

The decision to include liquidated damages provisions must conform to the criteria in FAR 11.501. In making this decision, the contracting officer must consider whether the necessity for timely delivery or performance as required in the contract schedule is so critical that a probable increase in contract price is justified. The contracting officer must not use a liquidated damages provision for any of the following reasons:

- (a) As insurance against selection of a non-responsible bidder.
- (b) As a substitute for efficient contract administration.
- (c) As a penalty for failure to perform on time.

811.503 Contract clause.

When the contracting officer determines that the Liquidated damages clause prescribed in FAR 52.211-11 or 52.211-12 must be used and where partial performance by the contractor may be to the advantage of the Government, the contracting officer must include the clause in 852.211-74, Liquidated damages, in the contract.

Subpart 811.6—Priorities and Allocations

811.602 General.

(a) Priorities and allocations of critical materials are controlled by the Department of Commerce. Essentially, priorities and allocations of critical materials are restricted to projects having a direct connection with supporting current defense needs. VA is not authorized to assign a priority rating to its purchase orders or contracts involving the acquisition or use of critical materials.

(b) When it has been technically established that it is not feasible to use a substitute material, the Department of Commerce has agreed to assist the VA in obtaining critical materials for maintenance and repair projects. The Department of Commerce will also,

when possible, render assistance in connection with the purchase of new items, which may be in short supply because of their use in connection with the defense effort.

(c) A contracting officer having problems acquiring critical materials must ascertain all the facts necessary to enable the Department of Commerce to render assistance to VA in acquiring these materials. The contracting officer must submit a request for assistance to the DSPE containing the following information:

- (1) A description of the maintenance and repair project or the new item.
- (2) The critical material and the amount required.

(3) The contractor's sources of supply, including any addresses. If the source is other than the manufacturer or producer, also list the name and address of the manufacturer or producer.

(4) The VA contract or purchase order number.

(5) The contractor's purchase order number, if known, and the delivery time requirement as stated in the solicitation or offer.

(6) The additional time the contractor claims is necessary to deliver the materials if priority assistance is not provided.

(7) The nature and extent of the emergency that will be generated at the station, such as any of the following:

- (i) Damage to the physical plant.
- (ii) Impairment of the patient care program.
- (iii) Creation of safety hazards.
- (iv) Any other pertinent condition that could result because of failure to secure assistance in obtaining the critical materials.

(8) If applicable, a statement that the item required is for use in a construction contract that was authorized by the Director, Office of Construction and Facilities Management, to be awarded and administered by the facility contracting officer.