

Defense Acquisition Regulations System, DoD

250.101-2-70

the procedures at PGI 249.7001 for congressional notification and release of information.

[71 FR 27645, May 12, 2006]

249.7002 [Reserved]

249.7003 Notification of anticipated contract terminations or reductions.

(a) Section 1372 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103-160) and section 824 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104-201) are intended to help establish benefit eligibility under the Workforce Innovation and Opportunity Act (29 U.S.C. Chapter 32) for employees of DoD contractors and subcontractors adversely affected by termination or substantial reductions in major defense programs.

(b) Departments and agencies are responsible for establishing procedures to—

(1) Identify which contracts (if any) under major defense programs will be terminated or substantially reduced as a result of the funding levels provided in an appropriations act; and

(2) Within 60 days of the enactment of such an act, provide notice of the anticipated termination of or substantial reduction in the funding of affected contracts—

(i) Directly to the Secretary of Labor; and

(ii) Through the contracting officer to each prime contractor.

(c) When subcontracts have been issued, the prime contractor is responsible for—

(1) Providing notice of the termination or substantial reduction in funding to all first-tier subcontractors with a subcontract valued equal to or greater than \$700,000; and

(2) Requiring that each subcontractor—

(i) Provide such notice to each of its subcontractors for subcontracts valued greater than \$150,000; and

(ii) Impose a similar notice and flowdown requirement in subcontracts valued greater than \$150,000 at all tiers.

[61 FR 64637, Dec. 6, 1996; 61 FR 66077, Dec. 16, 1996; 62 FR 49304, Sept. 19, 1997; 85 FR 34535, June 5, 2020]

249.7004 Contract clause.

Use the clause at 252.249-7002, Notification of Anticipated Contract Termination or Reduction, in all contracts under a major defense program.

[85 FR 34536, June 5, 2020]

PART 250—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT

Subpart 250.1—Extraordinary Contractual Actions

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AUTHORITY: 41 U.S.C. 1303 and 48 CFR chapter 1.

SOURCE: 73 FR 46815, Aug. 12, 2008, unless otherwise noted.

Subpart 250.1—Extraordinary Contractual Actions

250.100 Definitions.

Secretarial level, as used in this subpart, means—

(1) An official at or above the level of an Assistant Secretary (or Deputy) of Defense or of the Army, Navy, or Air Force; and

(2) A contract adjustment board established by the Secretary concerned.

250.101 General.

250.101-2 Policy.

250.101-2-70 Limitations on payment.

See 10 U.S.C. 3862 for limitations on Congressionally directed payment of a

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request for equitable adjustment to contract terms or a request for relief under Public Law 85-804.

[73 FR 46815, Aug. 12, 2008, as amended at 87 FR 76996, Dec. 16, 2022]

250.101-3 Records.

Follow the procedures at PGI 250.101-3 for preparation of records.

250.102 Delegation of and limitations on exercise of authority.

250.102-1 Delegation of authority.

(b) Authority under FAR 50.104 to approve actions obligating \$75,000 or less may not be delegated below the level of the head of the contracting activity.

(d) In accordance with the acquisition authority of the Under Secretary of Defense (Acquisition and Sustainment (USD (A&S))) under 10 U.S.C. 133(b), in addition to the Secretary of Defense and the Secretaries of the military departments, the USD (A&S) may exercise authority to indemnify against unusually hazardous or nuclear risks.

[73 FR 46815, Aug. 12, 2008, as amended at 75 FR 45074, Aug. 2, 2010; 80 FR 36905, June 26, 2015; 85 FR 61504, Sept. 29, 2020; 87 FR 76996, Dec. 16, 2022]

250.102-1-70 Delegations.

(a) *Military departments.* The Departments of the Army, Navy, and Air Force will specify delegations and levels of authority for actions under the Act and the Executive Order in departmental supplements or agency acquisition guidance.

(b) *Defense agencies.* Subject to the restrictions on delegations of authority in 250.102-1(b) and FAR 50.102-1, the directors of the defense agencies may exercise and redelegate the authority contained in the Act and the Executive Order. The agency supplements or agency acquisition guidance shall specify the delegations and levels of authority.

(1) Requests to obligate the Government in excess of \$75,000 must be submitted to the USD(A&S) for approval.

(2) Requests for indemnification against unusually hazardous or nuclear risks must be submitted to the USD(A&S) for approval before using the indemnification clause at FAR

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52.250-1, Indemnification Under Public Law 85-804.

(c) *Approvals.* The Secretary of the military department or the agency director must approve any delegations in writing.

[73 FR 46815, Aug. 12, 2008, as amended at 75 FR 45074, Aug. 2, 2010; 80 FR 36905, June 26, 2015; 85 FR 61504, Sept. 29, 2020; 88 FR 73238, Oct. 25, 2023]

250.102-2 Contract adjustment boards.

The Departments of the Army, Navy, and Air Force each have a contract adjustment board. The board consists of a Chair and not less than two nor more than six other members, one of whom may be designated the Vice-Chair. A majority constitutes a quorum for any purpose and the concurring vote of a majority of the total board membership constitutes an action of the board. Alternates may be appointed to act in the absence of any member.

250.103 Contract adjustments.

250.103-3 Contract adjustment.

(a) Contractor requests should be filed with the procuring contracting officer (PCO). However, if filing with the PCO is impractical, requests may be filed with an authorized representative, an administrative contracting officer, or the Office of General Counsel of the applicable department or agency, for forwarding to the cognizant PCO.

250.103-5 Processing cases.

(1) At the time the request is filed, the activity shall prepare the record described at PGI 250.101-3(1)(i) and forward it to the appropriate official within 30 days after the close of the month in which the record is prepared.

(2) The officer or official responsible for the case shall forward to the contract adjustment board, through departmental channels, the documentation described at PGI 250.103-5.

(3) Contract adjustment boards will render decisions as expeditiously as practicable. The Chair shall sign a memorandum of decision disposing of the case. The decision shall be dated and shall contain the information required by FAR 50.103-6. The memorandum of decision shall not contain

any information classified “Confidential” or higher. The board’s decision will be sent to the appropriate official for implementation.

250.103–6 Disposition.

For requests denied or approved below the Secretarial level, follow the disposition procedures at PGI 250.103–6.

250.104 Residual powers.

250.104–3 Special procedures for unusually hazardous or nuclear risks.

250.104–3–70 Indemnification under contracts involving both research and development and other work.

When indemnification is to be provided on contracts requiring both research and development work and other work, the contracting officer shall insert an appropriate clause using the authority of both 10 U.S.C. 3861 and Public Law 85–804.

(a) The use of Public Law 85–804 is limited to work which cannot be indemnified under 10 U.S.C. 3861 and is subject to compliance with FAR 50.104.

(b) Indemnification under 10 U.S.C. 3861 is covered by 235.070.

[73 FR 46815, Aug. 12, 2008, as amended at 87 FR 76996, Dec. 16, 2022]

PART 251—USE OF GOVERNMENT SOURCES BY CONTRACTORS

Subpart 251.1—Contractor Use of Government Supply Sources

Sec.

251.101 Policy.

251.102 Authorization to use Government supply sources.

251.107 Contract clause.

Subpart 251.2—Contractor Use of Interagency Fleet Management System (IFMS)

251.202 Authorization.

251.205 Contract clause.

AUTHORITY: 41 U.S.C. 1303 and 48 CFR chapter 1.

SOURCE: 56 FR 36479, July 31, 1991, unless otherwise noted.

Subpart 251.1—Contractor Use of Government Supply Sources

251.101 Policy.

(a)(1) Notwithstanding the restriction at FAR 51.101(a)(1), contracting officers may authorize contractors to use Defense Logistics Agency Energy as a source of fuel in performance of other than cost-reimbursement contracts, when the fuel is funded by the Defense Working Capital Fund. When providing this authorization to contractors, follow the procedures at PGI 251.101.

[85 FR 53684, Aug. 31, 2020]

251.102 Authorization to use Government supply sources.

(e) When authorizing contractor use of Government supply sources, follow the procedures at PGI 251.102.

(3)(ii) The contracting officer may also authorize the contractor to use the DD Form 1155 when requisitioning from the Department of Veterans Affairs.

(f) The authorizing agency is also responsible for promptly considering requests of the DoD supply source for authority to refuse to honor requisitions from a contractor that is indebted to DoD and has failed to pay proper invoices in a timely manner.

[69 FR 67858, Nov. 22, 2004]

251.107 Contract clause.

Use the clause at 252.251–7000, Ordering From Government Supply Sources, in solicitations and contracts which include the clause at FAR 52.251–1, Government Supply Sources.

Subpart 251.2—Contractor Use of Interagency Fleet Management System (IFMS)

251.202 Authorization.

(a)(2)(A) See FAR 28.307–2(c) for policy on contractor insurance.

(B) See FAR 28.308 for policy on self-insurance.

(C) See FAR 31.205–19 for allowability of insurance costs.

(5) Paragraph (d) of the clause at 252.251–7001 satisfies the requirement of FAR 51.202(a)(5) for a written statement.