

Agency-prescribed provisions and clauses permitted by TAR and used on a standard basis (i.e., normally used in two or more solicitations or contracts regardless of contract type) shall be prescribed and contained in the TAR. OAs desiring to use a provision or a clause on a standard basis shall submit a request containing a copy of the clause(s), justification for its use, and evidence of legal counsel review to M-60 in accordance with (TAR) 48 CFR 1201.304 for possible inclusion in the TAR.

(B) Provisions and clauses used on a one-time basis (i.e., non-standard provisions and clauses) may be approved by the contracting officer, unless a higher level is designated by the OA. This authority is permitted subject to:

- (1) evidence of legal counsel review in the contract file;
- (2) inserting these clauses in the appropriate sections of the uniform contract format; and
- (3) ensuring the provisions and clauses do not deviate from the requirements of the FAR and TAR.

### Subpart 1252.2—Texts of Provisions and Clauses

#### 1252.209-70 Disclosure of conflicts of interest.

As prescribed in 1209.507, insert the following provision:

DISCLOSURE OF CONFLICTS OF INTEREST (OCT 1994)

It is the Department of Transportation's (DOT) policy to award contracts to only those offerors whose objectivity is not impaired because of any related past, present, or planned interest, financial or otherwise, in organizations regulated by DOT or in organizations whose interests may be substantially affected by Departmental activities. Based on this policy:

- (a) The offeror shall provide a statement in its proposal which describes in a concise manner all past, present or planned organizational, financial, contractual or other interest(s) with an organization regulated by DOT, or with an organization whose interests may be substantially affected by Departmental activities, and which is related to the work under this solicitation. The interest(s) described shall include those of the proposer, its affiliates, proposed consultants, proposed subcontractors and key personnel of any of the entities. Past interest shall be limited to within one year of the date of the

offeror's technical proposal. Key personnel shall include any person owning more than 20% interest in the offeror, and the offeror's corporate officers, its senior managers and any employee who is responsible for making a decision or taking an action on this contract where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

(b) The offeror shall describe in detail why it believes, in light of the interest(s) identified in paragraph (a) of this section, that performance of the proposed contract can be accomplished in an impartial and objective manner.

(c) In the absence of any relevant interest identified in paragraph (a) of this section, the offeror shall submit in its proposal a statement certifying that to its best knowledge and belief no affiliation exists relevant to possible conflicts of interest. The offeror must obtain the same information from potential subcontractors prior to award of a subcontract.

(d) The Contracting Officer will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant information known to DOT, will be used to determine whether an award to the offeror may create a conflict of interest. If any such conflict of interest is found to exist, the Contracting Officer may (1) disqualify the offeror, or (2) determine that it is otherwise in the best interest of the United States to contract with the offeror and include appropriate provisions to mitigate or avoid such conflict in the contract awarded.

(e) The refusal to provide the disclosure or representation, or any additional information required, may result in disqualification of the offeror for award. If nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. If after award the Contractor discovers a conflict of interest with respect to the contract awarded as a result of this solicitation, which could not reasonably have been known prior to award, an immediate and full disclosure shall be made in writing to the Contracting Officer. The disclosure shall include a full description of the conflict, a description of the action the contractor has taken, or proposes to take, to avoid or mitigate such conflict. The Contracting Officer may, however, terminate the contract for convenience if he or she deems that termination is in the best interest of the Government.

(End of provision)

#### 1252.210-90 Bar coding requirement. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1210.011-90 and 1213.507-90, insert the following clause:

## Department of Transportation

1252.211-70

### BAR CODING REQUIREMENTS (OCT 1994)

Item markings shall include bar coding in accordance with MIL-STD-1189 as follows:

(a) The stock number shall be bar coded with no prefixes, dashes, spaces, or suffixes encoded. The contract number, the delivery order, or call order number, when used, shall be bar coded with no spaces or dashes encoded.

(b) Prefixes and suffixes to the stock number may be included in the OCR-A in-the-clear markings, but not in the bar code.

(c) Preferred Bar Code Density (characters per inch as defined in MIL-STD-1189) is "standard," but densities from "standard" to "low" are acceptable.

(d) OCR-A characters do not have to be machine readable.

(e) Bar coding shall be machine readable.

(f) Unless otherwise specified herein, minimum bar code height shall be 0.25 inch (6.4 mm) or 15 percent of the bar code length, whichever is greater.

(g) The preferred position of the OCR-A characters is beneath the bar codes, but the OCR-A characters may be over the bar codes.

(h) On outer containers contractors shall either:

(1) Encode the stock numbers and contract number in one line of bar code with the stock number appearing first; or

(2) Encode the item stock number and contract number on two labels, with the top label containing the stock number and the lower label containing the contract number.

(i) On unit and intermediate containers, the item stock number in bar code with OCR-A below may be on the same label as the other data (identification markings) required by MIL-STD-129H. However, the bar code stock number shall appear on the top line with OCR-A characters on the second line; the OCR-A characters may include the stock number prefix and suffix, or alternatively, the complete stock number including any prefix and suffix, shall be repeated as part of the identification markings.

(j) Exclusions from bar code markings are:

(1) Multi-packs/consolidation containers (containers with two or more different stock numbers within).

(2) Reusable shipping containers used for multiple/ different stock number applications.

(3) Items consigned to a prime contractor's plant for installation in production.

(End of clause)

### 1252.211-70 Brand name or equal.

As prescribed in (TAR) 48 CFR 1210.011, insert the following provision:

### BRAND NAME OR EQUAL (OCT 1994)

(As used in this provision, the term "brand name" includes identification of products by make and model.)

(a) If items called for by this solicitation have been identified in the schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is intended to indicate the quality and characteristics of products that will be satisfactory. Offers offering "equal" products (including products of the brand name manufacturer other than the one described by brand name) will be considered for award if such products are clearly identified in the offers and are determined by the Government to meet fully the salient characteristic requirements listed in the solicitation.

(b) Unless the offeror clearly indicates in its offer that it is offering an "equal" product, its offer shall be considered as offering the brand name product referenced in the solicitation.

(c) If the offeror proposed to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space provided in the solicitation, or such product shall be otherwise clearly identified in the offer. The evaluation of offers and the determination as to equality of the product offered shall be the responsibility of the Government and will be based on information furnished by the offeror or identified in its offer as well as other information reasonably available to the contracting office. CAUTION TO OFFERORS: The contracting office is not responsible for locating or securing any information which is not identified in the offer and reasonably available to the contracting office. Accordingly, to insure that sufficient information is available, the offeror must furnish as a part of its offer all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the contracting office to: (1) determine whether the product offered meets the salient characteristic requirements of the solicitation; and (2) establish exactly what the offeror proposes to furnish and what the Government would be binding itself to acquire by making an award. The information furnished may include specific reference to information previously furnished or to information otherwise available to the contracting office.

(d) If the offeror proposes to modify a product so as to make it conform to the requirements of the solicitation, it shall: (1) include in its offer a clear description of such proposed modifications; and (2) clearly mark any descriptive material to show the proposed modifications.

(e) Modifications to make a product conform to a brand name product referenced in