

Question and Answer for Posting 9/6/13

The response to the below question was inadvertently left off the Q&As posted on 9/5/13:

22. Section I.15

DOE has included the FAR clause 52.211-12 "Liquidated Damages – Construction" in this Task Order. This appears to be an inappropriate application of this clause. FAR 11.503(b) states that this clause is to be inserted in solicitations and contracts for construction. Except for a very few elements, the Deactivation Task Order is not a construction contract appropriate for application of this FAR clause. This clause would potentially apply in any situation where the Contractor "fails to complete the work within the time specified in the contract." As the RTP now stands, the scope to which this applies is potentially all work under the Task Order, and the amount of damages to be assessed is not even defined. This is an untenable position for contractors who are dependent upon DOE, USEC, regulators, and potentially other site contractors. The clause should be deleted, or the applicability should be clarified by specifying scope elements in the Performance Work Statement that are construction tasks and that will have reasonably established dates for completion. The amount of damages to be applied must also be stated including a cap on such damages.

Response: FAR clause 52.211-12 "Liquidated Damages – Construction" will be removed from the RTP in a future amendment.