

**1552.237-72**

- (2) Constitutes a change as defined in the "Changes" clause;
- (3) Causes an increase or decrease in the estimated cost of the contract or task order;
- (4) Alters the period of performance of the contract or task order; or
- (5) Changes any of the other terms or conditions of the contract or task order.
- (d) Technical direction will be issued in writing or confirmed in writing within five (5) days after oral issuance. The contracting officer will be copied on any technical direction issued by the Contracting Officer's Representative.
- (e) If, in the contractor's opinion, any instruction or direction by the Contracting Officer's Representative(s) falls within any of the categories defined in paragraph (c) of the clause, the contractor shall not proceed but shall notify the contracting officer in writing within 3 days after receiving it and shall request that the contracting officer take appropriate action as described in this paragraph. Upon receiving this notification, the contracting officer shall:
  - (1) Advise the contractor in writing as soon as practicable, but no later than 30 days after receipt of the contractor's notification, that the technical direction is within the scope of the contract effort and does not constitute a change under the "Changes" clause of the contract;
  - (2) Advise the contractor within a reasonable time that the government will issue a written modification to the contract; or
  - (3) Advise the contractor that the technical direction is outside the scope of the contract and is thereby rescinded.
- (f) A failure of the contractor and contracting officer to agree as to whether the technical direction is within the scope of the contract, or a failure to agree upon the contract action to be taken with respect thereto, shall be subject to the provisions of the clause entitled "Disputes" in this contract.
- (g) Any action(s) taken by the contractor, in response to any direction given by any person acting on behalf of the government or any government official other than the contracting officer or the Contracting Officer's Representative, shall be at the contractor's risk.

(End of clause)

[74 FR 37175, July 28, 2009, as amended at 78 FR 46292, July 31, 2013]

**1552.237-72 Key personnel.**

As prescribed in 1537.110, insert the following contract clause when it is necessary for contract performance to identify Contractor key personnel.

**48 CFR Ch. 15 (10-1-14 Edition)****KEY PERSONNEL (APR 1984)**

(a) The Contractor shall assign to this contract the following key personnel:

(b) During the first ninety (90) days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) of this clause. After the initial 90-day period, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least 15 days prior to making any permanent substitutions.

(c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions. This clause will be modified to reflect any approved changes of key personnel.

(End of clause)

**1552.237-73 [Reserved]****1552.237-74 Publicity.**

As prescribed in 1537.110, insert the following contract clause in contracts pertaining to the removal or remedial activities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) ("Super Fund") program. The term "on-scene coordinator" may be substituted with "Contracting Officer's Representative."

**PUBLICITY (APR 1984)**

(a) The Contractor agrees to notify and obtain the verbal approval of the on-scene coordinator (or Contracting Officer's Representative) prior to releasing any information to the news media regarding the removal or remedial activities being conducted under this contract.

(b) It is also agreed that the Contractor shall acknowledge EPA support whenever the work funded in whole or in part by this contract is publicized in any news media.

**Environmental Protection Agency****1552.237-76**

(End of clause)

[49 FR 8867, Mar. 8, 1984, as amended at 78 FR 46292, July 31, 2013]

**1552.237-75 Paperwork Reduction Act.**

As prescribed in 1537.110, insert this contract clause in any contract requiring the collection of identical information from ten (10) or more public respondents.

## PAPERWORK REDUCTION ACT (APR 1984)

If it is established at award or subsequently becomes a contractual requirement to collect identical information from ten (10) or more public respondents, the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* applies. In that event, the Contractor shall not take any action to solicit information from any of the public respondents until notified in writing by the Contracting officer that the required Office of Management and Budget (OMB) final clearance was received.

(End of clause)

**1552.237-76 Government-Contractor Relations.**

As prescribed in 1537.110(g), insert the following clause:

## GOVERNMENT-CONTRACTOR RELATIONS (JUN 1999)

(a) The Government and the Contractor understand and agree that the services to be delivered under this contract by the contractor to the Government are non-personal services and the parties recognize and agree that no employer-employee relationship exists or will exist under the contract between the Government and the Contractor's personnel. It is, therefore, in the best interest of the Government to afford both parties a full understanding of their respective obligations.

(b) Contractor personnel under this contract shall not:

(1) Be placed in a position where they are under the supervision, direction, or evaluation of a Government employee.

(2) Be placed in a position of command, supervision, administration or control over Government personnel, or over personnel of other Contractors under other EPA contracts, or become a part of the Government organization.

(3) Be used in administration or supervision of Government procurement activities.

(c) *Employee relationship.* (1) The services to be performed under this contract do not require the Contractor or his/her personnel to exercise personal judgment and discretion on

behalf of the Government. Rather the Contractor's personnel will act and exercise personal judgment and discretion on behalf of the Contractor.

(2) Rules, regulations, directives, and requirements that are issued by the U.S. Environmental Protection Agency under its responsibility for good order, administration, and security are applicable to all personnel who enter the Government installation or who travel on Government transportation. This is not to be construed or interpreted to establish any degree of Government control that is inconsistent with a non-personal services contract.

(d) *Inapplicability of employee benefits.* This contract does not create an employer-employee relationship. Accordingly, entitlements and benefits applicable to such relationships do not apply.

(1) Payments by the Government under this contract are not subject to Federal income tax withholdings.

(2) Payments by the Government under this contract are not subject to the Federal Insurance Contributions Act.

(3) The Contractor is not entitled to unemployment compensation benefits under the Social Security Act, as amended, by virtue of performance of this contract.

(4) The Contractor is not entitled to workman's compensation benefits by virtue of this contract.

(5) The entire consideration and benefits to the Contractor for performance of this contract is contained in the provisions for payment under this contract.

(e) *Notice.* It is the Contractor's, as well as, the Government's responsibility to monitor contract activities and notify the Contracting Officer if the Contractor believes that the intent of this clause has been or may be violated.

(1) The Contractor should notify the Contracting Officer in writing promptly, within \_\_\_\_\_ (to be negotiated and inserted into the basic contract at contract award) calendar days from the date of any incident that the Contractor considers to constitute a violation of this clause. The notice should include the date, nature and circumstance of the conduct, the name, function and activity of each Government employee or Contractor official or employee involved or knowledgeable about such conduct, identify any documents or substance of any oral communication involved in the conduct, and the estimate in time by which the Government must respond to this notice to minimize cost, delay or disruption of performance.

(2) The Contracting Officer will promptly, within \_\_\_\_\_ (to be negotiated and inserted into the basic contract at contract award) calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer will either: