52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.

As prescribed in 26.104 , insert the following clause:

Utilization of *Indian Organizations* and *Indian-Owned Economic Enterprises* (June 2000)

(a) *Definitions*. As used in this clause:

Indian means any person who is a member of any *Indian tribe*, band, group, pueblo, or community that is recognized by the Federal Government as eligible for services from the Bureau of *Indian* Affairs (BIA) in accordance with 25 U.S.C. 1452(c) and any "Native" as defined in the Alaska Native *Claims* Settlement Act (43 U.S.C. 1601).

Indian organization means the governing body of any *Indian tribe* or entity established or recognized by the governing body of an *Indian tribe* for the purposes of 25 U.S.C., Chapter 17.

Indian-owned economic enterprise means any *Indian*-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that *Indian* ownership constitutes not less than 51 percent of the enterprise.

Indian tribe means any *Indian tribe*, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native *Claims* Settlement Act, that is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1452(c).

Interested party means a prime contractor or an actual or prospective *offeror* whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

(b) The Contractor *shall* use its best efforts to give *Indian organizations* and *Indian-owned economic enterprises* (25 U.S.C. 1544) the maximum practicable opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of its contract.

(1) The *Contracting Officer* and the Contractor, acting in good faith, *may* rely on the representation of an *Indian organization* or *Indian-owned economic enterprise* as to its eligibility, unless an *interested party* challenges its status or the *Contracting Officer* has independent reason to question that status. In the event of a challenge to the representation of a subcontractor, the *Contracting Officer* will refer the matter to the U.S. Department of the Interior Bureau of *Indian* Affairs (BIA) Attn: Chief, Division of *Contracting* and Grants Administration 1849 C Street, NW, MS-2626-MIB Washington, DC 20240-4000.

The BIA will determine the eligibility and notify the *Contracting Officer*. No incentive payment will be made within 50 working days of subcontract award or while a challenge is pending. If a subcontractor is determined to be an *ineligible* participant, no incentive payment will be made under the *Indian* Incentive Program.

(2) The Contractor *may* request an adjustment under the *Indian* Incentive Program to the following:

(i) The estimated cost of a cost-type contract.

(ii) The target cost of a cost-plus-incentive-fee prime contract.

(iii) The target cost and ceiling price of a fixed-price incentive prime contract.

(iv) The price of a firm-fixed-price prime contract.

(3) The amount of the adjustment to the prime contract is 5 percent of the estimated cost, target cost, or firm-fixed-price included in the subcontract initially awarded to the *Indian organization* or *Indian-owned economic enterprise*.

(4) The Contractor has the burden of proving the amount claimed and *must* assert its request for an adjustment prior to completion of contract performance.

(c) The *Contracting Officer*, subject to the terms and conditions of the contract and the availability of funds, will authorize an incentive payment of 5 percent of the amount paid to the subcontractor. The *Contracting Officer* will seek funding in accordance with agency procedures.

(End of clause)

Parent topic: 52.226 [Reserved]