



U.S. Department
of Transportation
Federal Aviation
Administration

Advisory Circular

Subject: Scope and Recommended Content
for a Contractual Agreement
Between an Air Carrier and a
Contract Maintenance Provider

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Change:

1. PURPOSE. This advisory circular (AC) describes the scope and recommended content requirements for contractual agreements between an air carrier and a contract maintenance provider (CMP). It explains the background and the necessity to interject specific requirements into a contractual agreement to ensure the air carrier fully supports the requirements imposed by Title 14 Code of Federal Regulations (14 CFR). Because the air carrier has the primary responsibility for the airworthiness of its aircraft it must ensure the proper controls are in place to assess, qualify, and authorize work performed for it by other persons, regardless of whether the performance of work is by a certificated or noncertificated CMP.

NOTE: For the purpose of this AC, the term CMP definition is a contractor hired to do work on behalf of the air carrier. This term applies to a certificated or noncertificated maintenance provider.

2. APPLICABILITY.

a. Audience. This AC provides guidance to all persons performing maintenance, alteration, and fabrication, including the fabrication of owner-produced parts.

b. Not Mandatory or Regulatory. This guidance is neither mandatory nor regulatory in nature and does not constitute a regulation. It describes an acceptable means, but not the only means, for content of a contractual agreement between an air carrier and a CMP. Terms such as “should,” “may,” and “must” are used only in the sense of ensuring applicability of this particular method of compliance. While these guidelines are not mandatory, they are derived from extensive Federal Aviation Administration (FAA) and industry experience in determining successful compliance with the applicable regulations.

c. No Changes to Regulations. This document does not change, create any additional, authorize changes in, or permit deviations from existing regulatory requirements.

3. DEVELOPING A CONTRACTUAL AGREEMENT BETWEEN AN AIR CARRIER AND A CMP.

a. Specific Manual Requirements for the Air Carrier. Title 14 CFR part 121, and part 135 air carriers must establish, in a specific section or chapter of its manual, the policies and procedures to administer, control, direct, and distribute the required information to a CMP. There

must also be controls to verify the proper performance of the work accomplished by the CMP. The policies and procedures must be dynamic in nature to enable a CMP to operate, largely, as an extension of the air carrier's maintenance organization.

b. Contractual Clauses. To ensure compliance with specific sections of 14 CFR, the contract(s) between the air carrier and the CMPs must state contractual clauses focused on those areas. These specific areas should include, but are not limited to the following:

(1) Adequate Organization. Part 121, §§ 121.365 and 135.423 states the air carrier must ensure the person or persons as described in 14 CFR part 1, § 1.1, with whom it arranges to perform maintenance, has an organization capable of handling the work to be performed. Further, if Required Inspection Items (RII) will be maintained or altered by the CMP, the inspection functions must be separated within the contracted organization. If the air carrier's Continued Airworthiness Maintenance Program (CAMP) or procedures require specific compliance aspects, the air carrier must be able to verify the CMP is equally capable of following the manual and procedures. The air carrier may verify this through auditing programs or contractual obligations.

(2) Maintenance Program. Refer to § 121.367, which states in part, the air carrier must ensure the CMP will perform the contracted work in accordance with the air carrier's CAMP. That is to mean, the information necessary to ensure compliance with the CAMP such as the maintenance manual must be made available to the CMP before work is to begin. The manual must have procedures for the air carrier to follow to ensure the maintenance provider follows the provided information. Furthermore, the air carrier must be able to verify the contractor has competent personnel, adequate equipment, and facilities as required by regulations. Through onsite auditing and oversight, the air carrier can be assured aircraft are returned to service in accordance with the provisions of its CAMP. (Refer to §§ 121.363, 121.367, 121.709, and part 135, §§ 135.413, 135.423, 135.425, and 135.443.)

(3) Manual Requirements. Sections 121.369, and 135.427 states the air carrier must provide a manual covering the administration of its CAMP. The manual(s) often include specific methods for complying with the enumerated paragraphs of this regulatory section. If these requirements must be known to the contractor, the air carrier must ensure the information is provided, and be stipulated in the contractual agreement. The air carrier and the CMP are obligated to verify compliance with the information provided. Safety nets in the form of contract requirements, such as the areas outlined in this AC, should be included in the contract language for this purpose.

(4) RII. Sections 121.371 and 135.429 will require the air carrier to train selected CMP inspection department personnel and properly certificate, train, qualify, and authorize personnel to do RII on behalf of the air carrier. CMP inspection personnel fall into two categories, they may be full time inspectors assigned to the quality department or they may be CMP employees assigned to a production section. The air carrier must specifically train CMP personnel, whether they are full-time inspectors or production personnel action as inspectors, to perform RII inspections. In either case, personnel that perform RII must be separate from the production section within the organization. If the air carrier's maintenance program or procedures require specific compliance aspects, the air carrier must be able to verify the maintenance provider is

equally capable of following its manual and procedures. This may be verified through auditing programs or contractual obligations. A listing of CMP personnel trained by air carrier on the RII program and specific areas may be retained by the CMP for ready reference. This may only be allowed if stated in the air carrier's manual.

(5) Continuing Analysis. Section 121.373 and 35.431, state in part, the air carrier must establish and maintain a system for the Continual Analysis and Surveillance (CAS) of the performance and effectiveness of its inspection program and programs covering other maintenance regardless of whether those programs are carried out by the operator or by another person. The air carrier must ensure corrective action is taken on any deficiencies or inadequacies found in its CAMP or in any other contractually required items at a CMP. This generally requires the air carrier to perform audits of all programs at its CMP. In addition, the air carrier should have a process for its onsite representative to document findings and corrective action taken that may not be associated with any scheduled audit or review process. These findings should also be included in the air carrier's Continuing Analysis and Surveillance System (CASS).

(6) Regulatory Authority. Title 14 CFR part 119, § 119.59(a), (c), and (d) grants regulatory authority to the FAA to gain access to all CMPs, including those that are providing maintenance services under contract to other maintenance providers. The contract should contain provisions to ensure the FAA has that level of access provided in § 119.59 to any person providing maintenance services to an air carrier, whether that service is provided directly, indirectly, or by a certificated or noncertificated entity.

(7) Training Programs. The air carrier's training programs must contain policy and procedures to verify the proper training of all maintenance personnel including the appropriate maintenance/inspection personnel employed by its CMP (certificated or noncertificated). (Refer to §§ 121.375 and 135.433.) Contract personnel shall be:

(a) Properly trained and qualified to maintain the air carrier's aircraft in accordance with the air carrier's requirements. It is important to note, that the training provided to the contracted maintenance personnel will be the same training afforded the employees of the air carrier.

(b) Properly certificated, trained and authorized in RII for critical repairs (as listed in the air carrier's manual). The RII program requirements must be managed and the functions must be carried out in a seamless process, there cannot be any disparity between the way air carrier personnel are trained and carry out the RII inspection process and the way a contracted person accomplishes the same task. The training for air carrier personnel and the training for contracted persons must be based on the same training syllabus. The training syllabus must also address the proper procedures for preparing, signing, and handling maintenance records in accordance with the air carrier procedures.

(8) Duty Time. Section 121.377 states, in part, within the United States, each certificate holder or person with whom the certificate holder has arranged to accomplish contract maintenance must ensure their duty time requirements are followed by the CMPs. The air carrier's maintenance manual must contain procedures to insure duty time compliance are met and provided to the air carrier by the CMP and/or subcontractors.

(9) Certificate Requirements. Sections 121.378 and 135.435 state, in part, the air carrier must ensure only certificated persons are directly in charge of maintenance and/or perform required inspections. The contractual agreement should cover this requirement in a brief statement to ensure there are no misunderstandings.

(10) Authority to Perform. Sections 121.379 and 135.437 state, in part, the air carrier is authorized to perform or arrange for the performance of maintenance on its own aircraft as set forth in the CAMP and its manual(s). The center of the relationship between the air carrier and its CMPs are its practices, procedures, and assurances set forth in the air carrier's manual. The air carrier shall continually verify it is able to show compliance with its own procedures, either through direct supervision, surveillance, and/or auditing, or through appropriate controls such as contractual relationships. If regulatory requirements are ensured by contractual relationships, the contract should clearly establish the scope and nature of each party's duties and obligations under the regulations. The contract sections associated with regulatory compliance should enable the air carrier to verify the work is performed and recorded as set forth in the air carrier's manual.

(11) Records. Title 14 CFR part 43, §§ 43.9, 43.11; part 91, §§ 91.417, 121.380, and 135.439 state in part, specific records must be maintained by aircraft owners and operators. In order to ensure required regulatory records are made available to the regulatory authorities, the contractual agreement should cover any specifics. Requirements for documentation and retention of the contracted work must be in accordance with the air carrier's manual procedures. If the air carrier's maintenance manual and/or procedure indicate, the responsibility of making regulatory records available is delegated to the CMP the contract should clearly delineate the records required to be maintained, the length of time the records should be maintained, and the form and manner of maintaining such records.

(12) Additional Considerations. If adherence to the air carrier's maintenance manual(s) and procedure(s) make clear that regulatory requirements are assured through the business relationships with the CMP, the contract should reflect that obligation. Therefore, the contract may be used to verify compliance with *general* as well as *specific* areas.

NOTE: For example: Scope of Work- the description of work to be performed will dictate the depth of supervision, information exchange, and auditing needed to ensure compliance with the air carrier's CAMP. The more extensive the work--the more training, information, and oversight will be needed by the air carrier.

(13) Information Exchange. The need for information exchange will be dictated by the technical requirements of the work to be performed. The air carrier should ensure information from the CMP is obtained when needed for the air carrier's reliability program. This too should be stipulated in the contact agreement. Whether the information needed must be covered by contract will depend upon the air carrier's manual(s) and procedure(s). If the manual(s) or procedure(s) require such information be specified in the contract, the air carrier should incorporate them. Since the CMP is required to provide competent personnel and adequate facilities, consideration may be given to including a clause to notify the air carrier of changes in CMP staffing, facilities, and ownership.

(14) Traceability of Components and Parts. This could include everything from new parts to the scrapping and/or returning parts to the air carrier. Consideration should include parts exchanged being in the same configuration, including Service Bulletin (SB) and Airworthiness Directive (AD) compliance.

(15) Continuing CMP Oversight. Verifying that each one of the air carrier's CMPs are in continuous compliance is a major function of the air carriers CASS. Air carrier management should use a risk-based process for establishing a schedule for auditing and inspecting each CMP's performance under contractual agreements. Inherent with a risk-based process, it may be determined that some of the CMPs do not require an onsite audit. Consistent with the "performance" wording of §§ 121.373 or 135.431, the audits that the air carrier accomplishes should be primarily work-in-progress audits that determine if the maintenance personnel are following the air carrier's manual and the provisions of the contractual agreement. The audits should be accomplished by trained auditors, and the results analyzed by trained analysts. The results of the analysis should permit air carrier management to determine each CMPs continuing compliance with part 121 subpart L, or part 135 subpart J, and the air carrier's CAMP/maintenance programs as appropriate and warrant continued use.

NOTE: If the air carrier's maintenance manual addresses specific policy and procedures, the air carrier should list them in the contractual agreement. Conversely, the contractor is obligated to comply with the requirements. The air carrier is further required to verify the requirements are or have been accomplished.

(16) Airworthiness Release or Aircraft Log Entry. Sections 121.709, and 135.443 states in part, no certificate holder may operate an aircraft after maintenance, preventive maintenance or alterations are performed on the aircraft unless the air carrier, or the person with whom the certificate holder arranges for the performance of the maintenance, preventive maintenance, or alterations, prepares or causes to be prepared--(1) An Airworthiness Release; or (2) An appropriate entry in the aircraft log book must (a) The Airworthiness Release or Log Book Entry must be prepared in accordance with the procedures in the certificate holder's manual. (b) Notwithstanding paragraph (b)(3) of § 121.709, after maintenance, preventive maintenance, or alterations performed by a repair station that is located outside the United States, the Airworthiness Release or Log Entry required by paragraph (a) of this section may be signed by a person authorized by that repair station.

NOTE: If the CMP is a certificated repair station located outside the United States, the *repair station may authorize* a person to sign the log and return the aircraft to service on behalf of the air carrier.

4. SPECIAL CONSIDERATION DEVELOPING A CONTRACTUAL AGREEMENT BETWEEN THE AIR CARRIER AND THE CMP.

a. Develop Contractual Policies and Procedures. The basic agreements (points) must be developed by the air carrier and agreed upon by both parties, and become an integral part of the operating contractual agreement. As with all policies and procedures, they should be incorporated into the contractor's manual procedures and in this case it would be the air carrier.

The contract should clearly state “all policies and procedures are mutually agreed upon.” This should include a process for approving the use of subcontractors to get the proper approvals from the air carrier before use.

b. Ensure Compliance with Specific Sections of 14 CFR. Contractual clauses should be tailored to the specific work agreed upon. The air carrier’s airworthiness responsibility does not stop at the original CMP; it continues with the subcontractors of the original CMP. The air carrier must address these second, third and further level CMP issues, and how the air carrier’s CAMP requirements are accomplished at all levels of the contract process.

c. Additional Repair Services. When additional repair services (contracting) is required by a CMP for a part 121 or 135 air carrier;

(1) During the course of normal contracting of maintenance, it may be necessary for the CMP to utilize the services of a subcontractor. If this was planned for prior to the contractor receiving the item, it should be addressed in the contract. If it is not planned for in the onset, the air carrier must have procedures in its manual to address these requirements. In addition to the air carrier’s procedures, the CMP must also have procedures in its Repair Station Manual (RSM) explaining how this maintenance is to be accomplished on behalf of the air carrier, and in consideration of the repair stations quality system. The original contracted repair station should have procedures for both sending the product out to the subcontractor, and receiving the product back into the repair station. Each procedure should be detailed in nature, explaining who, what, when, where, and how. There should be procedures on how to carry out specific repair instructions and the steps that should be followed to insure the air carrier’s instructions were accomplished. There should be separate instructions for a certificated repair station and a noncertificated repair facility. There must also be instructions addressing Canadian Aircraft Maintenance Organizations (AMO). Furthermore, if the article is to be sent to additional subcontracting facilities, there should be detailed procedures in the original repair station’s RSM on how the receiving department of additional subcontractors will inspect, complete the work, complete the paperwork, and return it to the original CMP. The original CMP will assure the work accomplished is in accordance with the air carrier and original CMPs work scope, manufacturer’s specifications, and if applicable, FAA-approved data.

(2) One way this is accomplished is for the air carrier to have documented policies and procedures in its manual and ensure these policies are carried forth into any contract negotiations between it and the CMP. To review, evaluate, and accept or reject all maintenance providers’ maintenance programs and or standard operating procedures. The method or procedures used for this evaluation process and the distribution methods of this process (including all other information dissemination required for the proper performance of the air carrier’s maintenance by the maintenance provider) should be in the contract maintenance section or chapter within the air carrier’s manual.

(3) Drug and alcohol testing policies are required by law. It is generally a good idea to include an overview of the program in the contract. The following is an example of who is responsible for complying with parts 121 and 135 drug and alcohol requirements:

(a) All air carriers and operators certificated under part 119 authorized to conduct operations under part 121 or part 135 of this chapter, all air traffic control facilities not operated by the FAA or by or under contract to the U.S.-military; and all operators as defined in § 91.147.

(b) All individuals who perform, either directly or by contract, a safety-sensitive function listed in subpart E or subpart F of this part.

(c) All part 145 certificate holders who perform safety-sensitive functions and elect to implement a drug and alcohol testing program under this part.

(d) All contractors who elect to implement a drug and alcohol testing program under this part.

/s/  for

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