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Subpart 226.1 - INDIAN INCENTIVE PROGRAM

226.103 Procedures.

Follow the procedures at PGI 226.103 when submitting a request for funding of an Indian incentive.

226.104 Contract clause.

Use the clause at 252.226-7001 , Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, that are for supplies or services exceeding $500,000 in value.

Subpart 226.3 - Reserved

Subpart 226.5 - DRUG-FREE WORKPLACE

226.570 Drug-free work force.

226.570-1 Policy.

DoD policy is to ensure that its contractors maintain a program for achieving a drug-free work force.

226.570-2 Contract clause.

(a) Use the clause at 252.226-7003, Drug-Free Work Force, in all solicitations and contracts—

(1) That involve access to classified information; or

(2) When the contracting officer determines that the clause is necessary for reasons of national security or for the purpose of protecting the health or safety of those using or affected by the product of, or performance of, the contract.

(b) Do not use the clause in solicitations and contracts—

(1) For commercial products and commercial services;

(2) When performance or partial performance will be outside the United States and its outlying areas, unless the contracting officer determines such inclusion to be in the best interest of the Government; or

(3) When the value of the acquisition is at or below the simplified acquisition threshold.

Subpart 226.70 - RESERVED

Subpart 226.71 - PREFERENCE FOR LOCAL AND SMALL BUSINESSES

226.7100 Scope of subpart.

This subpart implements Section 2912 of the Fiscal Year 1994 Defense Authorization Act (Pub. L. 103-160) and Section 817 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103-337).

226.7101 Definition.

“Vicinity,” as used in this subpart, means the county or counties in which the military installation to be closed or realigned is located and all adjacent counties, unless otherwise defined by the agency head.

226.7102 Policy.

Businesses located in the vicinity of a military installation that is being closed or realigned under a base closure law, including 10 U.S.C. 2687, and small and small disadvantaged businesses shall be provided maximum practicable opportunity to participate in acquisitions that support the closure or realignment, including acquisitions for environmental restoration and mitigation.

226.7103 Procedure.

In considering acquisitions for award through the section 8(a) program (Subpart 219.8 and FAR Subpart 19.8) or in making set-aside decisions under Subpart 219.5 and FAR Subpart 19.5 for acquisitions in support of a base closure or realignment, the contracting officer shall—

(a) Determine whether there is a reasonable expectation that offers will be received from responsible business concerns located in the vicinity of the military installation that is being closed or realigned.

(b) If offers can not be expected from business concerns in the vicinity, proceed with section 8(a) or set-aside consideration as otherwise indicated in Part 219 and FAR Part 19.

(c) If offers can be expected from business concerns in the vicinity—

(1) Consider section 8(a) only if at least one eligible 8(a) contractor is located in the vicinity.

(2) Set aside the acquisition for small business only if at least one of the expected offers is from a small business located in the vicinity.

226.7104 Other considerations.

When planning for contracts for services related to base closure activities at a military installation affected by a closure or realignment under a base closure law, contracting officers shall consider including, as a factor in source selection, the extent to which offerors specifically identify and commit, in their proposals, to a plan to hire residents of the vicinity of the military installation that is being closed or realigned.

Subpart 226.72 - DEMONSTRATIONPROJECT FOR CONTRACTORS EMPLOYING PERSONS WITH DISABILITIES

226.7200 Scope of subpart.

This subpart implements section 853 of the National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108-136, 10 U.S.C. 3901 note prec.). Nothing in this subpart supersedes the requirement to use the mandatory sources in FAR part 8 or the small business programs in FAR part 19.

226.7201 Definitions.

As used in this subpart—

“Eligible contractor” means a business entity operated on a for-profit or nonprofit basis that—

(1) Employs severely disabled individuals at a rate that averages not less than 33 percent of its total workforce over the 12-month period prior to issuance of the solicitation;

(2) Pays not less than the minimum wage prescribed pursuant to 29 U.S.C. 206 to the employees who are severely disabled individuals; and

(3) Provides, for its employees, health insurance and a retirement plan comparable to those provided for employees by business entities of similar size in its industrial sector or geographic region.

“Severely disabled individual” means an individual with a disability (as defined in 42 U.S.C. 12102) who has a severe physical or mental impairment that seriously limits one or more functional capacities.

226.7202 Policy and procedures.

(a)(1) Contracting officers may use this Demonstration Project to award one or more contracts to an eligible contractor for the purpose of providing defense contracting opportunities for entities that employ severely disabled individuals. To determine if there are eligible contractors capable of fulfilling the agency’s requirement, conduct market research as described in 210.002 and FAR 10.002. For services, see also PGI 210.070 .

(2) If the contracting officer elects to use this Demonstration Project, FAR 6.302-5 requires a written

justification and approval to limit competition to eligible contractors. In the justification, identify the statutory authority for the Demonstration Project (10 U.S.C. 3901 note prec.).

(b) When using this Demonstration Project, one of the evaluation factors shall be the percentage of the offeror's total workforce that consists of severely disabled individuals employed by the offeror. Contracting officers may use a rating method in which a higher percentage of the offeror's total workforce consisting of severely disabled individuals would result in a higher rating for this evaluation factor.

(c)(1) Contracts awarded to eligible contractors under this Demonstration Project shall be counted toward DoD's small disadvantaged business goal. The contractor must be an eligible contractor when options under the contract are exercised, in order for DoD to continue to receive credit for the contract toward its small disadvantaged business goal.

(2) Contracting officers shall verify the contractor's representation (e.g., by checking the System for Award Management) prior to exercising an option on a contract awarded under the Demonstration Project. Contracting officers may exercise the option if the contractor has represented that it is not an eligible contractor; however, the contract shall no longer be counted toward DoD's small disadvantaged business goal.

226.7203 Solicitation provision.

Use the provision at 252.226-7002 , Representation for Demonstration Project for Contractors Employing Persons with Disabilities, in solicitations when using this Demonstration Project, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services.