225.370–2  Applicability.

This section applies to acquisitions for supplies and services that require the performance of private security functions outside the United States in areas of—

(a) Combat and other significant military operations designated by the Secretary of Defense;

(b) Contingency operations (see FAR 2.101);

(c) Humanitarian or peacekeeping operations; or

(d) Other military operations or exercises designated by the combatant commander.

[77 FR 35886, June 15, 2012]

225.370–3  Definitions.

As used in this section—

Full cooperation and private security functions are defined in the clause at 252.225–7039, Contractors Performing Private Security Functions.

[77 FR 35886, June 15, 2012]

225.370–4  Policy.

(a) The policy, responsibilities, procedures, accountability, training, equipping, and conduct of personnel performing private security functions in designated areas are addressed in Department of Defense Instruction (DoDI) 3020.50, Private Security Contractors (PSCs) Operating in Contingency Operations, Humanitarian or Peace Operations, or Other Military Operations or Exercises, at http://www.dtic.mil/whs/directives/corres/pdf/302050p.pdf.

(b) The requirements of this section apply to contractors that employ private security contractors outside the United States in areas of combat and other significant military operations designated by the Secretary of Defense, contingency operations, humanitarian or peacekeeping operations, or other military operations or exercises designated by the combatant commander, whether the contract is for the performance of private security functions or other supplies or services.

(c) DoD requires contractors described in paragraph (b) above to—

(i) Ensure that the contractor and all employees of the contractor who are responsible for performing private security functions comply with orders, directives, and instructions to contractors performing private security functions for—

(ii) Registering, processing, accounting for, managing, overseeing, and keeping appropriate records of personnel performing private security functions. This includes ensuring the issuance, maintenance, and return of Personal Identity Verification credentials in accordance with FAR clause 52.204–9, Personal Identity Verification of Contractor Personnel, and DoD procedures, including revocation of any physical and/or logistical access (as defined by Homeland Security Presidential Directive (HSPD–12)) granted to such personnel;

(iii) Authorizing and accounting for weapons to be carried by or available to be used by personnel performing private security functions;

(A) All weapons must be registered in the Synchronized Predeployment Operational Tracker (SPOT) materiel tracking system.

(B) In addition, all weapons that are Government-furnished property must be assigned a unique identifier in accordance with the clauses at 252.211–7003 and 252.245–7001 and physically marked in accordance with MIL–STD 130 (current version) and DoD directives and instructions. The items must be registered in the DoD Item Unique Identification (IUID) Registry (https://www.bpn.gov/iuid);

(iv) Registering and identifying armored vehicles, helicopters, and other military vehicles operated by contractors performing private security functions;

(A) All armored vehicles, helicopters, and other military vehicles must be registered in SPOT.

(B) In addition, all armored vehicles, helicopters, and other military vehicles that are Government-furnished property must be assigned a unique identifier in accordance with the clauses at 252.211–7003 and 252.245–7001 and physically marked in accordance with MIL–STD 130 (current version).
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and DoD directives and instructions. The items must be registered in the DoD IUID Registry; and

(iv) Reporting incidents in which—

(A) A weapon is discharged by personnel performing private security functions;

(B) Personnel performing private security functions are attacked, killed, or injured;

(C) Persons are killed or injured or property is destroyed as a result of conduct by contractor personnel;

(D) A weapon is discharged against personnel performing private security functions or personnel performing such functions believe a weapon was so discharged; or

(E) Active, non-lethal counter-measures (other than the discharge of a weapon, including laser optical distracters, acoustic hailing devices, electromuscular TASER guns, bluntrauma devices like rubber balls and sponge grenades, and a variety of other riot control agents and delivery systems) are employed by personnel performing private security functions in response to a perceived immediate threat;

(2) Ensure that the contractor and all employees of the contractor who are responsible for personnel performing private security functions or personnel performing such functions believe a weapon was so discharged; or

(3) Provide full cooperation with any Government-authorized investigation into incidents reported pursuant to paragraph (b)(1)(iv) of the clause at 252.225–7039, Contractors Performing Private Security Functions, and incidents of alleged misconduct by personnel performing private security functions by providing access to employees performing private security functions and relevant information in the possession of the contractor.


225.370–5 Remedies.

(a) In addition to other remedies available to the Government—

(1) The contracting officer may direct the contractor, at its own expense, to remove and replace any contractor personnel who fail to comply with or violate applicable requirements. Such action may be taken at the Government’s discretion without prejudice to its rights under any other contract provision, including termination for default. Required contractor actions include—

(i) Ensuring the return of personal identity verification credentials;

(ii) Ensuring the return of any other equipment issued to the employee under the contract; and

(iii) Revocation of any physical and/or logistical access granted to such personnel;

(2) The contracting officer shall include the contractor’s failure to comply with the requirements of this subpart in appropriate databases of past performance and consider any such failure in any responsibility determination or evaluation of past performance; and

(3) In the case of award-fee contracts, the contracting officer shall consider a contractor’s failure to comply with the requirements of this subpart in the evaluation of the contractor’s performance during the relevant evaluation period, and may treat such failure as a basis for reducing or denying award fees for such period or for recovering all or part of award fees previously paid for such period (see 216.405–2–71).

(b) If the performance failures are significant, severe, prolonged, or repeated, the contracting officer shall