

**752.216-70**

**48 CFR Ch. 7 (10-1-10 Edition)**

**752.216-70 Award fee.**

As prescribed in 716.406, insert the following clause in solicitations and contracts in which an award-fee contract is contemplated.

**AWARD FEE (MAY 1997)**

(a) The Government shall pay the Contractor for performing this contract such base fee and such additional fee as may be awarded, as provided in the Schedule.

(b) Payment of the base fee and award fee shall be made as specified in the Schedule; provided, that after payment of 85 percent of the base fee and potential award fee, the Contracting Officer may withhold further payment of the base fee and award fee until a reserve is set aside in an amount that the Contracting Officer considers necessary to protect the Government's interest. This reserve shall not exceed 15 percent of the total base fee and potential award fee or \$100,000, whichever is less. The Contracting Officer shall release 75 percent of all fee withholds under this contract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this contract, provided the Contractor has satisfied all other contract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final vouchers on prior years' settlements. The Contracting Officer may release up to 90 percent of the fee withholds under this contract based on the Contractor's past performance related to the submission and settlement of final indirect cost rate proposals.

(c) Award fee determinations made by the Government under this contract are not subject to the Disputes clause.

(End of clause)

[64 FR 5008, Feb. 2, 1999]

**752.219-8 Utilization of small business concerns and small disadvantaged business concerns.**

The Foreign Assistance Act calls for USAID to give small businesses an opportunity to provide supplies and services for foreign assistance projects. To help USAID meet this obligation, the following paragraph is to be added to the clause prescribed in FAR 19.708(a):

USAID small business provision. To permit USAID, in accordance with the small business provisions of the Foreign Assistance Act, to give small business firms an opportunity to participate in supplying equipment supplies and services financed under this contract, the Contractor shall, to the maximum extent possible, provide the following information to the Office of Small and Disadvantaged Business Utilization (OSDBU), USAID, Washington, DC 20523-1414, at least 45 days prior to placing any order in excess of the simplified acquisition threshold except where a shorter time is requested of, and granted by OSDBU:

(1) Brief general description and quantity of commodities or services;

(2) Closing date for receiving quotations or bids; and

(3) Address where invitations or specifications may be obtained.

[49 FR 13259, Apr. 3, 1984, as amended at 52 FR 21059, June 4, 1987; 56 FR 2699, Jan. 24, 1991; 61 FR 39095, July 26, 1996; 62 FR 40469, July 29, 1997]

**752.219-70 USAID Mentor-Protégé Program.**

As prescribed in 719.273-11(a), insert the following provision:

**USAID MENTOR-PROTÉGÉ PROGRAM (JULY 13, 2007)**

(a) Large and small business are encouraged to participate in the USAID Mentor-Protégé Program (the "Program"). Mentor firms provide eligible small business Protégés with developmental assistance to enhance their business capabilities and ability to obtain Federal contracts.

(b) Mentor firms are large prime contractors or eligible small business capable of providing developmental assistance. Protégé firms are small business as defined in 13 CFR parts 121, 124, and 126.

(c) Developmental assistance is technical, managerial, financial, and other mutually beneficial assistance that aids Protégés. The costs for developmental assistance are not chargeable to the contract.

(d) Firms interested in participating in the Program are encouraged to contact the USAID Mentor-Protégé Program Manager (202-712-1500) for more information.

(End of provision)

[72 FR 32546, June 13, 2007]

**752.219-71 Mentor requirements and evaluation.**

As prescribed in AIDAR 719.273-11(b), insert the following clause:

**MENTOR REQUIREMENTS AND EVALUATION (JULY 13, 2007)**

(a) Mentor and Protégé firms shall submit an evaluation of the overall experience in the Program to OSDBU at the conclusion of the mutually agreed upon Program period,

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the conclusion of the contract, or the voluntary withdrawal by either party from the Program, whichever occurs first. At the conclusion of each year in the Mentor-Protégé Program, the Mentor and Protégé will formally brief the USAID Mentor-Protégé Program Manager regarding Program accomplishments under their Mentor-Protégé Agreement.

(b) Mentor or Protégé shall notify OSDBU in writing, at least 30 calendar days in advance of the effective date of the firm's withdrawal from the Program.

(End of clause)

[72 FR 32546, June 13, 2007]

### 752.225-9 Buy American Act—Trade Agreements Act—Balance of Payments Program.

The clause prescribed by FAR 25.408(a)(2) is not generally included in USAID contracts when more stringent source requirements are stated in the contract or when inclusion is not appropriate under FAR 25.403, or 725.403 of this chapter. (See Executive Order 11223, dated May 12, 1965, 30 FR 6635.) The clause setting forth USAID's source restrictions is shown in section 752.225-70.

[49 FR 13259, Apr. 3, 1984, as amended at 54 FR 16122, Apr. 21, 1989; 59 FR 33447, June 29, 1994; 62 FR 40470, July 29, 1997]

### 752.225-70 Source, origin and nationality requirements.

The following clause is required as prescribed in 725.704.

#### SOURCE, ORIGIN AND NATIONALITY REQUIREMENTS (FEB 1997)

(a) Except as may be specifically approved by the Contracting Officer, all commodities (e.g., equipment, materials, vehicles, supplies) and services (including commodity transportation services) which will be financed under this contract with U.S. dollars shall be procured in accordance with the requirements in 22 CFR part 228, "Rules on Source, Origin and Nationality for Commodities and Services Financed by USAID." The authorized source for procurement is Geographic Code 000 unless otherwise specified in the schedule of this contract. Guidance on eligibility of specific goods or services may be obtained from the Contracting Officer.

(b) Ineligible goods and services. The Contractor shall not procure any of the following goods or services under this contract:

- (1) Military equipment,
- (2) Surveillance equipment,

(3) Commodities and services for support of police and other law enforcement activities,  
(4) Abortion equipment and services,  
(5) Luxury goods and gambling equipment,  
or

(6) Weather modification equipment.

(c) Restricted goods. The Contractor shall not procure any of the following goods or services without the prior written approval of the Contracting Officer:

- (1) Agricultural commodities,
- (2) Motor vehicles,
- (3) Pharmaceuticals and contraceptive items,
- (4) Pesticides,
- (5) Fertilizer,
- (6) Used equipment, or
- (7) U.S. government-owned excess property.

If USAID determines that the Contractor has procured any of these specific restricted goods under this contract without the prior written authorization of the Contracting Officer, and has received payment for such purposes, the Contracting Officer may require the contractor to refund the entire amount of the purchase.

[62 FR 40470, July 29, 1997; 62 FR 45334, Aug. 27, 1997]

### 752.225-71 Local procurement.

For use in any USAID contract involving performance overseas.

#### LOCAL PROCUREMENT (FEB 1997)

(a) Local procurement involves the use of appropriated funds to finance the procurement of goods and services supplied by local businesses, dealers, or producers, with payment normally being in the currency of the cooperating country.

(b) All locally-financed procurements must be covered by source/origin and nationality waivers as set forth in subpart F of 22 CFR part 228 except as provided for in 22 CFR 228.40, Local procurement.

[62 FR 40470, July 29, 1997; 62 FR 45334, Aug. 27, 1997; 62 FR 47532, Sept. 9, 1997]

### 752.226-1 Determination of status as disadvantaged enterprise.

As prescribed in 726.7006(a), insert the following provision:

#### DISADVANTAGED ENTERPRISE REPRESENTATION (APR 1991)

The offeror/contractor shall submit a representation in the following form to the contracting officer:

(a) *Representation.* The offeror represents that:

- (1) It  is,  is not a small disadvantaged business.