

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 727—PATENTS, DATA, AND COPYRIGHTS

Subpart 727.4—Rights in Data and Copyrights

Sec.

727.404 Basic rights in data clause.

727.409 Solicitation provisions and contract clauses.

AUTHORITY: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

SOURCE: 72 FR 53163, Sept. 18, 2007, unless otherwise noted.

Subpart 727.4—Rights in Data and Copyrights

727.404 Basic rights in data clause.

(a) through (f) [Reserved]

(g) When the contract includes a requirement for the contractor to assign copyright to the government or another party, the contracting officer shall incorporate (48 CFR) 752.227-14 and/or include an express limitation or restriction in the contract. USAID contracting officers will assert such a right in limited circumstances in accordance with the principles as stated in (48 CFR) 27.402.

727.409 Solicitation provisions and contract clauses.

(a) When the contracting officer incorporates (48 CFR) FAR 52.227-14, and if the release or publication of data first produced in the performance of the contract may be sensitive to U.S. Government relations with the cooperating country, the contracting officer must use the clause at (48 CFR) 752.227-14.

(b) through (m) [Reserved]

(n) The prescriptions for provisions and clauses in (48 CFR) FAR 27.409 apply to all USAID contracts regardless of place of performance.

PART 728—BONDS AND INSURANCE

Subpart 728.1—Bonds

Sec.

728.105-1 Advance payment bonds.

Subpart 728.3—Insurance

728.305-70 Overseas worker's compensation and war-hazard insurance—waivers and USAID insurance coverage.

728.307-2 Liability.

728.307-70 Medical Evacuation (MEDEVAC) Services (MAR 1993).

728.309 Contract clause for worker's compensation insurance.

728.313 Contract clauses for insurance of transportation or transportation-related services.

AUTHORITY: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR, 1979 Comp., p. 435.

SOURCE: 49 FR 13249, Apr. 3, 1984, unless otherwise noted.

Subpart 728.1—Bonds

728.105-1 Advance payment bonds.

(a) Generally, advance payment bonds will not be required in connection with USAID contracts containing an advance payment provision. In lieu thereof, contracting officers will follow procedures set forth in FAR 32.409-3.

(b) Whenever a contracting officer considers that an advance payment bond is necessary, the contracting officer will: (1) Establish a bond penalty that will adequately protect interests of the Government, (2) use the USAID Advance Payment Bond format, (3) place bond with a surety currently approved by the U.S. Treasury Department according to the latest Treasury Department Circular 570, (4) stipulate that the cost of the bond shall not exceed a rate of \$7.50 per \$1,000 per annum based on the penalty of the bond, without the prior written approval of the Office of Acquisition and Assistance, Policy Division (M/OAA/P).

(c) Where the surety's obligation under an advance payment bond covers all advances made to the contractor

during the term of the contract, no release should be issued to the surety until all advances made and to be made under the contract have been fully liquidated in accordance with the provisions of the contract, such as no-pay vouchers, reports of expenditures, or by refund. Where the surety's obligation under the bond is limited to advances made during a specified period of time, no release should be issued to the surety until all advances made and to be made during the specified period have been liquidated as aforesaid.

[49 FR 13249, Apr. 3, 1984, as amended at 50 FR 50302, Dec. 10, 1985; 55 FR 6802, Feb. 27, 1990; 56 FR 67224, Dec. 30, 1991; 59 FR 33446, June 29, 1994; 72 FR 19670, Apr. 19, 2007]

Subpart 728.3—Insurance

728.305-70 Overseas worker's compensation and war-hazard insurance—waivers and USAID insurance coverage.

(a) Upon the recommendation of the USAID Administrator, the Secretary of Labor may waive the applicability of the Defense Base Act (DBA) with respect to any contract, subcontract, or subordinate contract, work location, or classification of employees. Either the contractor or USAID can request a waiver from coverage. Such a waiver can apply to any employees who are not U.S. citizens, not residents of, or not hired in the United States. Waivers requested by the contractor are submitted to the contracting officer for approval and further submission to the Department of Labor, which grants the waiver. Application for a waiver is submitted on Labor Department Form BEC 565. USAID has a number of blanket waivers already in effect for certain countries that are applicable to its direct contracts with contractors performing in such countries. Where such waivers are granted from coverage under the DBA, the waiver is conditioned on providing other worker's compensation coverage to employees to which the waiver applies. Usually this takes the form of securing worker's compensation coverage of the country where work will be performed or of the country of the employee's nationality, whichever offers greater benefits. The Department of Labor has

granted partial blanket waivers of DBA coverage applicable to USAID-financed contracts performed in certain countries, subject to two conditions:

(1) Employees hired in the United States by the contractor, and citizens or residents of the United States are to be provided DBA insurance coverage;

(2) Waived employees (i.e., employees who are neither U.S. citizens nor U.S. resident aliens, and who were hired outside the United States) will be provided worker's compensation benefits as required by the laws of the country in which they are working or the laws of their native country, whichever offers greater benefits. Information as to whether a DBA Waiver has been obtained by USAID for a particular country may be obtained from the cognizant USAID contracting officer.

(b) To assist contractors in securing insurance at minimal rates for the workmen's compensation insurance required under the DBA, and to facilitate meeting insurance requirements for such coverage, USAID, after open and competitive negotiation, has entered into a contract with an insurance carrier to provide such coverage at a specified rate. The terms of this contract require the insurance carrier to provide coverage, and the contractor to make payments to and handle its claims with that insurance carrier. Contracting officers are responsible for explaining and advising contractors of the details of securing such insurance.

[49 FR 13249, Apr. 3, 1984, as amended at 52 FR 4144, Feb. 10, 1987. Redesignated at 53 FR 50630, Dec. 16, 1988, and amended at 54 FR 16122, Apr. 21, 1989; 56 FR 67224, Dec. 30, 1991]

728.307-2 Liability.

(a)-(b) [Reserved]

(c) *Automobile liability.* In order to ensure that private automobiles used by contractor employees stationed overseas under an USAID contract are properly insured, USAID has established minimum required coverages as a supplement to the FAR clause at 52.228-7. This supplemental coverage is specified in AIDAR 752.228-7, and is to be used in all USAID-direct contracts involving performance overseas.

[53 FR 50630, Dec. 16, 1988]