

Federal Acquisition Regulation

52.237-10

during the performance period of the contract the Contractor changes insurance providers, the Contractor must provide evidence that the Government will be indemnified to the limits specified in paragraph (a) of this clause, for the entire period of the contract, either under the new policy, or a combination of old and new policies.

(f) The Contractor shall insert the substance of this clause, including this paragraph (f), in all subcontracts under this contract for health care services and shall require such subcontractors to provide evidence of and maintain insurance in accordance with paragraph (a) of this clause. At least 5 days before the commencement of work by any subcontractor, the Contractor shall furnish to the Contracting Officer evidence of such insurance.

(End of clause)

[54 FR 5058, Jan. 31, 1989, as amended at 54 FR 34758, Aug. 21, 1989; 62 FR 239, Jan. 2, 1997]

52.237-8 Restriction on Severance Payments to Foreign Nationals.

As prescribed in 37.113-2(a), use the following provision:

RESTRICTION ON SEVERANCE PAYMENTS TO FOREIGN NATIONALS (AUG 2003)

(a) The Federal Acquisition Regulation (FAR), at 31.205-6(g)(6), limits the cost allowability of severance payments to foreign nationals employed under a service contract performed outside the United States unless the agency grants a waiver pursuant to FAR 37.113-1 before contract award.

(b) In making the determination concerning the granting of a waiver, the agency will determine that—

(1) The application of the severance pay limitations to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for (i) members of the armed forces stationed or deployed outside the United States, or (ii) employees of an executive agency posted outside the United States;

(2) The Contractor has taken (or has established plans to take) appropriate actions within its control to minimize the amount and number of incidents of the payment of severance pay to employees under the contract who are foreign nationals; and

(3) The payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract, or is necessary to comply with a collective bargaining agreement.

(End of provision)

[60 FR 42661, Aug. 16, 1995, as amended at 68 FR 43867, July 24, 2003]

52.237-9 Waiver of Limitation on Severance Payments to Foreign Nationals.

As prescribed in 37.113-2(b), use the following clause:

WAIVER OF LIMITATION ON SEVERANCE PAYMENTS TO FOREIGN NATIONALS (AUG 2003)

(a) Pursuant to 10 U.S.C. 2324(e)(3)(A) or 41 U.S.C. 256(e)(2)(A), as applicable, the cost allowability limitations in FAR 31.205-6(g)(6) are waived.

(b) This clause may be incorporated into subcontracts issued under this contract, if approved by the Contracting Officer.

(End of clause)

[60 FR 42662, Aug. 16, 1995, as amended at 68 FR 43867, July 24, 2003]

52.237-10 Identification of Uncompensated Overtime.

As prescribed in 37.115-3, insert the following provision:

IDENTIFICATION OF UNCOMPENSATED OVERTIME (OCT 1997)

(a) *Definitions.* As used in this provision—

Uncompensated overtime means the hours worked without additional compensation in excess of an average of 40 hours per week by direct charge employees who are exempt from the Fair Labor Standards Act. Compensated personal absences such as holidays, vacations, and sick leave shall be included in the normal work week for purposes of computing uncompensated overtime hours.

Uncompensated overtime rate is the rate that results from multiplying the hourly rate for a 40-hour work week by 40, and then dividing by the proposed hours per week. For example, 45 hours proposed on a 40-hour work week basis at \$20 per hour would be converted to an uncompensated overtime rate of \$17.78 per hour (\$20.00 × 40 divided by 45 = \$17.78).

(b) For any proposed hours against which an uncompensated overtime rate is applied, the offeror shall identify in its proposal the hours in excess of an average of 40 hours per week, by labor category at the same level of detail as compensated hours, and the uncompensated overtime rate per hour, whether at the prime or subcontract level. This includes uncompensated overtime hours that are in indirect cost pools for personnel whose regular hours are normally charged direct.

52.237-11

(c) The offeror's accounting practices used to estimate uncompensated overtime must be consistent with its cost accounting practices used to accumulate and report uncompensated overtime hours.

(d) Proposals that include unrealistically low labor rates, or that do not otherwise demonstrate cost realism, will be considered in a risk assessment and will be evaluated for award in accordance with that assessment.

(e) The offeror shall include a copy of its policy addressing uncompensated overtime with its proposal.

(End of provision)

[62 FR 44816, Aug. 22, 1997]

52.237-11 Accepting and Dispensing of \$1 Coin.

As prescribed in 37.116-2, insert the following clause:

ACCEPTING AND DISPENSING OF \$1 COIN (SEP 2008)

(a) This clause applies to service contracts that involve business operations conducted in U.S. coin and currency, including vending machines, on any premises owned by the United States or under the control of any agency or instrumentality of the United States. All such business operations must be compliant with the requirements in paragraphs (b) and (c) of this clause on and after January 1, 2008.

(b) All business operations conducted under this contract that involve coins or currency, including vending machines, shall be fully capable of—

(1) Accepting \$1 coins in connection with such operations; and

(2) Dispensing \$1 coins in connection with such operations, unless the vending machine does not receive currency denominations greater than \$1.

(c) The Contractor shall ensure that signs and notices are displayed denoting the capability of accepting and dispensing \$1 coins with business operations on all premises where coins or currency are accepted or dispensed, including on each vending machine.

(End of clause)

[72 FR 46363, Aug. 17, 2007, as amended at 73 FR 54016, Sept. 17, 2008]

52.238 [Reserved]

52.239-1 Privacy or Security Safeguards.

As prescribed in 39.107, insert a clause substantially the same as the following:

48 CFR Ch. 1 (10-1-11 Edition)

PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)

(a) The Contractor shall not publish or disclose in any manner, without the Contracting Officer's written consent, the details of any safeguards either designed or developed by the Contractor under this contract or otherwise provided by the Government.

(b) To the extent required to carry out a program of inspection to safeguard against threats and hazards to the security, integrity, and confidentiality of Government data, the Contractor shall afford the Government access to the Contractor's facilities, installations, technical capabilities, operations, documentation, records, and databases.

(c) If new or unanticipated threats or hazards are discovered by either the Government or the Contractor, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party.

(End of clause)

[61 FR 41472, Aug. 8, 1996, as amended at 62 FR 274, Jan. 2, 1997]

52.240 [Reserved]

52.241 Utility Services Provisions and Clauses.

52.241-1 Electric Service Territory Compliance Representation.

As prescribed in 41.501(b), insert a provision substantially the same as the following:

ELECTRIC SERVICE TERRITORY COMPLIANCE REPRESENTATION (MAY 1999)

(a) Section 8093 of Public Law 100-202 generally requires purchases of electricity by any department, agency, or instrumentality of the United States to be consistent with State law governing the provision of electric utility service, including State utility commission rulings and electric utility franchises or service territories established pursuant to State statute, State regulation, or State-approved territorial agreements.

(b) By signing this offer, the offeror represents that this offer to sell electricity is consistent with Section 8093 of Public Law 100-202.

(c) Upon request of the Contracting Officer, the offeror shall submit supporting legal and factual rationale for this representation.

(End of provision)

[64 FR 10534, Mar. 4, 1999]