

Department of Defense

223.803

223.370-5 Contract clauses.

Use the clauses at 252.223-7002, Safety Precautions for Ammunition and Explosives, and 252.223-7003, Change in Place of Performance—Ammunition and Explosives, in all solicitations and contracts for acquisition to which this section applies.

Subpart 223.4—Use of Recovered Materials

223.405 Procedures.

(d) Departments and agencies must centrally collect information submitted in accordance with the clause at FAR 52.223-9 for reporting to the Office of the Deputy Under Secretary of Defense (Environmental Security).

[66 FR 49864, Oct. 1, 2001]

Subpart 223.5—Drug-Free Workplace

SOURCE: 57 FR 32737, July 23, 1992, unless otherwise noted.

223.570 Drug-free work force.

223.570-1 Definitions.

Employee in a sensitive position and illegal drugs, as used in this section, are defined in the clause at 252.223-7004, Drug-Free Work Force.

223.570-2 Policy.

DoD policy is to ensure that its contractors maintain a program for achieving a drug-free work force.

223.570-3 General.

(a) The use of illegal drugs is inconsistent with the law-abiding behavior expected of all citizens. Employees who use illegal drugs tend to be less productive, less reliable, and prone to greater absenteeism. The use of illegal drugs by contractor employees results in the potential for increased cost, delay, and risk in the performance of a Government contract.

(b) If a contractor's employees use illegal drugs at any time, it can—

(1) Impair their ability to perform tasks that are critical to proper contract performance;

(2) Increase the potential for accidents and for failures that can pose a serious threat to the national security, health, and safety;

(3) Cause less than the complete reliability, stability, and good judgment required of an individual who has access to sensitive information;

(4) Create the possibility of coercion, influence, and irresponsible action under pressure that may pose a serious risk to national security, health, and safety.

223.570-4 Contract clause.

(a) Use the clause at 252.223-7004, Drug-Free Work Force, in all solicitations and contracts—

(1) That involve access to classified information; or

(2) When the contracting officer determines that the clause is necessary for reasons of national security or for the purpose of protecting the health or safety of those using or affected by the product of, or performance of, the contract.

(b) Do not use the clause in solicitations and contracts—

(1) For commercial items;

(2) When performance or partial performance will be outside the United States, its territories, and possessions, unless the contracting officer determines such inclusion to be in the best interest of the Government; or

(3) When the value of the acquisition is at or below the simplified acquisition threshold.

[57 FR 32737, July 23, 1992, as amended at 64 FR 2598, Jan. 15, 1999]

Subpart 223.8—Ozone-Depleting Substances

223.803 Policy.

Section 211.271, Elimination of use of class I ozone-depleting substances, places restrictions on award or modification of DoD contracts requiring the use of class I ozone-depleting substances. These restrictions are in addition to any imposed by the Clean Air Act and apply after June 1, 1993, to all DoD contracts, regardless of place of performance.

[61 FR 50452, Sept. 26, 1996]

Subpart 223.70 [Reserved]**Subpart 223.71—Storage and Disposal of Toxic and Hazardous Materials**

SOURCE: 58 FR 28466, May 13, 1993, unless otherwise noted.

223.7100 Policy.

10 U.S.C. 2692 prohibits storage or disposal of non-DoD-owned toxic or hazardous materials on DoD installations, except as provided in 223.7102. DoD Instruction 4715.6, Environmental Compliance, implements 10 U.S.C. 2692.

[58 FR 28466, May 13, 1993, as amended at 67 FR 61516, Oct. 1, 2002]

223.7101 Procedures.

(a) If the contracting officer is uncertain as to whether particular activities are prohibited or fall under one of the exceptions in 223.7102, the contracting officer should seek advice from the cognizant office of counsel.

(b) When storage, treatment, or disposal of non-DoD-owned toxic or hazardous materials is authorized in accordance with this subpart, the contract or authorization should specify the types, conditions, and quantities of toxic or hazardous materials that may be temporarily stored, treated, or disposed of in connection with the contract or as a result of the authorized commercial use of a DoD industrial-type facility.

[60 FR 61597, Nov. 30, 1995]

223.7102 Exceptions.

(a) The prohibition of 10 U.S.C. 2692 does not apply to—

(1) The storage of strategic and critical materials in the National Defense Stockpile under an agreement for such storage with the Administrator of General Services Administration;

(2) The temporary storage or disposal of explosives in order to protect the public or to assist agencies responsible for Federal law enforcement in storing or disposing of explosives when no alternative solution is available, if such storage or disposal is made in accordance with an agreement between the

Secretary of Defense and the head of the Federal agency concerned;

(3) The temporary storage or disposal of explosives in order to provide emergency lifesaving assistance to civil authorities;

(4) The disposal of excess explosives produced under a DoD contract, if the head of the military department concerned determines, in each case, that an alternative feasible means of disposal is not available to the contractor, taking into consideration public safety, available resources of the contractor, and national defense production requirements;

(5) The temporary storage of nuclear materials or nonnuclear classified materials in accordance with an agreement with the Secretary of Energy;

(6) The storage of materials that constitute military resources intended to be used during peacetime civil emergencies in accordance with applicable DoD regulations;

(7) The temporary storage of materials of other Federal agencies in order to provide assistance and refuge for commercial carriers of such material during a transportation emergency;

(8) The storage of any material that is not owned by DoD, if the Secretary of the military department concerned determines that the material is required or generated by a private person in connection with the authorized and compatible use by that person of an industrial-type DoD facility; or

(9) The treatment and disposal of any non-DoD-owned material if the Secretary of the military department concerned—

(i) Determines that the material is required or generated by a private person in connection with the authorized and compatible commercial use by that person of an industrial-type facility of that military department; and

(ii) Enters into a contract with that person that—

(A) Is consistent with the best interest of national defense and environmental security; and

(B) Provides for that person's continued financial and environmental responsibility and liability with regard to the material.

(b) The Secretary of Defense, where DoD Instruction 4715.6 applies, may