326.505 Applicability.

The contracting officer shall insert the clause at 352.226-1, Indian Preference, and the clause at 352.226-2, Indian Preference Program, in contracts to implement section 7(b) of Public Law 93-638 for all Department of Health and Human Services (HHS) activities. Contracting activities shall use the clauses as follows, except for those exempted solicitations and contracts issued and or awarded pursuant to Title I of Public Law 93-638 (25 U.S.C. 450 *et seq.*):

(a) The contracting officer shall insert the clause at 352.226-1, Indian Preference, in solicitations, contracts, and orders when—

(1) The award is (or will be) pursuant to an act specifically authorizing such awards with Indian organizations; or

(2) The work is specifically for the benefit of Indians and is in addition to any incidental benefits which might otherwise accrue to the general public.

(b) The contracting officer shall insert the clause at 352.226-2, Indian Preference Program, in solicitations, contracts, and orders when—

(1) The dollar amount of the acquisition is expected to equal or exceed $650,000 for non-construction work or $1.5 million for construction work;

(2) The solicitation, contract, or order includes the Indian Preference clause; and

(3) The contracting officer makes the determination, prior to solicitation, that performance will take place in whole or in substantial part on or near an Indian reservation(s). In addition, the contracting officer may insert the Indian Preference Program clause in solicitations, contracts, and orders below the $650,000 or $1.5 million level for non-construction or construction contracts, respectively, but which meet the requirements of paragraphs (b)(2) and (3) of this section, and in the opinion of the contracting officer, offer substantial opportunities for Indian employment, training, and subcontracting.

Parent topic: Subpart 326.5—Indian Preference in Employment, Training, and Subcontracting Opportunities