

Contractor Insurance



Guiding Principle

Proper review and approval of contractor liability insurance programs by DOE's Contracting Officers ensure cost effectiveness and protects the Government's best interest.

[Reference: FAR 28.3 and 42.302; DEAR 970.28; DOE Order 350.1]

Overview

This section provides guidance to Contracting Officers who are responsible for the review and approval of contractor insurance programs in accordance with FAR [28.3](#), [FAR 42](#), [DEAR 970.42](#), and [DOE Order 350.1](#).

The Order concerns all Departmental Elements responsible for contracts for the management, operation, and control of DOE facilities. Application to other designated long-lived on-site contracts is optional at the discretion of the Departmental and Field Elements.

Background

FAR 42.302(a)(2) requires Contracting Officers, as part of their contract administration functions, to review contractor insurance plans. This responsibility is expanded in DEAR 970.28,

Bonds and Insurance, which prescribes contract clause 970.5228-1, Insurance - Litigation and Claims, for management and operating contracts.

This clause, at paragraphs (c) through (f), helps define the types and limits of insurance coverage the Department expects contractors to maintain. It also requires all bonds and insurance be in forms, amounts, and periods of coverage that the Contracting Officer may require and approve. DOE Order 350.1, Chapter VII, further refines this review and approval process by identifying responsibilities of the Field Office, the Head of the Contracting Activity, and the Contracting Officer. The Order also ***strongly encourages*** the use of the Department Retrospective Insurance Program or the Third Party Administrative Services Contract (TPA) as cost effective alternatives for commercial insurance.

Best Practices

Contracting Officers follow these guidelines in addressing contractor insurance issues:

Encourage contractors to self-insure or use the Department's Retrospective Insurance Program or its TPA contract, unless commercial insurance is demonstrably justified as more cost effective.

Use of commercial insurance must be discussed and coordinated with the Office of Resource Management (ME-63).

Ensure a clause is included in M&O contracts, and other contracts as determined by the DOE office, that limit cost recovery for insurance expenditures to actual losses plus administrative costs.

Ensure, when the approval of commercial insurance is necessary, that both DOE and contractor representatives clearly understand the **policy coverage(s), exclusion(s), deductible(s), and liability limit(s)** prior to approval or authorization of payments.

Initially and upon any significant policy changes, review all contractor's commercial insurance policies and coverages for which reimbursement is requested and ensure that they are in the Department's best interest and are allowable. Take appropriate action to fully recover any identified or discovered unallowable or unauthorized insurance costs.

Headquarters Point of Contact

Questions relating to contractor insurance programs may be directed to the Office of Resource Management at 202-287-1645.