Defense Acquisition Regulations System, DOD 252.216–7004

Award Fee Reduction or Denial for Jeopardizing the Health or Safety of Government Personnel.

As prescribed in 216.406 use the following clause:

AWARD FEE REDUCTION OR DENIAL FOR JEOPARDIZING THE HEALTH OR SAFETY OF GOVERNMENT PERSONNEL (SEP 2011)

(a) Definitions. As used in this clause— Covered incident—

(i) Means any incident in which the Contractor, through a criminal, civil, or administrative proceeding that results in a disposition listed in paragraph (a)(ii) of this definition—

(A) Has been determined in the performance of this contract to have caused serious bodily injury or death of any civilian or military personnel of the Government through gross negligence or with reckless disregard for the safety of such personnel; or

(B) Has been determined to be liable for actions of a subcontractor of the Contractor that caused serious bodily injury or death of any civilian or military personnel of the Government through gross negligence or with reckless disregard for the safety of such personnel.

(ii) Includes those incidents that have resulted in any of the following dispositions:

(A) In a criminal proceeding, a conviction.

(B) In a civil proceeding, a finding of fault or liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damage of $5,000 or more.

(C) In an administrative proceeding, a finding of fault and liability that results in—

(1) The payment of a monetary fine or penalty of $5,000 or more; or

(2) The payment of a reimbursement, restitution, or damages in excess of $100,000.

(D) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in subparagraphs (a)(ii)(A), (a)(ii)(B), or (a)(ii)(C).

(E) In a DoD investigation of the Contractor or its subcontractors at any tier not subject to the jurisdiction of the U.S. courts, a final determination by the Secretary of Defense of Contractor or subcontractor fault (see DFARS 216.405–2–70).

Serious bodily injury means a grievous physical harm that results in a permanent disability.

(b) If, in the performance of this contract, the Contractor’s or its subcontractor’s actions cause serious bodily injury or death of civilian or military Government personnel, the Government may reduce or deny the award fee for the period in which the covered incident occurred, including the recovery of all or part of any award fees paid for any previous period during which the covered incident occurred.

(End of clause)

252.216–7005 Award Fee.

As prescribed in 216.406(e)(2), insert the following clause:

AWARD FEE (FEB 2011)

The Contractor may earn award fee from a minimum of zero dollars to the maximum amount stated in the award-fee plan in this contract. In no event will award fee be paid to the Contractor for any evaluation period in which the Government rates the Contractor’s overall cost, schedule, and technical performance below satisfactory. The Contracting Officer may unilaterally revise the award-fee plan prior to the beginning of any rating period in order to redirect contractor emphasis.

(End of clause)

252.216–7006 Ordering.

As prescribed in 216.506(a), use the following clause:

ORDERING (MAY 2011)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the contract schedule. Such orders may be issued from [insert dates].

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c)(1) If issued electronically, the order is considered “issued” when a copy has been posted to the Electronic Document Access system, and notice has been sent to the Contractor.

(2) If mailed or transmitted by facsimile, a delivery order or task order is considered “issued” when the Government deposits the order in the mail or transmits by facsimile. Mailing includes transmittal by U.S. mail or private delivery services.

(3) Orders may be issued orally only if authorized in the schedule.

(End of Clause)