352.226-6 Indian Economic Enterprise Subcontracting Limitations

As prescribed in HHSAR 326.604-2(e)(3), the Contracting Officer shall insert the following clause:

Indian Economic Enterprise Subcontracting Limitations

(a) Definitions as used in this clause.

(1) *Indian Economic Enterprise* means any business activity owned by one or more Indians or Indian Tribes that is established for the purpose of profit provided that: The combined Indian or Indian Tribe ownership must constitute not less than 51 percent of the enterprise; the Indians or Indian Tribes must, together, receive at least a majority of the earnings from the contract; and the management and daily business operations of an enterprise must be controlled by one or more individuals who are Indians. To ensure actual control over the enterprise, the individuals must possess requisite management or technical capabilities directly related to the primary industry in which the enterprise conducts business. The enterprise must meet these requirements throughout the following time periods:

(i) At the time an offer is made in response to a written solicitation;

(ii) At the time of the contract award; and

(iii) During the full term of the contract.

(2) *Subcontract* means any contract, as defined in FAR subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contractor or subcontractor. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(3) *Subcontractor* means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

(b) Required Percentages of work by the concern. The contractor must comply with FAR 52.219-14, Limitations on Subcontracting clause in allocating what percentage of work to subcontract. The contractor shall not subcontract work exceeding the subcontract limitations in FAR 52.219-14 to a concern other than a responsible Indian Economic Enterprise.

(c) Any work that an IEE subcontractor does not perform with its own employee shall be considered subcontracted work for the purpose of calculating percentages of subcontract work in accordance with FAR 52.219-14 Limitations on Subcontracting.

(d) Cooperation. The contractor must:

(1) Carry out the requirements of this clause to the fullest extent; and

(2) Cooperate in any study or survey that the CO, Indian Health Service or its agents may conduct to verify the contractor's compliance with this clause.

(e) Incorporation in Subcontracts. The contractor must incorporate the substance of this clause, including this paragraph (e), in all subcontracts for general services, A&E services and construction

awarded under this contract.

(End of clause)

Parent topic: Subpart 352.2—Texts of Provisions and Clauses