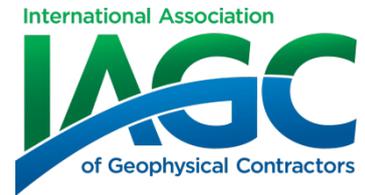


Statement of Principles

Interference by Third Parties



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Key Words:

- Activists
- Area of Operations
- Client
- Contractor
- Contract(s)
- Exploration Risk
- Force Majeure
- Geophysical Services
- Subcontractor
- Third Party(ies)
- Third Party Action Group
- Turnkey

Terms that are in bold type are defined in the Glossary of Terms which forms part of this family of Statements of Principles.

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Statement of Principles

Contracts for **Geophysical Services** should take into account, and adequately compensate **Contractor** for unanticipated delays and circumstances, and particularly address the following points.

Interference by **Third Parties** that adversely affect **Geophysical Services** that were correctly undertaken is **Exploration Risk**. As such, it should be the responsibility of **Client** and the **Contractor** should be fully indemnified. Furthermore, any **Third Party** issues or **Activist or Third Party Action Group's** agendas in the area should be disclosed at the bid stage by **Client** if **Client** has prior knowledge.

To accomplish the foregoing, the following points should be covered in all **Contracts**.

- A. Cost of negotiating with and compensating **Third Parties**.
- B. Cost of security resources, including but not limited to, guards or military assistance, if required.
- C. **Client** should pay the Replacement cost of **Contractor** equipment damaged or lost due to actions by **third parties**.
- D. Compensation for the financial impact caused by **third parties'** interference.
- E. Compensation for early termination and demobilization in the event interference prohibits continuance of the **Geophysical Services**.
- F. In circumstances where the inherent risks of an area are not easily quantifiable at bid stage, the **Contract** should contemplate a term component as an addition or alternative to the **Turnkey** rate to more equitably spread the **Exploration Risks**.
- G. Indemnity for death or illness of or injury to any of **Contractor** and its **Subcontractor's** employees, servants or agents.

Commercial Context

Geophysical Services are both increasingly carried out in areas subject to sensitive political, social or environmental constraints, and are encroaching into more populous areas. Once very localised, these constraints have increased and today, organised **Activists** and **Third Party Actions Groups**, at every level from local to international, are becoming more stringent and proactive. Interference from **Third Parties**, sometimes in an effort to increase their compensation, or to publicly air a grievance against **Client** or **Contractor** are becoming more common. **Geophysical Services** are increasingly vulnerable to the actions of these groups through the ever escalating amounts of equipment deployed. In some cases, indigenous and action groups seek to intimidate by various means such as equipment theft, sabotage or physical threat to staff, which can lead to violence. In addition to damaging financial consequences, poor management of such hazards can create HSE risks and prevent successful project completion.

Many examples illustrate the inadequacy of some contractual conditions which have been accepted on occasion in the past because of either lack of experience or **Client** pressure. In extreme cases, such shortcomings have led to **Force Majeure**. Adequate contractual conditions would have most likely allowed proper management of the situation. There has been a general misuse of the **Turnkey Contract** particularly in situations where the risks cannot be reasonably quantified at the bid stage.

Contract conditions must promote good management of relations with third parties and clearly set out the respective responsibilities of **Contractor** and **Client**. The potential financial consequences that **Third Party** interference may have for the **Contractor** must accordingly be addressed for each specific project.

Recent Examples

Ecuador

Stoppage of a crew due to compensation demands by **Third Parties** (local communities) because undertakings previously given by **Client** had not been honoured. The financial consequences far exceeded the cost of standby. **Contractor** equipment was damaged and stolen, the project was delayed substantially, **Contractor** was never able to build the required operational momentum, and frustrated locals displayed aggression to the **Contractors'** staff.

Nigeria

Theft of equipment by **Third Parties** (communities) and physical threats to **Contractor** personnel resulted in the **Seismic Operations** being halted. This led to a **Force Majeure** declaration with standby at **Contractor** cost. The **Contract** did not specify standby to be **Client** charge in such circumstances. Ethnic conflicts created an unsafe working environment, requiring reorganization of the crew and finally modification of the work program. **Client's** local operating company rejected the standby claim.

After 6 weeks of line preparation activities on a new prospect, the local community stopped the start-up of recording operations. **Client** moved the **Contractor** to another area with no compensation for preparation work done or time spent in preparing the next prospect.

Indonesia

Following withdrawal of national military assistance, local people arbitrarily declared areas of swamp and dry land shrimp farms in order to claim additional compensation. The **Contract** did not explicitly cover compensation and lost operation time in such circumstances. The **Contractor** consequentially suffered significant financial duress.

Contractual Language

1. Additional Costs Incurred by Community Management

"In addition to the supply of personnel and equipment and to the supply of services, **Contractor** may incur costs of (a) negotiating with and compensating local communities, (b) guards and military assistance and (c) replacement cost of damaged or stolen equipment provided by **Contractor**, whether owned, hired, leased or otherwise provided by **Contractor** or its **Subcontractors**. Such additional costs, services, personnel or equipment shall be at **Company's** cost and paid to **Contractor** as provided in Appendix "Compensation". **Company** shall reimburse **Contractor** for the replacement of stolen or damaged equipment, at cost, increased by a handling fee. Any steps which may be necessary to meet specific constraints as regards interference by **Third Parties** shall be mutually agreed upon between the parties before they are taken in order to address the situation, subject to **Contractor's** right to suspend as defined in Clause 3) below." or "Additional services, personnel or equipment shall be **Company's** liability, paid for by **Contractor** and upon presentation of supporting documents reimbursed by **Company**."

2. Standby Caused by Interference by Third Parties

- Time during which work is not possible due to damage to receiver spreads or data links or to other **Contractor's** equipment, if such damage are due to **Third Parties** or due to event(s) beyond **Contractor's** reasonable control;
- Time lost waiting to replace equipment lost or damaged for any reason beyond **Contractor's** reasonable control (such reason including, but not limited to, sabotage, vandalism, theft);
- Time during which civil or interference by **Third Parties**, security problems, whether actual or threatened, or other reasons beyond **Contractor's** reasonable control make the **Geophysical Services** more difficult or hazardous than reasonably expected by **Contractor** at the time of **Tendering** or create or are capable of creating a risk for the security of **Contractor's** personnel and equipment;
- Time lost due to strikes or other disturbances;
- Time lost in waiting for **Client's** action to secure proper authorizations or **Contract** negotiation necessary to carry out the **Geophysical Services**

3. Compensation for Early Termination

"**Contractor** shall never be obliged to provide services or work in hazardous or dangerous areas or if **Contractor** considers that (1) an imminent danger or risk to personnel and/ or equipment exists due either to local conditions or to deterioration of the security conditions prevailing in or in the vicinity of the Operating/ **Area of Operations**, and (2) such danger or risk may include without limitation threats to **Contractor** Group's personnel, potential security problems, thefts, acts of attempted bribery

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preventing **Contractor** from entering the Operating/ Survey Area or performing and/or completing the work.

In the event that interference by **Third Parties** leads to such a situation, **Contractor** shall be entitled to suspend the work and be remunerated at the **Standby Rate** and/or to leave the survey area and terminate the **Contract** without any indemnity toward the **Company**. **Company** shall then pay for the work already carried out by **Contractor**, demobilization fees, reimbursement of the costs incurred in connection with termination of **Subcontracts** and payment of the early termination fee for the work outstanding below the minimum program, if applicable, or payment of the **Standby Rate** while **Contractor** seeks alternative work and any cost referred to as costs incurred by community management.

Related Documents

- IAGC Environmental Guidelines - Revised 2013
- IAGC SOP 2B – Force Majeure
- IAGC SOP 2K – Standby - Permitting Delays
- IAGC SOP 2N – Security
- IAGC SOP 2H – Termination
- IAGC SOP 2A – Ethics