locally, transfer the files to the General Services Administration Federal Records Center that services the area.

(4) Duplicate or working contract files should contain no originals of materials that properly belong in the official files. Destroy working files as soon as practicable once they are no longer needed.

(5) Retain pricing review files, containing documents related to reviews of the contractor's price proposals, subject to cost or pricing data (see FAR 15.403-4), for six years. If it is impossible to determine the final payment date in order to measure the six year period, retain the files for nine years.

[56 FR 36289, July 31, 1991, as amended at 62 FR 40472, July 29, 1997; 63 FR 11528, Mar. 9, 1998; 71 FR 53044, Sept. 8, 2006]

Subpart 204.9—Taxpayer Identification Number Information

SOURCE: 64 FR 43099, Aug. 9, 1999, unless otherwise noted.