

**2052.242-71**

(3) The rationale for the submitter's views, including an assessment based on risk, safety and cost benefit considerations of the consequences should the submitter's position not be adopted by NRC.

(g) The Office Director or Regional Administrator will immediately forward the submittal to the NRC DPV Review Panel and acknowledge receipt of the DPV, ordinarily within five (5) calendar days of receipt.

(h) The panel will normally review the DPV within seven calendar days of receipt to determine whether enough information has been supplied to undertake a detailed review of the issue. Typically, within 30 calendar days of receipt of the necessary information to begin a review, the panel will provide a written report of its findings to the Office Director or Regional Administrator and to the Contracting Officer, which includes a recommended course of action.

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(i) The Office Director or Regional Administrator will consider the DPV Review Panel's report, make a decision on the DPV and provide a written decision to the contractor and the Contracting Officer normally within seven calendar days after receipt of the panel's recommendation.

(j) Subsequent to the decision made regarding the DPV Review Panel's report, a summary of the issue and its disposition will be included in the NRC Weekly Information Report submitted by the Office Director. The DPV file will be retained in the Office or Region for a minimum of one year thereafter. For purposes of the contract, the DPV shall be considered a deliverable under the contract. Based upon the Office Director or Regional Administrator's report, the matter will be closed.

(End of clause)

# CHAPTER 21—OFFICE OF PERSONNEL MANAGEMENT, FEDERAL EMPLOYEES GROUP LIFE INSURANCE FEDERAL ACQUISITION REGULATION

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## SUBCHAPTER A—GENERAL

### PART 2101—FEDERAL ACQUISITION REGULATIONS SYSTEM

#### Subpart 2101.1—Purpose, Authority, Issuance

- Sec.  
2101.101 Purpose.  
2101.102 Authority.  
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#### Subpart 2101.3—Agency Acquisition Regulations

- 2101.301 Policy.  
2101.370 Effective date of LIFAR amendments.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40372, July 28, 1993, unless otherwise noted.

#### Subpart 2101.1—Purpose, Authority, Issuance

##### 2101.101 Purpose.

(a) This subpart establishes Chapter 21, Office of Personnel Management Federal Employees' Group Life Insurance Federal Acquisition Regulation, within title 48, the Federal Acquisition Regulations System, of the Code of Federal Regulations. The short title of this regulation shall be LIFAR.

(b) The purpose of the LIFAR is to implement and supplement the Federal Acquisition Regulation (FAR) specifically for acquiring and administering a contract, or contracts, for life insurance under the Federal Employees' Group Life Insurance (FEGLI) Program.

##### 2101.102 Authority.

(a) The LIFAR is issued by the Director of the Office of Personnel Management in accordance with the authority of 5 U.S.C. Chapter 87 and other applicable laws and regulations.

(b) The LIFAR does not replace or incorporate regulations found at 5 CFR part 870, which provide the substantive policy guidance for administration of

the FEGLI Program under 5 U.S.C. chapter 87. The following is the order of precedence in interpreting a contract provision under the FEGLI Program:

- (1) 5 U.S.C. chapter 87.
- (2) 5 CFR part 870.
- (3) 48 CFR chapters 1 and 21.
- (4) The FEGLI Program contract.

[58 FR 40372, July 28, 1993, as amended at 70 FR 41149, July 18, 2005]

##### 2101.103 Applicability.

The FAR is generally applicable to contracts negotiated in the FEGLI Program pursuant to 5 U.S.C. chapter 87. The LIFAR implements and supplements the FAR where necessary to identify basic and significant acquisition policies unique to the FEGLI Program.

##### 2101.104 Issuance.

##### 2101.104-1 Publication and code arrangement.

(a) The LIFAR and its subsequent changes are published in:

- (1) Daily issues of the FEDERAL REGISTER; and
- (2) The Code of Federal Regulations, in cumulative form.

(b) The LIFAR is issued as chapter 21 of title 48 of the Code of Federal Regulations.

##### 2101.104-2 Arrangement of regulations.

(a) *General.* The LIFAR conforms with the arrangement and numbering system prescribed by FAR 1.104 and 1.303. However, when a FAR part or subpart is adequate for use without further OPM implementation or supplementation, there will be no corresponding LIFAR part, subpart, etc. The LIFAR is to be used in conjunction with the FAR and the order for use is:

- (1) FAR;
- (2) LIFAR.

(b) *Citation.* (1) In formal documents, such as legal briefs, citation of Chapter 21 material that has been published in the FEDERAL REGISTER will be to title 48 of the Code of Federal Regulations.

## 2101.301

(2) In informal documents, any section of chapter 21 may be identified as “LIFAR” followed by the section number.

### Subpart 2101.3—Agency Acquisition Regulations

#### 2101.301 Policy.

(a) Procedures, contract clauses, and other aspects of the acquisition process for contracts in the FEGLI Program shall be consistent with the principles of the FAR. Changes to the FAR that are otherwise authorized by statute or applicable regulation, dictated by the practical realities associated with certain unique aspects of life insurance, or necessary to satisfy specific needs of the Office of Personnel Management, to the extent not otherwise regulated in the FAR, shall be implemented as amendments to the LIFAR and published in the FEDERAL REGISTER, or as deviations to the FAR in accordance with FAR subpart 1.4.

(b) OPM may issue internal procedures, instructions, directives, and guides to clarify or implement the LIFAR within OPM. Clarifying or implementing procedures, instructions, directives, and guides issued pursuant to this section of the LIFAR must:

(1) Be consistent with the policies and procedures contained in this chapter as implemented and supplemented from time to time; and

(2) Follow the format, arrangement, and numbering system of this chapter to the extent practicable.

[58 FR 40372, July 28, 1993, as amended at 70 FR 41149, July 18, 2005]

#### 2101.370 Effective date of LIFAR amendments.

(a) Except as provided in paragraphs (b) and (c) of this section, an amendment to the LIFAR is effective when promulgated or as provided in the amendment.

(b) Except as provided in paragraphs (c) and (d) of this section, if the LIFAR is amended in a manner which would increase the contractor's(s') costs or liabilities under the contract(s), the amendment will be made effective the October 1 subsequent to the amendment's promulgation, unless the con-

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tractor(s) agree(s) in writing to an earlier date.

(c) Except as provided for in paragraph (d) of this section, if the LIFAR is amended between July 31 and October 1 in a manner which would increase the contractor's(s') costs or liabilities under the contract(s), the amendment will not be effective until the October 1 in the year following the amendment's promulgation, unless the contractor(s) agree(s) in writing to an earlier date.

(d) Paragraphs (b) and (c) of this section are not applicable to amendments that are necessary to implement new or existing legislation.

(e) OPM will not initiate any changes to the LIFAR during a continuity of services period, as discussed in section 2152.237–70 of this chapter.

[58 FR 40372, July 28, 1993, as amended at 70 FR 41149, July 18, 2005]

## PART 2102—DEFINITIONS OF WORDS AND TERMS

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

### Subpart 2102.1—Definitions

#### 2102.101 Definitions.

In this chapter, unless otherwise indicated, the following terms have the meaning set forth in this subpart.

*Contract* means a policy or policies of group life and accidental death and dismemberment insurance to provide the benefits specified by 5 U.S.C. chapter 87.

*Contractor* means an insurance company contracted to provide the benefits specified by 5 U.S.C. chapter 87.

*Contract price* means premium.

*Contract year* means October 1 through September 30. Also referred to as contract term.

*Director* means the Director of the Office of Personnel Management.

*Employees' Life Insurance Fund* means the trust fund established under 5 U.S.C. 8714.

*Enrollee* means the insured, or, where applicable, the assignee.

*FEGLI Program* means the Federal Employees' Group Life Insurance Program.

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*Fixed price with limited cost redetermination plus fixed fee contract* means a contract which provides for:

(1) A fixed price during the contract year with a cost element that is adjusted at the end of the contract term based on costs incurred under the contract; and

(2) A profit or fee that is fixed at the beginning of the contract term. The amount of adjustment for costs is limited to the amount in the Employees' Life Insurance Fund. The fee will be in the form of either a risk charge or a service charge.

*Grace period* means 31 days from and including the payment due date of the first business day of the month.

*Insurance company*, as provided in 5 U.S.C. 8709, means a company licensed to transact life and accidental death and dismemberment insurance under the laws of all the States and the District of Columbia. It must have in effect, on the most recent December 31 for which information is available to the Office of Personnel Management, an amount of employee group life insurance equal to at least 1 percent of the total amount of employee group life insurance in the United States in all life insurance companies.

*OPM* means the United States Office of Personnel Management.

*Premium* means an amount intended to cover the estimated annual benefits and administrative costs plus a fixed service or risk charge, made available to the Contractor in 12 equal installments. At the end of the contract year, a reconciliation of premiums, benefits, and other costs is performed as a limited cost redetermination.

*Reinsurer* means a company that reinsures portions of the total amount of insurance under the contract as specified in 5 U.S.C. 8710 and is not an agent or representative of the Contractor.

*Subcontract* means a contract entered into by any subcontractor that furnishes supplies or services for performance of a prime contract under the FEGLI Program. Except for the purpose of FAR subpart 22.8—Equal Employment Opportunity, the term subcontract does not include a contract with a reinsurer under the FEGLI Program.

*Subcontractor* means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor under the FEGLI Program contract. Except for the purpose of FAR subpart 22.8—Equal Employment Opportunity, the term subcontractor does not include reinsurers under the FEGLI Program.

[70 FR 41149, July 18, 2005]

## PART 2103—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

### Subpart 2103.5—Other Improper Business Practices

Sec.

2103.570 Misleading, Deceptive, or Unfair Advertising.

2103.571 Contract clause.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40373, July 28, 1993, unless otherwise noted.

### Subpart 2103.5—Other Improper Business Practices

#### 2103.570 Misleading, Deceptive, or Unfair Advertising.

(a) OPM, or the Contractor with the approval of OPM, makes available to Federal employees a booklet describing the provisions of the FEGLI Program, which includes information about eligibility, enrollment, and general procedures. The booklet, along with valid election documents, serves as certification of the employee's coverage under the FEGLI Program. Any marketing/advertising directed specifically at Federal employees and life insurance contacts with Federal employees for the purpose of selling FEGLI Program coverage must be approved by OPM in advance.

(b) The Contractor is prohibited from making incomplete and/or incorrect comparisons or using disparaging or minimizing techniques to compare its other products or services to those of the FEGLI Program. The Contractor agrees that any advertising material authorized and released by the Contractor which mentions the FEGLI

**2103.571**

Program will be truthful and not misleading and will present an accurate statement of FEGLI Program benefits. The Contractor will use reasonable efforts to assure that agents selling its other products are aware of and abide by this prohibition.

(c) The contractor's failure to conform to the requirements of this subpart shall be considered by OPM in the determination of the service charge prenegotiation objective.

[58 FR 40373, July 28, 1993, as amended at 70 FR 41150, July 18, 2005]

**2103.571 Contract clause.**

The clause at 2152.203-70 shall be inserted in FEGLI Program contracts and in subcontracts.

**PART 2104—ADMINISTRATIVE MATTERS**

**Subpart 2104.7—Contractor Records Retention**

Sec.  
2104.703 Policy.

**Subpart 2104.9—Taxpayer Identification Number**

2104.9001 Contract clause.

**Subpart 2104.70—Designation of Authorized Personnel**

2104.7001 Designation of authorized personnel.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40373, July 28, 1993, unless otherwise noted.

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**Subpart 2104.7—Contractor Records Retention**

**2104.703 Policy.**

In view of the unique payment schedules of FEGLI Program contracts and the compelling need for records retention periods sufficient to protect the Government's interest, contractors shall be required to maintain records for periods determined in accordance with the provisions of FAR 4.703(b)(1) and LIFAR 2115.106-270.

**Subpart 2104.9—Taxpayer Identification Number**

**2104.9001 Contract clause.**

The clause at 2152.204-70 of this chapter must be inserted in all FEGLI Program contracts.

[70 FR 41150, July 18, 2005]

**Subpart 2104.70—Designation of Authorized Personnel**

**2104.7001 Designation of authorized personnel.**

The contractor shall notify the contracting officer in writing of the name(s), title(s), and address(es) of the individual(s) authorized to act on behalf of the contractor regarding a LIFAR Program contract. The notice shall include any restriction(s) upon the authority of the individual(s). Any change to the notice must also be provided to the contracting officer in writing.

## SUBCHAPTER B—ACQUISITION PLANNING

### PART 2105—PUBLICIZING CONTRACT ACTIONS

AUTHORITY: 5 U.S.C. 8709; 40 U.S.C. 486(c); 48 CFR 1.301.

#### Subpart 2105.70—Applicability

##### 2105.7001 Applicability.

FAR part 5 has no practical application to the FEGLI Program because the requirements for eligible contractors (i.e., qualified life insurance companies) are stated in 5 U.S.C. 8709.

[70 FR 41150, July 18, 2005]

### PART 2106—COMPETITION REQUIREMENTS

AUTHORITY: 5 U.S.C. 8709; 40 U.S.C. 486(c); 48 CFR 1.301.

#### Subpart 2106.70—Applicability

##### 2106.7001 Applicability.

FAR part 6 has no practical application to the FEGLI Program because 5 U.S.C. chapter 87 exempts the FEGLI Program from competitive bidding.

[70 FR 41150, July 18, 2005]

### PART 2109—CONTRACTOR QUALIFICATIONS

#### Subpart 2109.4—Debarment, Suspension, and Ineligibility

Sec.

2109.408 Certification regarding debarment, suspension, proposed debarment, and other responsibility matters.

2109.409 Certification and contract clause.

#### Subpart 2109.70—Minimum Standards for FEGLI Program Contractors

2109.7001 Minimum standards for FEGLI Program contractors.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40374, July 28, 1993, unless otherwise noted.

#### Subpart 2109.4—Debarment, Suspension, and Ineligibility

##### 2109.408 Certification regarding debarment, suspension, proposed debarment and other responsibility matters.

FAR subpart 9.4 is implemented by changing the FAR offeror's certification at FAR 52.209-5 (which is part of a solicitation) to a pre-contract certificate and a contract clause. These provisions reflect the FEGLI Program's statutory exemption from competitive bidding (5 U.S.C. 8709), which obviates the issuance of solicitations.

##### 2109.409 Certification and contract clause.

(a) The contracting officer may require the precontract certificate in 2152.209-70 to be filed prior to or during negotiations.

(b) The contracting officer shall insert the clause at 2152.209-71 in all FEGLI Program contracts.

#### Subpart 2109.70—Minimum Standards for FEGLI Program Contractors

##### 2109.7001 Minimum standards for FEGLI Program contractors.

(a) The Contractor must meet the requirements of chapter 87 of title 5, United States Code; part 870 of title 5, Code of Federal Regulations; chapter 1 of title 48, Code of Federal Regulations; and the standards in this subpart. The Contractor must continue to meet these and the following statutory and regulatory requirements while under contract with OPM. Failure to meet these requirements and standards is cause for OPM's termination of the contract in accordance with part 2149 of this chapter.

(b) The contractor must actually be engaged in the life insurance business and must be licensed to transact life and accidental death and dismemberment insurance under the laws of all the States and the District of Columbia at the time of application.

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(c) The contractor must not be a Federal, State, local or territorial government entity.

(d) The contractor must not be debarred, suspended or ineligible to participate in Government contracting or subcontracting for any reason.

(e) The contractor must keep statistical and financial records regarding the FEGLI Program separate from that of all its other lines of business.

(f) The Contractor agrees to enter into annual premium rate redeterminations with OPM.

(g) The Contractor must furnish such reasonable reports as OPM determines are necessary to administer the FEGLI Program. The cost of preparation of such reports will be considered an allowable expense within the administrative expense ceiling defined in section 2152.231-70 of this chapter.

(h) The contractor must establish and maintain a system of internal control that provides reasonable assurance that:

(1) The payment of claims and other expenses is in compliance with legal, regulatory, and contractual guidelines;

(2) Funds, property, and other FEGLI Program assets are safeguarded against waste, loss, unauthorized use, or misappropriation;

(3) Revenues and expenditures applicable to FEGLI Program operations are properly recorded and accounted for to permit the preparation of reliable financial reporting and to maintain accountability over assets; and,

(4) Data are accurately and fairly disclosed in all reports required by OPM.

(i) The contractor must permit representatives of OPM and of the General Accounting Office to audit and examine records and accounts pertaining to the FEGLI Program at such reasonable times and places as may be designated by OPM or the General Accounting Office.

[58 FR 40374, July 28, 1993, as amended at 70 FR 41150, July 18, 2005]

**PART 2110—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS**

**Subpart 2110.70—Contract Specifications**

- Sec.
- 2110.7000 Scope of subpart.
- 2110.7001 Definitions.
- 2110.7002 Contractor investment of FEGLI Program funds.
- 2110.7003 Significant events.
- 2110.7004 Contract clauses.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(e); 48 CFR 1.301.

SOURCE: 58 FR 40374, July 28, 1993, unless otherwise noted.

**Subpart 2110.70—Contract Specifications**

**2110.7000 Scope of subpart.**

This subpart prescribes mandatory specifications for performance under FEGLI Program contracts.

**2110.7001 Definitions.**

*Investment income*, as used in this subpart, means the net amount on an investment of FEGLI Program funds earned by the contractor after deducting reasonable, necessary, and properly allocated investment expenses.

*Significant event*, as used in this subpart, means any occurrence or anticipated occurrence that might reasonably be expected to have a material effect upon the contractor's ability to meet its obligations under the LIFAR.

**2110.7002 Contractor investment of FEGLI Program funds.**

(a) The Contractor is required to invest and reinvest all FEGLI Program funds on hand, including any attributable to the special contingency reserve (as used in 5 U.S.C. 8712), until needed to discharge promptly the obligations incurred under the contract. Within the constraints of safety and liquidity of investments, the Contractor must seek to maximize investment income. However, the Contractor will not be responsible for any actions taken at the direction of OPM.

(b) The Contractor is required to credit income earned from its investment of FEGLI Program funds to the FEGLI Program. Thus, the Contractor

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must be able to allocate investment income to the FEGLI Program in an appropriate manner. If the Contractor fails to invest funds on hand, properly allocate investment income, or credit any income due to the contract, for whatever reason, it must return or credit any investment income lost to OPM or the FEGLI Program, retroactive to the date that such funds should have been originally invested, allocated, or credited in accordance with the clause at 2152.210-70 of this chapter.

[70 FR 41150, July 18, 2005]

**2110.7003 Significant events.**

The contractor is required to inform the contracting officer of all significant events.

**2110.7004 Contract clauses.**

(a) The clause at 2152.210-70 shall be inserted in all FEGLI Program contracts.

(b) The clause at 2152.210-71 shall be inserted in all FEGLI Program contracts.

## SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

### PART 2114—SEALED BIDDING

AUTHORITY: 5 U.S.C. 8709; 40 U.S.C. 486(c); 48 CFR 1.301.

#### Subpart 2114.70—Applicability

##### 2114.7001 Applicability.

FAR part 14 has no practical application to the FEGLI Program because 5 U.S.C. chapter 87 exempts the FEGLI Program from competitive bidding.

[70 FR 41151, July 18, 2005]

### PART 2115—CONTRACTING BY NEGOTIATION

Sec.

2115.070 Negotiation authority.

2115.071 Specific retention periods: Contract clause.

#### Subpart 2115.1—Source Selection Processes and Techniques

2115.170 Applicability.

#### Subpart 2115.2—Solicitation and Receipt of Proposals and Information

2115.270 Applicability.

#### Subpart 2115.3—Source Selection

2115.370 Applicability.

#### Subpart 2115.4—Contract Pricing

2115.402 Policy.

2115.404-70 Profit.

2115.404-71 Profit analysis factors.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40375, July 28, 1993, unless otherwise noted.

##### 2115.070 Negotiation authority.

The authority to negotiate FEGLI Program contracts is conferred by 5 U.S.C. 8709.

[58 FR 40375, July 28, 1993. Redesignated at 70 FR 41151, July 18, 2005]

##### 2115.071 Specific retention periods: Contract clause.

Unless the contracting officer determines that there exists a compelling reason to include only the contract clause specified by FAR 52.215-2, “Audit—Negotiation,” the contracting officer shall also insert the clause at 2152.215-70 in all FEGLI Program contracts.

[58 FR 40375, July 28, 1993. Redesignated at 70 FR 41151, July 18, 2005]

#### Subpart 2115.1—Source Selection Processes and Techniques

##### 2115.170 Applicability.

FAR subpart 15.1 has no practical application to the FEGLI Program because prospective contractors (insurance companies) are considered for inclusion in the FEGLI Program in accordance with criteria provided in 5 U.S.C. chapter 87, LIFAR 2109.7001, and LIFAR 2115.370.

[70 FR 41151, July 18, 2005]

#### Subpart 2115.2—Solicitation and Receipt of Proposals and Quotations

##### 2115.270 Applicability.

(a) FAR subpart 15.2 has no practical application to the FEGLI Program because 5 U.S.C. chapter 87 exempts the FEGLI Program from competitive bidding.

(b) OPM will announce any opportunities to submit applications to provide life insurance through the FEGLI Program in insurance industry periodicals and other publications as deemed appropriate by OPM. The announcement will contain information on the address to which requests for application packages should be submitted and on deadline dates for submission of completed applications.

(c) Eligible contractors (i.e., qualified life insurance companies) are identified in accordance with 5 U.S.C. 8709. Prospective contractors voluntarily come

forth in accordance with procedures provided in section 2115.370.

(d) OPM may approve one or more life insurance companies that, in its judgment, are best qualified to provide life insurance coverage to Federal enrollees.

[58 FR 40375, July 28, 1993. Redesignated and amended at 70 FR 41151, July 18, 2005]

### Subpart 2115.3—Source Selection

#### 2115.370 Applicability.

FAR subpart 15.3 has no practical application to the FEGLI Program because prospective contractors (insurance companies) are considered for inclusion in the FEGLI Program in accordance with criteria provided in 5 U.S.C. chapter 87, LIFAR 2109.7001, and the following:

(a) Applications must be signed by an individual with legal authority to enter into a contract on behalf of the company for the dollar level of claims and expenses anticipated.

(b) Applications will be reviewed for evidence of substantial compliance in the following areas:

(1) *Management*: Stable management with experience pertinent to the life insurance industry and, in particular, large group management; sufficient operating experience to enable OPM to evaluate past and expected future performance.

(2) *Marketing*: Past ability to attract and retain large group contracts; steady or increasing amount of group life insurance in force.

(3) *Legal expertise*: Demonstrated competence in researching, compiling, and implementing various Federal and State laws that may impact payment of benefits; ability to defend legal challenges to payment of benefits.

(4) *Financial condition*: Establishment of firm budget projections and demonstrated success in keeping costs at or below those projections on a regular basis; evidence of the ability to sustain operations in the future and to meet obligations under the contract OPM might enter into with the company; adequate reserve levels; assets exceeding liabilities.

(5) *Establishment of office*: Ability to establish an administrative office capa-

ble of assessing, tracking, and paying claims.

(6) *Internal controls*: Ability to establish and maintain a system of internal control that provides reasonable assurance that the payment of claims and other expenses will be in compliance with legal, regulatory, and contractual guidelines; funds, property, and other FEGLI Program assets will be safeguarded against waste, loss, unauthorized use, or misappropriation; and revenues and expenditures applicable to FEGLI Program operations will be properly recorded and accounted for to permit the preparation of timely and accurate financial reporting and to maintain accountability over assets.

[58 FR 40375, July 28, 1993. Redesignated and amended at 70 FR 41151, July 18, 2005]

### Subpart 2115.4—Contract Pricing

#### 2115.402 Policy.

Pricing of FEGLI Program premium rates is governed by 5 U.S.C. 8707, 8708, 8711, 8714a, 8714b, and 8714c. FAR subpart 15.4 will be implemented by applying cost analysis policies and procedures. To the extent that reasonable or good faith actuarial estimates are used for pricing, such estimates will be deemed acceptable and, if inaccurate, will not constitute defective pricing.

[70 FR 41151, July 18, 2005]

#### 2115.404-70 Profit.

(a) *Risk charge*. (1) Section 8711(d) of title 5, United States Code, provides for payment of a risk charge to FEGLI Program contractors as compensation for the risk assumed under the FEGLI Program. It is appropriate to pay such a charge when substantial risk is borne by the contractor; that is, when the balance in the Employees' Life Insurance Fund is no larger than five times annual claims.

(2) The risk charge is determined by agreement between the contractor and OPM. The amount of risk charge shall be specified in the contract.

(b) *Waiver of the risk charge*. (1) When the Fund balance is greater than five times annual claims, OPM and the contractor may agree that the contractor will relinquish the risk charge in favor of a profit opportunity in the form of a

service charge for the contractor. The service charge so determined shall be the total service charge that may be negotiated for the contract and shall encompass any service charge (whether entitled service charge, profit, fee, contribution to surpluses, etc.) that may have been negotiated by the prime contractor with any subcontractor. At no time may both a risk charge and a service charge be paid for the same portion of a policy year.

(2) Once agreement to relinquish the risk charge is made, the agreement may not be cancelled unless OPM and the Contractor mutually agree to reinstitute payment of a risk charge; or unless the Fund balance falls below the level defined in 2115.404-70(a) and 30 days' notice of cancellation is provided; or unless the Contractor or OPM provides notice of cancellation for any reason 1 year prior to the date cancellation is sought.

(c) Any profit prenegotiation objective (service charge) will be determined on the basis of a weighted guidelines structured approach.

[58 FR 40375, July 28, 1993. Redesignated and amended at 70 FR 41151, July 18, 2005]

**2115.404-71 Profit analysis factors.**

(a) The OPM Contracting Officer will apply a weighted guidelines method when developing the prenegotiation objective (service charge) for the FEGLI Program contract. In accordance with the factors defined in FAR 15.404-4(d), OPM will apply the appropriate weights derived from the ranges specified in paragraph (b) of this section and will determine the prenegotiation objective based on the total dollar amount of the Contractor's Basic and Option C (family optional insurance) claims paid in the previous contract year.

(1) *Contractor performance.* OPM will consider such elements as the accurate and timely processing of benefit claims, the volume and validity of complaints received by OPM, effectiveness of internal controls systems in place, the timeliness and adequacy of reports on operations, and responsiveness to OPM offices, enrollees, beneficiaries, and Congress as measures of economical and efficient contract performance. This factor will be judged

apart from the Contractor's *basic* responsibility for contract compliance and will be a measure of the extent and nature of the Contractor's contribution to the FEGLI Program through the application of managerial expertise and effort. Evidence of effective contract performance will receive a plus weight, and poor performance or failure to comply with contract terms and conditions a zero weight. Innovations of benefit to the FEGLI Program will generally receive a plus weight; documented inattention or indifference to effective operations, a zero weight.

(2) *Contract cost risk.* OPM will evaluate the Contractor's risk annually in relation to the amount in the Employees' Life Insurance Fund and will evaluate this factor accordingly.

(3) *Federal socioeconomic programs.* OPM will consider documented evidence of successful Contractor-initiated efforts to support such Federal socioeconomic programs as drug and substance abuse deterrents and other concerns of the type enumerated in FAR 15.404-4(d)(1)(iii) as a factor in negotiating profit. This factor will be related to the quality of the Contractor's policies and procedures and the extent of exceptional effort or achievement demonstrated. Evidence of effective support of Federal socioeconomic programs will result in a plus weight; indifference to Federal socioeconomic programs will result in a zero weight; and only deliberate failure to provide opportunities to persons and organizations that would benefit from these programs will result in a negative weight.

(4) *Capital investments.* This factor is generally not applicable to FEGLI Program contracts because facilities capital cost of money may be an allowable administrative expense. Generally, this factor will be given a weight of zero. However, special purpose facilities or investment costs of direct benefit to the FEGLI Program that are not recoverable as allowable or allocable administrative expenses may be taken into account in assigning a plus weight.

(5) *Cost control.* This factor is based on the Contractor's previously demonstrated ability to perform effectively and economically. In addition, consideration will be given to measures taken

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by the Contractor that result in productivity improvements and other cost containment accomplishments that will be of future benefit to the FEGLI Program. Examples are containment of costs associated with processing claims; success at preventing waste, loss, unauthorized use, or misappropriation of FEGLI Program assets; and success at limiting and recovering erroneous benefit payments.

(6) *Independent development.* Consideration will be given to independent Contractor-initiated efforts, such as the development of a unique and enhanced customer support system, that are of demonstrated value to the FEGLI Program and for which developmental costs have not been recovered directly or indirectly through allowable or allocable administrative expenses. This factor will be used to provide additional profit opportunities based upon

an assessment of the Contractor's investment and risk in developing techniques, methods, practices, etc., having viability to the Program at large. Improvements and innovations recognized and rewarded under any other profit factor cannot be considered.

(7) *Transitional services.* This factor is based on the Contractor's performance of transitional activities during a continuity of services period as described in the clause at 2152.237-70 of this chapter. These are any activities apart from the normal servicing of the contract during an active contract term. Other than for a transitional period, the weight applied to this factor for any active contract term is zero.

(b) The weight ranges for each factor to be used in the weighted guidelines approach are set forth in the following table:

| Profit factor                           | Weight ranges        |
|---|----------------------|
| 1. Contractor performance .....         | 0 to +.0005.         |
| 2. Contract cost risk .....             | +.000001 to +.00001. |
| 3. Federal socioeconomic programs ..... | -.00003 to +.00003.  |
| 4. Capital investment .....             | 0 to +.00001.        |
| 5. Cost control .....                   | -.0002 to +.0002.    |
| 6. Independent development .....        | 0 to +.00003.        |
| 7. Transitional services .....          | 0 to +.0007.         |

[70 FR 41151, July 18, 2005]

**PART 2116—TYPES OF CONTRACTS**

**Subpart 2116.1—Selecting Contract Types**

Sec.

2116.105 Solicitation provision.

**Subpart 2116.2—Fixed-Price Contracts**

2116.270 FEGLI Program contracts.

2116.270-1 Contract clauses.

AUTHORITY: 5 U.S.C. 8709; 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40376, July 28, 1993, unless otherwise noted.

**Subpart 2116.1—Selecting Contract Types**

**2116.105 Solicitation provision.**

FAR 16.105 has no practical application because the statutory provisions of 5 U.S.C. chapter 87 obviate the issuance of solicitations.

**Subpart 2116.2—Fixed-Price Contracts**

**2116.270 FEGLI Program contracts.**

FEGLI Program contracts are fixed price with limited cost redetermination plus fixed fee. The premium paid to the Contractor is mutually agreed upon by OPM and the Contractor and is based on an estimate of benefits and administrative costs, plus the fixed service or risk charge, and is determined annually. Claims costs, including benefits and administrative expenses, in excess of premiums are paid up to the amount in the Employees' Life Insurance Fund. Payment for costs exceeding the amount in the Fund are the responsibility of the Contractor and reinsurers. The fee is fixed at the inception of each contract year. The fee does not vary with the actual costs but may be adjusted as a result of changes in the work to be performed under the contract. The fee is in the

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form of either a risk charge or a service charge.

(a) *Risk charge.* The risk charge will be determined as prescribed in 5 U.S.C. 8711(d) and section 2115.404-70 of this chapter. It will consist of a negotiated amount which will reflect the risk assumed by the Contractor and the reinsurers and may be adjusted as a result of increased or decreased risk under the contract. When the applicable fee is a risk charge, no service charge will be paid for the same period of time.

(b) *Service charge.* The amount of the service charge will be determined using a weighted guidelines structured approach in accordance with section

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2115.404-71 of this chapter and negotiated with the Contractor at the beginning of the contract term. When the applicable fee is a service charge, no risk charge will be paid for the same period of time.

[70 FR 41152, July 18, 2005]

**2116.270-1 Contract clauses.**

(a) The clause at 2152.216-70 shall be inserted in all FEGLI Program contracts when a risk charge is negotiated.

(b) The clause at 2152.216-71 shall be inserted in all FEGLI Program contracts when a service charge is negotiated.

## SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

### PART 2122—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

AUTHORITY: 5 U.S.C. 8709; 40 U.S.C. 486(c); 48 CFR 1.301.

#### Subpart 2122.1—Basic Labor Policies

##### 2122.170 Contract clauses.

The provisions at FAR sections 52.222-21, 52.222-22, 52-222.25 are implemented by changing the word “offeror” to “Contractor” and the word “solicitation” to “contract” wherever they appear in the text to reflect the FEGLI Program’s statutory exemption from competitive bidding (5 U.S.C. 8709), which obviates the issuance of solicitations.

[58 FR 40377, July 28, 1993]

### PART 2124—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

#### Subpart 2124.70—Protection of Individual Privacy

Sec.  
2124.102 General.

2124.102-70 Policy.  
2124.104 Contract clauses.  
2124.104-70 Contract clause.

AUTHORITY: 5 U.S.C. 8716, 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40377, July 28, 1993, unless otherwise noted.

#### Subpart 2124.70—Protection of Individual Privacy

##### 2124.102 General.

##### 2124.102-70 Policy.

Records retained by FEGLI Program contractors on Federal insureds and members of their families serve the contractors’ own commercial function of paying FEGLI Program claims and are not maintained to accomplish an agency function of OPM. Consequently, the records do not fall within the provisions of the Privacy Act. Nevertheless, OPM recognizes the need for the contractors to keep certain records confidential. The clause at 2152.224-70 addresses this concern.

##### 2124.104 Contract clauses.

##### 2124.104-70 Contract clause.

The clause at 2152.224-70 shall be inserted in all FEGLI Program contracts.

## SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

### PART 2128—BONDS AND INSURANCE

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

#### Subpart 2128.3—Insurance

##### 2128.370 Contract clause.

The contract clause at FAR 52.228-7 is a mandatory clause in FEGLI Program contracts, except paragraph (d) is modified as follows:

(d) The Government's liability under paragraph (c) of this clause is limited to the amount available in the Employee's Life Insurance Fund. Nothing in this contract shall be construed as implying that the Government will make additional funds available later or that Congress will appropriate funds later sufficient to meet deficiencies.

[58 FR 40377, July 28, 1993]

### PART 2129—TAXES

#### Subpart 2129.1—General

Sec.  
2129.170 Policy.

#### Subpart 2129.3—State and Local Taxes

2129.302 Application of State and local taxes to the Government.

2129.305 State and local tax exemptions.

#### Subpart 2129.4—Contract Clauses

2129.401 Domestic contracts.

2129.401-70 FEGLI Program contract clauses.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40377, July 28, 1993, unless otherwise noted.

#### Subpart 2129.1—General

##### 2129.170 Policy.

(a) OPM shall consider taxes as a FEGLI Program cost under 2131.205-41.

(b) For purposes of the limited cost redetermination of a FEGLI Program contract, taxes are not limited to those in effect as of the contract date, but

shall include any taxes enacted, modified, or repealed, by legislative, judicial, or administrative means, during the contract year.

#### Subpart 2129.3—State and Local Taxes

##### 2129.302 Application of State and local taxes to the Government.

(a) 5 U.S.C. 8714(c)(1) prohibits the imposition of taxes, fees, or other monetary payment on FEGLI Program premiums by any State, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision or governmental authority of those entities.

(b) Paragraph (a) of this section shall not be construed to exempt the contractor from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by it from business conducted under the FEGLI Program if the tax, fee, or payment is applicable to a broad range of business activity.

##### 2129.305 State and local tax exemptions.

(a) FAR 29.305 is modified for the FEGLI Program by substituting paragraph (b) of this section in the place of paragraph (b) of FAR 29.305.

(b) *Furnishing proof of exemption.* If a reasonable basis to sustain a claimed exemption exists, the seller will be furnished evidence of exemption if requested by the contractor and approved by the contracting officer or at the discretion of the contracting officer.

#### Subpart 2129.4—Contract Clauses

##### 2129.401 Domestic contracts.

##### 2129.401-70 FEGLI Program contract clauses.

The fixed-price contract clauses in FAR subpart 29.4 are inappropriate for the FEGLI Program because of the limited cost-redetermination of FEGLI Program contracts. The clauses at FAR 52.229-1, 52.229-2, 52.229-3, and

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52.229-4 shall not be inserted into FEGLI Program contracts.

**PART 2131—CONTRACT COST PRINCIPLES AND PROCEDURES**

**Subpart 2131.2—Contracts With Commercial Organizations**

**Subpart 2131.1—Applicability**

- Sec.
- 2131.103 Contracts with commercial organizations.
- 2131.109 Advance agreements.

**Subpart 2131.2—Contracts With Commercial Organizations**

- 2131.201 General.
- 2131.201-5 Credits.
- 2131.203 Indirect costs.
- 2131.205 Selected costs.
- 2131.205-1 Public relations and advertising costs.
- 2131.205-3 Bad debts.
- 2131.205-6 Compensation for personal services.
- 2131.205-32 Precontract costs.
- 2131.205-38 Selling costs.
- 2131.205-41 Taxes.
- 2131.205-43 Trade, business, technical and professional activity costs.
- 2131.205-70 Major subcontractor service charge.
- 2131.205-71 Reinsurer administrative expense costs.
- 2131.270 Contract clauses.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40378, July 28, 1993, unless otherwise noted.

**Subpart 2131.1—Applicability**

**2131.103 Contracts with commercial organizations.**

The contracting officer shall incorporate the cost principles and procedures of FAR subpart 31.2 and this part by reference in all FEGLI Program contracts because of the nature of a fixed price with limited cost redetermination plus fixed fee contract.

**2131.109 Advance agreements.**

FAR 31.109 is applicable to FEGLI Program contracts, except that precontract costs and nonrecurring costs that exceed \$100,000 will not be allowed in the absence of an advance agreement between OPM and any potential FEGLI Contractor.

[70 FR 41152, July 18, 2005]

**2131.201 General.**

**2131.201-5 Credits.**

The provisions of FAR 31.201-5 shall apply to income, rebates and other credits resulting from benefit payments that include, but are not limited to—

- (a) Uncashed and returned checks.
- (b) Refunds attributable to litigation with regard to payments of FEGLI Program life insurance monies.
- (c) Erroneous benefit payment, refunds, overpayment, and duplicate payment recoveries.
- (d) Escheatments.

**2131.203 Indirect costs.**

The provisions of FAR 31.203 apply to the allocation of indirect costs.

[70 FR 41152, July 18, 2005]

**2131.205 Selected costs.**

**2131.205-1 Public relations and advertising costs.**

The provisions of FAR 31.205-1 shall be modified to include the following:

- (a) Costs of media messages are allowable if approved by the contracting officer and all of the following criteria are met:

(1) The primary objective of the message is to disseminate information on general health and fitness or encouraging healthful lifestyles;

(2) The costs of the contractor's messages are allocated to all underwritten and non-underwritten lines of business; and

(3) The contracting officer approves the total dollar amount of the contractor's messages to be charged to the FEGLI Program in advance of the policy year.

(b) Costs of media messages that inform enrollees about the FEGLI Program are allowable if approved by the contracting officer.

(c) In those instances where contracting officer approval of the total dollar amount is not solicited in advance, it is incumbent upon the contractor to show the contracting officer, for subsequent approval, that the costs

### 2131.205-3

are reasonable and do not unduly burden the administrative cost to the contract.

(d) Costs of messages that are intended to, or which have the primary effect of, calling favorable attention to the contractor or subcontractor for the purpose of enhancing its overall image or selling its product or services are not allowable.

### 2131.205-3 Bad debts.

*Erroneous benefit payments.* If the contractor or OPM determines that a FEGLI Program benefit has been paid in error for any reason, the contractor shall make a diligent effort to recover such erroneous payment from the recipient. The contracting officer shall allow an unrecovered erroneous payment to be charged to the contract provided the contractor demonstrates that the recovery of the erroneous payment was attempted in accordance with a system that is approved under 2146.270(b) and that either a diligent effort was made to recover the erroneous overpayment or it would not be cost effective to recover the erroneous overpayment. The contractor's compliance with a system that is approved under 2146.270(b) will be deemed to be a diligent effort to recover the erroneous overpayment.

### 2131.205-6 Compensation for personal services.

FAR 31.205-6 is supplemented as follows: Overtime on a FEGLI Program contract normally would meet the conditions specified in FAR 22.103. Advance approval of the contracting officer is not required for overtime, extra-pay shifts, and multi-shifts.

### 2131.205-32 Precontract costs.

Precontract costs will be allowable in accordance with FAR part 31, but precontract costs that exceed \$100,000 will not be allowable except to the extent allowable under an advance agreement negotiated in accordance with section 2131.109 of this chapter.

[70 FR 41152, July 18, 2005]

### 2131.205-38 Selling costs.

Selling costs are not allowable costs to FEGLI contracts except to the ex-

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tent that they are attributable to conducting contract negotiations with the Government and for liaison activities involving ongoing contract administration, including the conduct of informational and enrollment activities as directed or approved by the Contracting Officer.

[70 FR 41152, July 18, 2005]

### 2131.205-41 Taxes.

(a) FAR 31.205-41, as modified in paragraphs (b) through (e), is applicable to contracts in the FEGLI Program.

(b) As long as 5 U.S.C. 8714(c) or other Federal law prohibits the imposition of taxes, fees, or other monetary payments on FEGLI Program premiums by any State, the District of Columbia, the Commonwealth of Puerto Rico, or any other political subdivision or governmental authority of those entities, payment of such preempted tax is an unallowable expense under FAR 31.205-41(b)(3).

(c) Paragraph (b)(1) of FAR 31.205-41 is not applicable to the FEGLI Program.

(d) Notwithstanding any other provision in FAR 31.205-41, the portion of the contractor's income or excess profits taxes allocated to the FEGLI Program, except those allocated to the risk charge or the service charge, are allowable costs under the FEGLI Program, including any income or excess profit taxes that arise from the operation of this paragraph. Income or excess profits taxes allocated to the risk charge or the service charge are not allowable costs.

(e) Notwithstanding any other provision in FAR 31.205-41, an amount equal to the "DAC Tax" is an allowable tax expense under FAR 31.205-41. "DAC Tax" means an amount equal to: (1) the amount of the contractor's Federal, state, and local income tax allocated to payments under the FEGLI Program, less (2) the amount of the contractor's Federal, state, and local income tax allocated to payments under the FEGLI Program computed without regard to the operation of 26 U.S.C. 848, which requires that certain policy acquisition expenses be capitalized over a 60- or 120-month period, plus (3) the amount of the increase, if any,

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in the contractor's Federal, state, and local income tax that results from the operation of this section 2131.205-41(e).

### **2131.205-43 Trade, business, technical and professional activity costs.**

(a) FEGLI Program contractors shall seek the advance written approval of the contracting officer for allowability of all or part of the costs associated with trade, business, technical, and professional activities when the allocable costs of such participation to the FEGLI Program will exceed \$2,500 annually and the contractor allocates more than 50 percent of the membership cost of a trade, business, technical, or professional organization to the FEGLI Program.

(b) When approval of costs for membership in an organization is required, the contractor must demonstrate conclusively that membership in such an organization and participation in its activities extend beyond the contractual relationship with OPM, have a reasonable relationship to providing services to FEGLI Program insureds, and that the organization is not engaged in activities such as those cited in FAR 31.205-22 (lobbying costs) for which costs are not allowable.

### **2131.205-70 Major subcontractor service charge.**

In a subcontract for enrollment and eligibility determinations, administration of claims and payment of benefits and any other subcontract for which prior approval is necessary, when costs are determined on the basis of actual costs incurred, any amount that exceeds the allowable cost of a major subcontract (whether entitled service charge, incentive fee, profit, fee, surplus, or any other title) is not allowable under the contract. Amounts which exceed allowable costs may be paid to a major subcontractor only from the risk charge or service charge negotiated between OPM and the contractor.

### **2131.205-71 Reinsurer administrative expense costs.**

A charge of \$500 per policy year per reinsurer of the FEGLI Program as set forth in the contract is an allowable cost when documented through an in-

ternal accounting entry of the contractor and actually paid. This amount is deemed to be sufficient to reimburse reinsurers for the minor administrative expenses incurred in reinsuring the FEGLI Program.

### **2131.270 Contract clauses.**

The clause at 2152.231-70 shall be inserted in all FEGLI Program contracts.

## **PART 2132—CONTRACT FINANCING**

### **Subpart 2132.1—General**

Sec.

2132.170 Recurring premium payments to contractors.

2132.171 Contract clause.

### **Subpart 2132.6—Contract Debts**

2132.607 Tax credit.

2132.617 Contract clause.

### **Subpart 2132.7—Contract Funding**

2132.770 Insurance premium payments and special contingency reserve.

2132.771 Non-commingling of FEGLI Program funds.

2132.772 Contract clause.

### **Subpart 2132.8—Assignment of Claims**

2132.806 Contract clause.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40379, July 28, 1993, unless otherwise noted.

### **Subpart 2132.1—General**

#### **2132.170 Recurring premium payments to Contractors.**

(a) OPM will make payments on a letter of credit (LOC) basis. OPM and the Contractor will concur on an estimate of benefits and administrative costs plus the fixed service or risk charge for the forthcoming contract year, as specified in the contract. The annual premium to the Contractor, based on this estimate, will be credited to the Contractor's LOC account in 12 equal monthly installments due on the first business day of each month and available for drawdown. OPM will credit the Contractor's LOC account for the December payment no later than the last business day of each calendar year.

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Following the close of the contract year, a reconciliation of premiums, benefits, and other costs will be performed as a limited cost redetermination. In addition, interest distribution payments will be made available for Contractor drawdown from the LOC account. The Contractor will use the LOC account in accordance with guidelines issued by OPM.

(b) Withdrawals from the LOC account for benefit costs of \$5,000 or more will be made on a claims-paid basis. Withdrawals from the LOC account for benefit costs of less than \$5,000 and other FEGLI Program disbursements will be made on a checks-presented basis. Under a checks-presented basis, drawdown on the LOC is delayed until the checks issued for FEGLI Program disbursements are presented to the Contractor's bank for payment.

(c) Nothing in this chapter will affect the ability of the Contractor to hold the special contingency reserve established and maintained in accordance with the terms of 5 U.S.C. 8712.

[70 FR 41153, July 18, 2005]

### 2132.171 Contract clause.

The clause at 2152.232-70 shall be inserted in all FEGLI Program contracts.

## Subpart 2132.6—Contract Debts

### 2132.607 Tax credit.

FAR 32.607 has no practical application to FEGLI Program contracts. The statutory provisions at 5 U.S.C. 8707 and 8708 authorize joint enrollee and Government contributions to the Employees' Life Insurance Fund. Because the Fund is comprised of contributions by enrollees as well as the Government, contractors may not offset debts to the Fund by a tax credit that is solely a Government obligation.

### 2132.617 Contract clause.

The clause at FAR 52.232-17 is modified in FEGLI Program contracts to ex-

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clude the parenthetical phrase “(net of any applicable tax credit under the Internal Revenue Code (26 U.S.C. 1481)).”

## Subpart 2132.7—Contract Funding

### 2132.770 Insurance premium payments and special contingency reserve.

Insurance premium payments and a special contingency reserve are made available to FEGLI Program contractors in accordance with 5 U.S.C. 8712 and 8714.

### 2132.771 Non-commingling of FEGLI Program funds.

(a) FEGLI Program funds must be maintained in such a manner as to be separately identifiable from other assets of the Contractor. Cash and investment balances reported on the FEGLI Program Annual Financial Report must be supported by the Contractor's books and records.

(b) This requirement may be modified by the Contracting Officer in accordance with the clause at 2152.232-71 of this chapter when adequate accounting and other controls are in effect. If the requirement is modified, such modification will remain in effect until rescinded by OPM.

[70 FR 41153, July 18, 2005]

### 2132.772 Contract clause.

The clause at 2152.232-71 shall be inserted in all FEGLI Program contracts.

## Subpart 2132.8—Assignment of Claims

### 2132.806 Contract clause.

The clause set forth in 2152.232-72 shall be inserted in all FEGLI Program contracts.

## PART 2133 [RESERVED]

## SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

### PART 2137—SERVICE CONTRACTING

#### Subpart 2137.1—Service Contracts—General

Sec.  
2137.102 Policy.  
2137.110 Contract clause.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40380, July 28, 1993, unless otherwise noted.

#### Subpart 2137.1—Service Contracts—General

##### 2137.102 Policy.

(a) The services under this contract are of vital interest to the Government and must be continued without interruption in the event the contract is terminated, unless the termination occurs as a result of OPM's failure to pay premiums on a timely basis.

(b) The Contractor will be reimbursed for all reasonable phase-in and phase-out costs (i.e., costs incurred within the agreed-upon period after contract termination that result from phase-in and phase-out operations). The Contractor also will receive a risk or serv-

ice charge for the full period after contract termination during which services are continued, not to exceed a pro rata portion of the risk or service charge for the final contract year. In addition, OPM will pay the Contractor an incentive amount, not to exceed the pro rata risk or service charge for the continuity of services period (LIFAR 2152.237-70), based on exceptional performance during the transition period to a new Contractor. The Contracting Officer will use the weighted guidelines method described in 2115.404-71 of this chapter in determining the incentive amount. The amount of the risk or service charge will be based upon the accurate and timely processing of benefit claims, the volume and validity of customer service complaints, the timeliness and adequacy of reports on operations, and responsiveness to OPM offices, insured individuals, beneficiaries, and Congress.

[70 FR 41153, July 18, 2005]

##### 2137.110 Contract clause.

The clause at 2152.237-70 shall be inserted in all FEGLI Program contracts in lieu of the clause at 52.237-3 that is prescribed by FAR 37.110(c).

## SUBCHAPTER G—CONTRACT MANAGEMENT

### PART 2143—CONTRACT MODIFICATIONS

#### Subpart 2143.1—General

Sec.  
2143.101 Definitions.

#### Subpart 2143.2—Change Orders

2143.205 Contract clause.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40380, July 28, 1993, unless otherwise noted.

#### Subpart 2143.1—General

##### 2143.101 Definitions.

The effective date of a FEGLI contract modification is as defined in FAR 43.101, except to the extent that the definition conflicts with LIFAR 2101.370.

#### Subpart 2143.2—Change Orders

##### 2143.205 Contract clause.

The clause at 2152.243-70 shall be inserted in all FEGLI Program contracts in lieu of the clauses in FAR 52.243-1 that are prescribed by FAR 43.205(a).

### PART 2144—SUBCONTRACTING POLICIES AND PROCEDURES

#### Subpart 2144.1—General

Sec.  
2144.102 Policy.

#### Subpart 2144.2—Consent to Subcontracts

2144.204 Contract clause.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40380, July 28, 1993, unless otherwise noted.

#### Subpart 2144.1—General

##### 2144.102 Policy.

For all FEGLI Program contracts, the Contracting Officer's advance approval will be required on subcontracts or modifications to subcontracts when

the cost of that portion of the subcontract that is charged the FEGLI Program contract exceeds \$550,000 and is at least 25 percent of the total cost of the subcontract.

[70 FR 41153, July 18, 2005]

#### Subpart 2144.2—Consent to Subcontracts

##### 2144.204 Contract clause.

The clause set forth at 2152.244-70 shall be inserted in all FEGLI Program contracts.

### PART 2146—QUALITY ASSURANCE

#### Subpart 2146.2—Contract Quality Requirements

Sec.  
2146.201 General.  
2146.270 FEGLI Program quality assurance requirements.  
2146.270-1 Contract clause.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40380, July 28, 1993, unless otherwise noted.

#### Subpart 2146.2—Contract Quality Requirements

##### 2146.201 General.

(a) This part prescribes policies and procedures to ensure that services acquired under the FEGLI Program contract conform to the contract's quality requirements.

(b) OPM will make an initial evaluation of the Contractor's system of internal controls under the quality assurance program required by 2146.270 of this chapter and will acknowledge in writing whether or not the system is consistent with the requirements set forth in this subpart. After the initial review, subsequent periodic reviews may be limited to changes in the Contractor's internal control guidelines.

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However, a limited review does not diminish the Contractor's obligation to apply the full internal control system.

[58 FR 40380, July 28, 1993, as amended at 70 FR 41153, July 18, 2005]

### **2146.270 FEGLI Program quality assurance requirements.**

(a) The contractor shall develop and apply a quality assurance program specifying procedures for assuring contract quality, as directed by the contracting officer. At a minimum, the program should include procedures to address:

- (1) Accuracy of payments and recovery of overpayments;
- (2) Timeliness of payments to beneficiaries;
- (3) Quality of services and responsiveness to beneficiaries;
- (4) Quality of service and responsiveness to OPM; and
- (5) Detection and recovery of fraudulent claims.

(b) The Contractor must prepare overpayment recovery guidelines to include a system of internal controls.

(c) The contracting officer may order the correction of a deficiency or a modification in the contractor's services and/or quality assurance program. The contractor shall take the necessary action promptly to implement the contracting officer's order. If the contracting officer orders the correction of a deficiency or a modification of the contractor's services and/or quality assurance program pursuant to this paragraph after the contract year has begun, the costs incurred in correcting the deficiency or making the modification will not be considered to the contractor's detriment in the cost control factor of the service charge [if applicable] for the following contract year. However, if there is a deficiency, the deficiency itself may be taken into consideration.

[58 FR 40380, July 28, 1993, as amended at 70 FR 41153, July 18, 2005]

### **2146.270-1 Contract clause.**

The clause at 2152.246-70 shall be inserted in all FEGLI Program contracts.

## **PART 2149—TERMINATION OF CONTRACTS**

Sec.

2149.002 Applicability.

### **Subpart 2149.5—Contract Termination Clauses**

2149.505 Other termination clauses.

2149.505-70 FEGLI Program contract termination clause.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c); 48 CFR 1.301.

SOURCE: 58 FR 40380, July 28, 1993, unless otherwise noted.

### **2149.002 Applicability.**

(a) *Termination.* (1) Termination of FEGLI Program contracts is controlled by 5 U.S.C. 8709(c) and this chapter. The procedures for termination of FEGLI Program contracts are contained in FAR part 49. For the purpose of this part, terminate means to discontinue as used in 5 U.S.C. 8709(c).

(2) A life insurance contract entered into by OPM may be terminated by OPM at any time for default by the Contractor in accordance with the provisions of FAR part 49 and FAR 52.249-8. A life insurance contract entered into by OPM may be terminated by the Contractor at the end of the grace period, after default for nonpayment by OPM. Notwithstanding the preceding sentence, the Contractor will allow OPM an additional 5 days after the end of the grace period to make payment if the failure to make payment was inadvertent and/or due to circumstances beyond the Government's control.

(3) A life insurance contract entered into by OPM may be terminated for convenience of the Government 60 days after the Contractor's receipt of OPM's written notice to terminate.

(4) The Contractor may terminate its contract with OPM at the end of any contract year when notice of intent to terminate is given to OPM in writing at least 60 days prior to the end of the contract year (i.e., no later than July 31).

(b) *Continuation of services.* The services under this contract are of vital interest to the Government and must be continued without interruption in the event the contract is terminated for

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the Contractor's default or OPM's convenience. Consequently, the contract termination procedures contained in this paragraph must be used in conjunction with section 2137.102 of this chapter, section 2137.110 of this chapter, and the provisions of the "Continuity of Services" clause at 2152.237-70 of this chapter. The Contractor is not required to continue performance subsequent to OPM's default for failure to pay premiums in accordance with the provisions of the clause at 2152.249-70(b) of this chapter.

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(c) *Settlement.* The procedures for settlement of contracts after they are terminated are those contained in FAR part 49.

[70 FR 41153, July 18, 2005]

**Subpart 2149.5—Contract Termination Clauses**

**2149.505 Other termination clauses.**

**2149.505-70 FEGLI Program contract termination clause.**

The clause in 2152.249-70 shall be inserted in all FEGLI Program contracts.

## SUBCHAPTER H—CLAUSES AND FORMS

### PART 2152—PRECONTRACT PROVISIONS AND CONTRACT CLAUSES

Sec.

2152.070 Applicable clauses.

#### Subpart 2152.2—Text of Provisions and Clauses

2152.203-70 Misleading, deceptive, or unfair advertising.  
2152.204-70 Taxpayer Identification Number.  
2152.209-70 Certification regarding debarment, suspension, proposed debarment and other responsibility matters during negotiations.  
2152.209-71 Certification regarding debarment, suspension, proposed debarment and other responsibility matters.  
2152.210-70 Investment income.  
2152.210-71 Notice of significant events.  
2152.215-70 Contractor records retention.  
2152.216-70 Fixed price with limited cost re-determination—risk charge.  
2152.216-71 Fixed price with limited cost re-determination—service charge.  
2152.224-70 Confidentiality of records.  
2152.231-70 Accounting and allowable cost.  
2152.232-70 Payments.  
2152.232-71 Non-commingling of FEGLI Program funds.  
2152.232-72 Approval for assignment of claims.  
2152.237-70 Continuity of services.  
2152.243-70 Changes.  
2152.244-70 Subcontracts.  
2152.246-70 Quality assurance requirements.  
2152.249-70 Renewal and termination.

#### Subpart 2152.3—Provision and Clause Matrix

2152.370 Use of the matrix.

AUTHORITY: 5 U.S.C. 8716; 40 U.S.C. 486(c), 48 CFR 1.301.

SOURCE: 58 FR 40381, July 28, 1993, unless otherwise noted.

#### 2152.070 Applicable clauses.

The clauses of FAR subpart 52.2 specified below shall be applicable to FEGLI Program contracts. The most recent edition of the clause in the FAR shall be applied unless otherwise provided in the contract.

#### SECTION AND CLAUSE TITLE

52.202-1 Definitions  
52.203-3 Gratuities

52.203-5 Covenant against Contingent Fees  
52.203-6 Restrictions on Subcontractor Sales to the Government  
52.203-7 Anti-Kickback Procedures  
52.203-12 Limitation on Payments to Influence Certain Federal Transactions  
52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment  
52.215-2 Audit and Records—Negotiation  
52.215-10 Price Reduction for Defective Cost or Pricing Data  
52.215-12 Subcontractor Cost or Pricing Data  
52.215-15 Pension Adjustments and Asset Reversions  
52.215-16 Facilities Capital Cost of Money  
52.215-17 Waiver of Facilities Capital Cost of Money  
52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions  
52.219-8 Utilization of Small Business Concerns  
52.222-1 Notice to the Government of Labor Disputes  
52.222-3 Convict Labor  
52.222-4 Contract Work Hours and Safety Standards Act—Overtime Compensation  
52.222-21 Prohibition of Segregated Facilities  
52.222-22 Previous Contracts and Compliance Reports  
52.222-25 Affirmative Action Compliance  
52.222-26 Equal Opportunity  
52.222-29 Notification of Visa Denial  
52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans  
52.222-36 Affirmative Action for Workers with Disabilities  
52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans  
52.223-6 Drug-Free Workplace  
52.227-1 Authorization and Consent  
52.227-2 Notice and Assistance regarding Patent and Copyright Infringement  
52.228-7 Insurance—Liability to Third Persons  
52.232-9 Limitation on Withholding of Payments  
52.232-17 Interest  
52.232-23 Assignment of Claims  
52.232-33 Payment by Electronic Funds Transfer—Central Contractor Registration  
52.233-1 Disputes (Alternate I)  
52.242-1 Notice of Intent to Disallow Costs  
52.242-3 Penalties for Unallowable Costs  
52.242-13 Bankruptcy  
52.244-5 Competition in Subcontracting

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- 52.245-2 Government Property (Fixed-Price Contracts)
- 52.246-4 Inspection of Services—Fixed Price
- 52.246-25 Limitation of Liability—Services
- 52.247-63 Preference for U.S.-Flag Air Carriers
- 52.249-2 Termination for Convenience of the Government (Fixed Price)
- 52.249-8 Default (Fixed Price Supply and Service)
- 52.249-14 Excusable Delays
- 52.251-1 Government Supply Sources
- 52.252-4 Alterations in Contract
- 52.252-6 Authorized Deviations in Clauses

[58 FR 40381, July 28, 1993, as amended at 70 FR 41154, July 18, 2005]

**Subpart 2152.2—Text of Provisions and Clauses**

**2152.203-70 Misleading, deceptive, or unfair advertising.**

As prescribed in 2103.571, insert the following clause:

MISLEADING, DECEPTIVE, OR UNFAIR ADVERTISING (OCT 2005)

The Contractor agrees that any advertising material authorized and released by the Contractor which mentions the FEGLI Program must be truthful and not misleading and must present an accurate statement of FEGLI Program benefits. The Contractor is prohibited from making incomplete and/or incorrect comparisons or using disparaging or minimizing techniques to compare its other products or services to those of the FEGLI Program. The Contractor agrees to use reasonable efforts to assure that agents selling its other products are aware of and abide by this provision. The Contractor agrees to incorporate this clause in all subcontracts as defined at LIFAR 2102.101.

(End of clause)

[70 FR 41154, July 18, 2005]

**2152.204-70 Taxpayer Identification Number.**

As prescribed in 2104.9001, insert the following clause:

TAXPAYER IDENTIFICATION NUMBER (OCT 2005)

(a) *Definitions.*

*Common parent*, as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the Contractor is a member.

*Taxpayer Identification Number (TIN)*, as used in this provision, means the number re-

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quired by the Internal Revenue Service (IRS) to be used by the Contractor in reporting income tax and other returns. The TIN is the Contractor's Social Security Number.

(b) The Contractor must submit the information required in paragraphs (d) through (f) of this clause to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. The Contractor is subject to the payment reporting requirements described in FAR 4.904. The Contractor's failure or refusal to furnish the information will result in payment being withheld until the TIN is provided.

(c) The Government may use the TIN to collect and report on any delinquent amounts arising out of the Contractor's relationship with the Government (31 U.S.C. 7701(c)(3)). The TIN provided hereunder may be matched with IRS records to verify its accuracy.

(d) Taxpayer Identification Number (TIN).  
TIN: \_\_\_\_\_

(e) Type of organization.

Corporate entity (tax-exempt);

Other \_\_\_\_\_

(f) Common parent.

Contractor is not owned or controlled by a common parent as defined in paragraph (a) of this clause.

Name and TIN of common parent:

Name \_\_\_\_\_

TIN \_\_\_\_\_

(End of clause)

[70 FR 41154, July 18, 2005]

**2152.209-70 Certification regarding debarment, suspension, proposed debarment and other responsibility matters during negotiations.**

As prescribed in 2109.409(a), the contracting officer may require a potential contractor to provide the following certification:

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (OCT 1993)

(a)(1) The undersigned certifies, to the best of its knowledge and belief, that—

(i) The undersigned and/or any of its Principals—

(A) Are ( ) are not ( ) presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have ( ) have not ( ), within a 3-year period preceding this certification, been convicted of or had a civil judgment rendered against them for: Commission of fraud or a

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criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

(C) Are ( ) are not ( ) presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(2) of this clause.

(i) The undersigned has ( ) has not ( ), within a 3-year period preceding this certification, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the undersigned subject to prosecution under section 1001, title 18, United States Code.

(b) The undersigned shall provide immediate written notice to the Contracting Officer if, at any time prior to the contract award, the undersigned learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the actions mentioned in paragraph (a) of this provision exists will not necessarily result in the withholding of an award under a contract under the FEGLI Program. However, the certification, or the undersigned's failure to provide such additional information as requested by the Contracting Officer will be considered in connection with a determination of the undersigned's responsibility under LIFAR subpart 2109.70, Minimum Standards for FEGLI Program Contractors.

(d) Nothing contained in this certification shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a). The knowledge and information of the undersigned is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in (a) is a material representation of fact upon which reliance is placed during negotiation of a FEGLI Program contract. If it is later determined that the undersigned knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Con-

tracting Officer may terminate the contract resulting from this certification for default.

(Name of Company)

By: \_\_\_\_\_

(Signature)

(Name and Title of Signatory)

Date signed: \_\_\_\_\_

(End of certificate)

**2152.209-71 Certification regarding debarment, suspension, proposed debarment, and other responsibility matters.**

As prescribed in 2109.409(b), insert the following clause:

CERTIFICATION BY FEGLI PROGRAM CONTRACTOR REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (OCT 1993)

(a)(1) The Contractor certifies, to the best of its knowledge and belief, that—

(i) The Contractor and/or any of its Principals—

(A) Are ( ) are not ( ) presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have ( ) have not ( ), within a 3-year period preceding this certification, been convicted of or had a civil judgment rendered against them for: Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

(C) Are ( ) are not ( ) presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(2) of this clause.

(i) The Contractor has ( ) has not ( ), within a 3-year period preceding this certification, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious,

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or fraudulent certification may render the Contractor subject to prosecution under section 1001, title 18, United States Code.

(b) The Contractor shall provide immediate written notice to the Contracting Officer if, at any time, the Contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A Contractor's certification that any of the actions mentioned in the certification exists will not necessarily result in termination of the contract. However, the certification, or the Contractor's failure to provide such additional information as requested by the Contracting Officer will be considered in connection with a determination of the Contractor's responsibility under LIFAR subpart 2109.70, Minimum Standards for FEGLI Program Contractors.

(d) Nothing contained in the certification shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this section. The knowledge and information of the Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in this section is a material representation of fact upon which reliance is placed by the Contracting Officer in making this contract. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract for default.

(End of clause)

**2152.210-70 Investment income.**

As prescribed in 2110.7004(a), insert the following clause:

**INVESTMENT INCOME (OCT 2005)**

(a) The Contractor must invest and reinvest all FEGLI Program funds on hand until needed to discharge promptly the obligations incurred under the contract. Within the constraints of safety and liquidity of investments, the Contractor must seek to maximize investment income. However, the Contractor will not be responsible for any actions taken at the direction of OPM.

(b) All investment income earned on FEGLI Program funds shall be credited to the FEGLI Program.

(c) When the Contracting Officer concludes that the Contractor failed to comply with paragraph (a) or (b) of this clause, the Contractor must pay to OPM the investment income that would have been earned, at the rate(s) specified in paragraph (d) of this clause, had it not been for the Contractor's

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noncompliance. *Failed to comply with paragraph (a) or (b) of this clause* means:

(1) Making any charges against the contract which are not actual, allowable, allocable, or reasonable; or

(2) Failing to credit any income due the contract and/or failing to place funds on hand, including premium payments and payments from OPM not needed to discharge promptly the obligations incurred under the contract, tax refunds, credits, deposits, investment income earned, uncashed checks, or other amounts owed OPM in income-producing investments and accounts.

(d)(1) Investment income lost as a result of unallowable, unallocable, or unreasonable charges against the contract shall be paid from the 1st day of the contract term following the contract term in which the unallowable charge was made and shall end on the earlier of: (i) The date the amounts are returned to OPM; (ii) the date specified by the Contracting Officer; or, (iii) the date of the Contracting Officer's Final Decision.

(2) Investment income lost by the Contractor as a result of failure to credit income due under the contract or failure to place funds on hand in income-producing investments and accounts must be paid from the date the funds should have been invested or appropriate income was not credited and will end on the earlier of:

(i) The date the amounts are returned to OPM;

(ii) The date specified by the Contracting Officer; or

(iii) The date of the Contracting Officer's final decision.

(3) The Contractor shall credit to the FEGLI Program income that is due in accordance with this clause. All amounts payable shall bear lost investment income compounded semiannually at the rate established by the Secretary of the Treasury as provided in section 12 of the Contract Disputes Act of 1978 (Pub. L. 95-563), during the periods specified in paragraphs (d)(1) and (d)(2).

(4) All amounts due and unpaid after the periods specified in paragraphs (d)(1) and (d)(2) shall bear simple interest at the rate applicable for each 6-month period as fixed by the Secretary of the Treasury until the amount is paid [see FAR 32.614-1].

(End of clause)

[58 FR 40381, July 28, 1993, as amended at 70 FR 41154, July 18, 2005]

**2152.210-71 Notice of significant events.**

As prescribed in 2110.7004(b), insert the following clause:

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### NOTICE OF SIGNIFICANT EVENTS (OCT 2005)

(a) The Contractor agrees to notify OPM of any significant event within 10 working days after the Contractor becomes aware of it. As used in this section, a "significant event" is any occurrence of anticipated occurrence that might reasonably be expected to have a material effect upon the Contractor's ability to meet its obligations under this contract, including, but not limited to, any of the following:

(1) Disposal of 25 percent or more of the Contractor's assets within a six-month period;

(2) Termination or modification of any contract or subcontract if such termination or modification might have a material effect on the Contractor's obligations under this contract;

(3) Loss of 20 percent or more of FEGLI Program reinsurers in a contract year;

(4) The imposition of, or notice of the intent to impose, a receivership, conservatorship, or special regulatory monitoring;

(5) The withdrawal of, or notice of intent to withdraw, by any State or the District of Columbia, its license to do life insurance business or any other change of life insurance status under State law;

(6) The Contractor's material default on a loan or other financial obligation;

(7) Any actual or potential labor dispute that delays or threatens to delay timely performance or substantially impairs the functioning of the Contractor's facilities or facilities used by the Contractor in the performance of the contract;

(8) Any change in its charter, constitution, or by-laws which affects any provision of this contract or the Contractor's participation in the Federal Employees' Group Life Insurance Program;

(9) Any significant changes in policies and procedures or interpretations of the contract which would affect the benefits payable under the contract or the costs charged to the contract;

(10) Any fraud, embezzlement or misappropriation of FEGLI Program funds; or

(11) Any written exceptions, reservations, or qualifications expressed by the independent accounting firm (which ascribes to the standards of the American Institute of Certified Public Accountants) contracted with by the Contractor to provide an audit opinion on the annual financial report required by OPM for the FEGLI Program. Accounting firm employees must audit the report in accordance with Generally Accepted Government Auditing Standards or other requirements issued by OPM.

(b) Upon learning of a significant event, OPM may institute action, in proportion to the seriousness of the event, to protect the interest of insureds, including, but not limited to—

(1) Directing the Contractor to take corrective action; or

(2) Making a downward adjustment to the weight in the "Contractor Performance" factor of the service charge.

(c) Prior to taking action as described in paragraph (b) of this clause, OPM will notify the Contractor and offer an opportunity to respond.

(d) The Contractor agrees to insert this clause in any subcontract or subcontract modification when the amount of the subcontract or modification that is charged to the FEGLI Program contract exceeds \$550,000 and is at least 25 percent of the total cost of the subcontract.

(End of clause)

[58 FR 40381, July 28, 1993, as amended at 70 FR 41155, July 18, 2005]

### 2152.215-70 Contractor records retention.

As prescribed in 2115.071, insert the following clause:

#### CONTRACTOR RECORDS RETENTION (OCT 2005)

Notwithstanding the provisions of FAR 52.215-2(f), "Audit and Records—Negotiation," the Contractor must retain and make available all records applicable to a contract term that support the annual financial report for a period of 5 years after the end of the contract term to which the records relate. Claim records must be maintained for 10 years after the end of the contract term to which the claim records relate. If the Contractor chooses to maintain paper documents in electronic format, the electronic version must be an exact replica of the paper document.

(End of clause)

[70 FR 41155, July 18, 2005]

### 2152.216-70 Fixed price with limited cost redetermination—risk charge.

As prescribed in 2116.270-1(a), insert the following clause when a risk charge is negotiated:

#### FIXED PRICE WITH LIMITED COST REDETERMINATION PLUS FIXED FEE CONTRACT—RISK CHARGE (OCT 2005)

(a) This is a fixed price with limited cost redetermination plus fixed fee contract, with the fixed fee in the form of a risk charge. OPM will pay the Contractor the risk charge as specified in a letter from the Contracting Officer.

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(b) At the Contractor's request, OPM will furnish, during the third quarter of the current contract year, an accounting of the funds in the Employees' Life Insurance Fund as of the end of the second quarter of the contract year.

(End of clause)

[70 FR 41155, July 18, 2005]

**2152.216-71 Fixed price with limited cost redetermination—service charge.**

As prescribed in 2116.270-1(b), insert the following clause when a service charge is negotiated:

FIXED PRICE WITH LIMITED COST REDETERMINATION PLUS FIXED FEE CONTRACT—SERVICE CHARGE (OCT 2005)

(a) This is a fixed price with limited cost redetermination plus fixed fee contract, with the fixed fee in the form of a service charge. OPM will pay the Contractor the service charge as specified in a letter from the Contracting Officer.

(b) At the Contractor's request, OPM will furnish, during the third quarter of the current contract year, an accounting of the funds in the Employees' Life Insurance Fund as of the end of the second quarter of the contract year.

(End of clause)

[70 FR 41155, July 18, 2005]

**2152.224-70 Confidentiality of records.**

As prescribed in 2124.104-70, insert the following clause:

CONFIDENTIALITY OF RECORDS (OCT 2005)

(a) The Contractor will use the personal data on employees and annuitants that is provided by agencies and OPM, including social security numbers, for only those routine uses stipulated for the data and published in the FEDERAL REGISTER as part of OPM's notice of systems of records.

(b) The Contractor shall also hold all medical records, evidence of insurability for insurance coverage, designations of beneficiaries, amounts of insurance, and information relating thereto, of the insured and family members confidential except for disclosure as follows:

(1) As may be reasonably necessary for the administration of this contract;

(2) As authorized by the insured or his or her estate;

(3) As necessary to permit Government officials having authority to investigate and

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prosecute alleged civil or criminal actions; and

(4) As necessary to audit the contract.

(End of clause)

[58 FR 40381, July 28, 1993, as amended at 70 FR 41155, July 18, 2005]

**2152.231-70 Accounting and allowable cost.**

As prescribed in 2131.270, insert the following clause:

ACCOUNTING AND ALLOWABLE COST (OCT 2005)

(a) *Annual financial report.* (1) The Contractor must prepare annually a financial report summarizing the financial operations of the FEGLI Program for the previous contract year. This report will be due to OPM in accordance with a date established by OPM's requirements.

(2) The Contractor must have the most recent financial report for the FEGLI Program audited by an independent public accounting firm that ascribes to the standards of the American Institute of Certified Public Accountants. The audit must be performed in accordance with Generally Accepted Government Auditing Standards or other requirements issued by OPM. The report by the independent accounting firm on its audit must be submitted to OPM along with the annual financial report.

(3) Based on the results of either the independent audit or a Government audit, the FEGLI contract may be:

(i) Adjusted by amounts found not to constitute chargeable costs; or

(ii) Adjusted for prior overpayments or underpayments.

(b) *Definition of costs.* (1) A cost is chargeable to the contract for a contract term if it is:

(i) An actual, allowable, allocable, and reasonable cost;

(ii) Incurred with proper justification and accounting support;

(iii) Determined in accordance with subpart 31.2 of the Federal Acquisition Regulation (FAR) and subpart 2131.2 of the Federal Employees' Group Life Insurance Acquisition Regulation (LIFAR) applicable on October 1 of each year; and

(iv) Determined in accordance with the terms of this contract.

(2) In the absence of specific contract terms to the contrary, contract costs will be classified in accordance with the following criteria:

(i) *Benefits.* Claims costs consist of payments made and costs incurred (including delayed settlement interest) by the Contractor for life insurance, accidental death and dismemberment insurance, excess mortality charges, post-mortem conversion

charges, and conversion policies on behalf of insured persons, less any overpayments recovered (subject to the terms of LIFAR 2131.205-3), refunds, or other credits received.

(ii)(A) *Administrative expenses.* Administrative expenses consist of chargeable costs as defined in paragraph (b)(1) of this clause incurred in the adjudication of claims or incurred in the Contractor's overall operation of the business. Unless otherwise provided in the contract, FAR, or LIFAR, administrative expenses include, but are not limited to, taxes, service charges to reinsurers, the cost of investigation and settlement of policy claims, the cost of maintaining records regarding payment of claims, and legal expenses incurred in the litigation of benefit payments. Administrative expenses exclude the expenses related to investment income in paragraph (b)(2)(iii) of this clause.

(B) *Administrative expense ceiling.* Each year an administrative expense ceiling for the following contract year is calculated based on the prior contract year's administrative expense ceiling, adjusted by the percentage change in the average monthly consumer Price Index for All Urban Consumers for the preceding 12 months. Administrative expenses are reimbursed up to the administrative expense ceiling or actual costs, whichever is less. Both parties will reexamine the base, including the prior year's actual expenses, at the request of either OPM or the Contractor. Within the administrative expense ceiling is a separately negotiated limit for indirect costs that may be charged against the ceiling for the contract year. The Contractor agrees to provide annually to the Contracting Officer a detailed report of direct and indirect administrative costs which form the basis for determining the limit on indirect costs for the following contract year. During a continuity of services period, OPM and the Contractor will negotiate a one-time increase in the administrative expense ceiling to cover phase-in/phase-out costs. Costs that exceed the revised ceiling must be submitted by the Contractor, in writing and in advance of their incurrence, to the Contracting Officer for approval.

(iii) *Investment income.* Investment income represents the amount earned by the Contractor after deducting chargeable investment expenses. Investment expenses are those chargeable contract costs, as defined in paragraph (b)(1) of this clause, which are attributable to the investment of FEGLI funds.

(c) *Certification of Annual Financial Report.* (1) The Contractor must certify the annual financial report in the form set forth in paragraph (c)(2) of this clause. The certificate must be signed by the chief executive officer for the Contractor's FEGLI Program operations and the chief financial officer for the Contractor's FEGLI Program operations and

must be returned with the annual financial report.

(2) The certification required must be in the following form:

CERTIFICATION OF ANNUAL FINANCIAL REPORT

This is to certify that I have reviewed this financial report and, to the best of my knowledge and belief, attest that:

1. The report was prepared in conformity with the guidelines issued by the Office of Personnel Management and fairly presents the financial results of this contract year in conformity with those guidelines;

2. The costs included in the report are actual, allowable, allocable, and reasonable in accordance with the terms of the contract and with the cost principles of the Federal Employees' Group Life Insurance Program Acquisition Regulation (LIFAR) and the Federal Acquisition Regulation (FAR);

3. Income, overpayments, refunds, and other credits made or owed in accordance with the terms of the contract and applicable cost principles have been included in the report.

Contractor Name: \_\_\_\_\_  
(Chief Executive Officer for FEGLI Operations)

Date signed: \_\_\_\_\_  
(Chief Financial Officer for FEGLI Operations)

Date signed: \_\_\_\_\_  
(Type or print and sign)

(End of certificate)

[70 FR 41155, July 18, 2005]

**2152.232-70 Payments.**

As prescribed in 2132.171, insert the following clause:

PAYMENTS (OCT 2005)

(a) OPM will make available to the Contractor, in full settlement of its obligations under this contract, subject to adjustment based on actual claims and administrative cost, a fixed premium once per month on the first business day of the month. The premium is determined by an estimate of costs for the contract year as provided in Section \_\_\_\_\_ and is redetermined annually by mutual agreement of OPM and the Contractor. In addition, an annual reconciliation of premiums, benefits, and other costs is performed, and additional payment by OPM or reimbursement by the Contractor is paid as necessary.

(b) If OPM fails to fund the Letter of Credit (LOC) account for the full amount of premium due by the due date, a grace period of 31 days will be granted to OPM for providing

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any premium due, unless OPM has previously given written notice to the Contractor that the contract is to be discontinued. The contract will continue in force during the grace period.

(c) If OPM fails to fund the LOC account for any premiums within the grace period, the contract may be terminated at the end of the 31st day of the grace period in accordance with LIFAR 2149.002(a)(2). If during the grace period OPM presents written notice to the Contractor that the contract is to be terminated before the expiration of the grace period, the contract will be terminated the later of the date of receipt of such written notice by the Contractor or the date specified by OPM for termination. In either event, OPM will be liable to the Contractor for all premiums then due and unpaid.

(d) In accordance with LIFAR 2143.205 and LIFAR 2252.243-70, Changes, if a change is made to the contract that increases or decreases the cost of performance of the work under this contract, the Contracting Officer will make an equitable adjustment to the payments under this contract.

(e) In the event this contract is terminated in accordance with LIFAR part 2149, the special contingency reserve held by the Contractor will be available to pay the necessary and proper charges against this contract after other Program assets held by the Contractor are exhausted.

(End of clause)

[70 FR 41156, July 18, 2005]

**2152.232-71 Non-commingling of FEGLI Program funds.**

As prescribed in 2132.772, insert the following clause:

**NON-COMMINGLING OF FUNDS (OCT 2005)**

(a) The Contractor must maintain FEGLI Program funds in such a manner as to be separately identifiable from other assets of the Contractor.

(b) The Contractor may request a modification of paragraph (a) of this section from the Contracting Officer. The modification must be requested, and approved by the Contracting Officer, in advance of any change, and the Contractor must demonstrate that accounting techniques have been established that clearly measure FEGLI Program cash and investment income (i.e., subsidiary ledgers). Reconciliations between amounts reported and actual amounts shown in accounting records must be provided as supporting schedules to the annual financial report.

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(End of clause)

[70 FR 41156, July 18, 2005]

**2152.232-72 Approval for assignment of claims.**

As prescribed in 2132.806, insert the following clause:

**APPROVAL FOR ASSIGNMENT OF CLAIMS (OCT 1993)**

(a) The Contractor shall not make any assignment of FEGLI Program funds under the Assignment of Claims Act without the prior written approval of the Contracting Officer.

(b) Unless a different period is specified in the Contracting Officer's written approval, an assignment of FEGLI Program funds shall be in force only for a period of 1 year from the date of the Contracting Officer's approval. However, assignments may be renewed upon their expiration.

(End of clause)

**2152.237-70 Continuity of services.**

As prescribed in 2137.110, insert the following clause:

**CONTINUITY OF SERVICE (OCT 2005)**

(a) The Contractor recognizes that the services under this contract are vital to the Government and must be continued without interruption. The Contractor further recognizes that upon contract expiration or termination, including termination by the Contractor for OPM's failure to make timely premium payments, a successor, either the Government or another Contractor, may continue them. The Contractor agrees to furnish phase-in training and exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) The Contractor shall, upon the Contracting Officer's written notice, (1) furnish phase-in and phase-out services for up to 10 months after this contract expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in and phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The Contractor shall provide sufficient experienced personnel during the phase-in and phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.

(c) The Contractor must allow as many experienced personnel as practicable to remain on the job during the transition period to help the successor maintain the continuity and consistency of the services required by

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this contract. The Contractor also must, except if prohibited by applicable law, disclose necessary personnel records and allow the successor to conduct onsite interviews with these employees. If selected employees are agreeable to the change, the Contractor must release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

(d) The Contractor will be reimbursed for all reasonable phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract termination that result from phase-in and phase-out operations) in accordance with the provisions of the administrative expense ceiling in the clause at 2152.231-70(b)(2)(ii)(B) and a risk charge or a service charge (profit) not to exceed a pro rata portion of the risk or service charge under this contract. The amount of profit will be based upon the accurate and timely processing of benefit claims, the volume and validity of complaints received by OPM, the timeliness and adequacy of reports on operations, and responsiveness to OPM offices, enrollees, beneficiaries, and Congress. In setting the final profit figure, obstacles overcome by the Contractor during the phase-in and phase-out period will be taken into consideration. OPM will pay an incentive amount to the Contractor not to exceed the pro rata risk or service charge for the continuity of services period, if the Contractor has performed exceptionally during the transition period to a new Contractor. The Contracting Officer uses the weighted guidelines method described in LIFAR 2115.404-71 in determining the incentive amount.

(End of clause)

[58 FR 40381, July 28, 1993, as amended at 70 FR 41157, July 18, 2005]

### 2152.243-70 Changes.

As prescribed in 2143.205, insert the following clause:

CHANGES (OCT 2005)

(a) Except as provided in paragraph (f) of this clause, the Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

- (1) Description of services to be performed;
- (2) Time of performance (i.e., hours of the day, days of the week, etc.);
- (3) Place of performance of the services.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, or the Contractor's liability under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment

in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(f) The Contracting Officer shall not make any changes pursuant to paragraph (a) of this clause to conform this contract to any amendment in the LIFAR before the effective date of the amendment as provided for in LIFAR 2101.370.

(End of clause)

[58 FR 40381, July 28, 1993, as amended at 70 FR 41157, July 18, 2005]

### 2152.244-70 Subcontracts.

As prescribed by 2144.204, insert the following clause:

SUBCONTRACTS (OCT 2005)

(a) The Contractor must notify the Contracting Officer reasonably in advance of entering into any subcontract or subcontract modification, or as otherwise specified by this contract, when the cost of that portion of the subcontract that is charged the FEGLI Program contract exceeds \$550,000 and is at least 25 percent of the total cost of the subcontract.

(b) The advance notification required by paragraph (a) of this clause shall include the following information:

- (1) A description of the supplies or services to be subcontracted;
- (2) Identification of the type of subcontract to be used;
- (3) Identification of the proposed subcontract and an explanation of why and how the proposed subcontractor was selected, including the competition obtained;
- (4) The proposed subcontract price and the Contractor's cost or price analysis;
- (5) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

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(6) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract; and

(7) A negotiation memorandum reflecting—

(i) The principal elements of the subcontract price negotiations;

(ii) The most significant consideration controlling establishment of initial or revised prices;

(iii) The reason cost or pricing data were or were not required;

(iv) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;

(v) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(vi) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(vii) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(c) The Contractor shall obtain the Contracting Officer's written consent before placing any subcontract for which advance notification is required under paragraph (a) of this clause. However, the Contracting Officer may ratify in writing any such subcontract. Ratification shall constitute the consent of the Contracting Officer.

(d) The Contracting Officer may waive the requirement for advance notification and consent required by paragraph (a), (b), and (c) of this clause where the Contractor and subcontractor submit an application or renewal as a contractor team arrangement as defined in FAR subpart 9.6 and—

(1) The Contracting Officer evaluated the arrangement during negotiation of the contract or contract renewal; and

(2) The subcontractor's price and/or costs were included in the plan's rates that were reviewed and approved by the Contracting Officer during negotiations of the contract or contract renewal.

(e) Unless the consent or approval specifically provides otherwise, consent by the Contracting Office to any subcontract shall not constitute a determination (1) of the acceptability of any subcontract terms or conditions; (2) of the allowability of any cost under this contract; or (3) to relieve the Con-

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tractor of any responsibility for performing this contract.

(f) No subcontract placed under this contract will provide for payment on a cost-plus-a-percentage-of-cost basis. Any fee payable under cost reimbursement type subcontracts will not exceed the fee limitations in FAR 15.404-4(c)(4)(i). Any profit or fee payable under a subcontract will be in accordance with the provisions of Section

(g) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract with respect to which the Contractor may be entitled to reimbursement from the Government.

(End of clause)

[58 FR 40381, July 28, 1993, as amended at 70 FR 41157, July 18, 2005]

**2152.246-70 Quality assurance requirements.**

As prescribed by 2146.270-1 insert the following clause:

**QUALITY ASSURANCE REQUIREMENTS (OCT 2005)**

(a) The Contractor shall develop and apply a quality assurance program as directed by the Contracting Officer pursuant to LIFAR 2146.270.

(b) The Contractor must keep complete records of its quality assurance procedures and the results of their implementation and make them available to an authorized Government entity during contract performance and for 5 years after the end of the contract term to which the records relate.

(c) The Contracting Officer or his or her representative has the right to inspect and test all services called for by the contract, to the extent practicable, at all times and places during the term of the contract and for as long afterward as the contract requires. The Contracting Officer or his or her representative shall perform any inspections and tests in a manner that will not unduly delay the work.

(End of clause)

[58 FR 40381, July 28, 1993, as amended at 70 FR 41157, July 18, 2005]

**2152.249-70 Renewal and termination.**

As prescribed in 2149.505-70, insert the following clause:

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**RENEWAL AND TERMINATION (OCT 2005)**

(a) This contract renews automatically each October 1st, unless written notice of termination is given by the Contractor not less than 60 calendar days before the renewal date.

(b) This contract may be terminated by OPM at any time in accordance with FAR part 49 and FAR 52.249-8 for default by the Contractor. This contract terminates at the end of the grace period if the Government does not fund the LOC account for any of the premium due to the Contractor (see LIFAR 2149.002(a)(2)). However, the Contractor and OPM may agree to continue the contract. In addition, the Contractor agrees to reinstate the contract if termination (1) arose out of the Government's inadvertent failure to fund the LOC account for the amount of the premium payment prior to the expiration of the grace period as defined in LIFAR 2102.101, and/or (2) was due to circumstances beyond the Government's control, provided that the LOC account is funded in the amount of the premium payment due to the Contractor within 5 days after the expiration of the grace period. In the event of such reinstatement, OPM will equitably adjust the payments due under the contract to compensate the Contractor for any increased costs of performance that result from the Government's failure to fund the LOC account prior to the expiration of the grace period and/or such reinstatement.

(c) This contract may be terminated for convenience of the Government 60 days after the Contractor's receipt of OPM's written notice of termination.

(d) Upon termination of the contract for Contractor's default or OPM's convenience, the Contractor agrees to assist OPM with an orderly and efficient transition to a successor in accordance with LIFAR 2137.102, LIFAR 2137.110, and the provisions of the "Continuity of Services" clause at 2152.237-70. The Contractor is not required to con-

tinue performance subsequent to OPM's failure to fund the LOC account for premiums due under paragraph (b) of this clause.

(e) After receipt of a termination notice, the prime Contractor shall, unless directed otherwise by the Contracting Officer, terminate all subcontracts to the extent that they relate to the performance of the FEGLI Program contract. The failure of the prime Contractor to include an appropriate termination clause in any subcontract, or to exercise the clause rights, shall not affect the Contracting Officer's right to require the termination of the subcontract; or increase the obligation of the Government beyond what it would have been if the subcontract had contained an appropriate clause.

(End of clause)

[58 FR 40381, July 28, 1993, as amended at 70 FR 41157, July 18, 2005]

**Subpart 2152.3—Provision and Clause Matrix**

**2152.370 Use of the matrix.**

(a) The matrix in this section lists the FAR and LIFAR clauses to be used with the FEGLI Program contract. The clauses are to be incorporated in the contract in full text.

(b) Certain contract clauses are mandatory for FEGLI Program contracts. Other clauses are to be used only when made applicable by pertinent sections of the FAR or LIFAR. An "M" in the "Use Status" column indicates that the clause is mandatory. An "A" indicates that the clause is to be used only when the applicable conditions are met.

**FEGLI PROGRAM CLAUSE MATRIX**

| Clause No.          | Text reference     | Title   | Use status |
|---------------------|--------------------|---|------------|
| FAR 52.202-1 .....  | FAR 2.201 .....    | Definitions .....   | M          |
| FAR 52.203-3 .....  | FAR 3.202 .....    | Gratuities .....  | M          |
| FAR 52.203-5 .....  | FAR 3.404 .....    | Covenant against Contingent Fees .....  | M          |
| FAR 52.203-6 .....  | FAR 3.503-2 .....  | Restrictions on Subcontractor Sales to the Government.  | M          |
| FAR 52.203-7 .....  | FAR 3.502-3 .....  | Anti-Kickback Procedures .....  | M          |
| FAR 52.203-12 ..... | FAR 3.808 .....    | Limitation on Payments to Influence Certain Federal Transactions.   | M          |
| 2152.203-70 .....   | 2103.571 .....     | Misleading, deceptive, or unfair advertising .....  | M          |
| 2152.204-70 .....   | 2104.9001 .....    | Taxpayer Identification Number .....  | M          |
| FAR 52.209-6 .....  | FAR 9.409(b) ..... | Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. | M          |
| 2152.209-71 .....   | 2109.409(b) .....  | Certification regarding debarment, suspension, proposed debarment and other responsibility matters.                       | M          |
| 2152.210-70 .....   | 2110.7004(a) ..... | Investment income .....   | M          |
| 2152.210-71 .....   | 2110.7004(b) ..... | Notice of significant events .....  | M          |

## FEGLI PROGRAM CLAUSE MATRIX—Continued

| Clause No.    | Text reference        | Title  | Use status |
|---------------|-----------------------|--|------------|
| FAR 52.215–2  | FAR 15.209(b)         | Audit and Records—Negotiation  | M          |
| FAR 52.215–10 | FAR 15.408(b)         | Price Reduction for Defective Cost or Pricing Data   | M          |
| FAR 52.215–12 | FAR 15.408(d)         | Subcontractor Cost or Pricing Data   | M          |
| FAR 52.215–15 | FAR 15.408(g)         | Pension Adjustments and Asset Reversions   | M          |
| FAR 52.215–16 | FAR 15.408(h)         | Facilities Capital Cost of Money   | M          |
| FAR 52.215–17 | FAR 15.408(i)         | Waiver of Facilities Capital Cost of Money   | A          |
| FAR 52.215–18 | FAR 15.408(j)         | Reversion or Adjustment of Plans for Postretirement Benefits (PRB) other than Pensions.                    | A          |
| 2152.215–70   | 2115.071              | Contractor records retention   | M          |
| 2152.216–70   | 2116.270–1(a)         | Fixed price with limited cost redetermination—risk charge.   | A          |
| 2152.216–71   | 2116.270–1(b)         | Fixed price with limited cost redetermination—service charge.  | A          |
| FAR 52.219–8  | FAR 19.708(a)         | Utilization of Small Business Concerns   | M          |
| FAR 52.222–1  | FAR 22.103–5(a)       | Notice to the Government of Labor Disputes   | M          |
| FAR 52.222–3  | FAR 22.202            | Convict Labor  | M          |
| FAR 52.222–4  | FAR 22.305            | Contract Work Hours and Safety Standards Act—Overtime Compensation.  | M          |
| FAR 52.222–21 | FAR 22.810(a)(1)      | Prohibition of Segregated Facilities   | M          |
| FAR 52.222–22 | FAR 22.810(a)(2)      | Previous Contracts and Compliance Reports  | M          |
| FAR 52.222–25 | FAR 22.810(d)         | Affirmative Action Compliance  | M          |
| FAR 52.222–26 | FAR 22.810(e)         | Equal Opportunity  | M          |
| FAR 52.222–29 | FAR 22.810(g)         | Notification of Visa Denial  | A          |
| FAR 52.222–35 | FAR 22.1310(a)(1)     | Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans. | M          |
| FAR 52.222–36 | FAR 22.1408(a)        | Affirmative Action for Workers with Disabilities   | M          |
| FAR 52.222–37 | FAR 22.1310(b)        | Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans. | M          |
| FAR 52.223–6  | FAR 23.505            | Drug-Free Workplace  | M          |
| 2152.224–70   | 2124.104–70           | Confidentiality of records   | M          |
| FAR 52.227–1  | FAR 27.201–2(a)       | Authorization and Consent  | M          |
| FAR 52.227–2  | FAR 27.202–2          | Notice and Assistance regarding Patent and Copyright Infringement.   | A          |
| FAR 52.228–7  | FAR 28.311–1          | Insurance—Liability to Third Persons   | M          |
| 2152.231–70   | 2131.270              | Accounting and allowable cost  | M          |
| FAR 52.232–9  | FAR 32.111(c)(2)      | Limitation on Withholding of Payments  | M          |
| FAR 52.232–17 | FAR 32.617(a) and (b) | Interest   | M          |
| FAR 52.232–23 | FAR 32.806(a)(1)      | Assignment of Claims   | A          |
| FAR 52.232–33 | FAR 32.1110(a)(1)     | Payment by Electronic Funds Transfer—Central Contractor Registration.                                      | M          |
| 2152.232–70   | 2132.171              | Payments   | M          |
| 2152.232–71   | 2132.772              | Non-commingling of FEGLI Program funds   | M          |
| 2152.232–72   | 2132.806              | Approval for assignment of claims  | M          |
| FAR 52.233–1  | FAR 33.215            | Disputes (Alternate I)   | M          |
| 2152.237–70   | 2137.110              | Continuity of services   | M          |
| FAR 52.242–1  | FAR 42.802            | Notice of Intent to Disallow Costs   | M          |
| FAR 52.242–3  | FAR 42.709–6          | Penalties for Unallowable Costs  | M          |
| FAR 52.242–13 | FAR 42.903            | Bankruptcy   | M          |
| 2152.243–70   | 2143.205              | Changes  | M          |
| FAR 52.244–5  | FAR 44.204(c)         | Competition in Subcontracting  | M          |
| 2152.244–70   | 2144.204              | Subcontracts   | M          |
| FAR 52.245–2  | FAR 45.106(b)(1)      | Government Property (Fixed-Price Contracts)  | M          |
| FAR 52.246–4  | FAR 46.304            | Inspection of Services—Fixed Price   | M          |
| FAR 52.246–25 | FAR 46.805            | Limitation of Liability—Services   | M          |
| 2152.246–70   | 2146.270–1            | Quality assurance requirements   | M          |
| FAR 52.247–63 | FAR 47.405            | Preference for U.S.-Flag Air Carriers  | M          |
| FAR 52.249–2  | FAR 49.502(b)(1)(i)   | Termination for Convenience of the Government (Fixed-Price).   | M          |
| FAR 52.249–8  | FAR 49.504(a)(1)      | Default (Fixed Price Supply and Service)   | M          |
| FAR 52.249–14 | FAR 49.505(d)         | Excusable Delays   | M          |
| 2152.249–70   | 2149.505–70           | Renewal and termination  | M          |
| FAR 52.251–1  | FAR 51.107            | Government Supply Sources  | A          |
| FAR 52.252–4  | FAR 52.107(d)         | Alterations in Contract  | M          |
| FAR 52.252–6  | FAR 52.107(f)         | Authorized Deviations in Clauses   | M          |

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[58 FR 40381, July 28, 1993, as amended at 70  
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