

**352.270-4**

Reasons why preference was not given to Indian firms as subcontractors or suppliers for each requirement where it was determined by the Contractor that such preference would not be consistent with the efficient performance of the contract; and The number of Indian organizations and Indian-owned economic enterprises contacted, and the number receiving subcontract awards under this contract.

(6) Submit to the Contracting Officer for approval a quarterly report which summarizes the Contractor's Indian preference program and indicates the number and types of available positions filled by Indians and non-Indians, and the dollar amounts of all subcontracts awarded to Indian organizations and Indian-owned economic enterprises, and to all other firms.

(7) Maintain records pursuant to this clause and keep them available for review by the Government until expiration of one (1) year after final payment under this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulation.

(b) For purposes of this clause, the following definitions of terms shall apply:

(1) The terms "Indian," "Indian Tribe," "Indian Organization," and "Indian-owned economic enterprise" are defined in the clause of this contract entitled "Indian Preference."

(2) "Indian reservation" includes Indian reservations, public domain Indian Allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 *et seq.*)

(3) "On or near an Indian Reservation" means on a reservation or reservations or within that area surrounding an Indian reservation(s) where a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

(c) Nothing in the requirements of this clause shall be interpreted to preclude Indian Tribes from independently developing and enforcing their own Indian preference requirements. Such requirements must not conflict with any Federal statutory or regulatory requirement dealing with the award and administration of contracts.

(d) The Contractor agrees to include the provisions of this clause, including this paragraph (d), in each subcontract awarded at any tier under this contract and to notify the Contracting Officer of such subcontracts.

(e) In the event of noncompliance with this clause, the Contracting Officer may terminate the contract in whole or in part or may impose any other sanctions authorized by law or by other provisions of the contract.

**48 CFR Ch. 3 (10-1-06 Edition)**

(End of clause)

**352.270-4 Pricing of adjustments.**

Insert the following clause in all solicitations and resultant fixed-priced contracts other than purchase orders.

**PRICING OF ADJUSTMENTS (JAN 2001)**

When costs are a factor in determination of a contract price adjustment pursuant to the "Changes" clause or any provision of this contract, such costs shall be determined in accordance with the applicable cost principles and procedures set forth below:

| Principles  | Types of organizations  |
|---|---|
| (a) Subpart 31.2 of the Federal Acquisition Regulation. | Commercial.   |
| (b) Subpart 31.3 of the Federal Acquisition Regulation. | Educational.  |
| (c) Subpart 31.6 of the Federal Acquisition Regulation. | State, local, and federally recognized Indian tribal governments. |
| (d) 45 CFR Part 74 Appendix E.                          | Hospitals (performing research and development contracts only).   |
| (e) Subpart 31.7 of the Federal Acquisition Regulation. | Other nonprofit institutions.                                     |

(End of clause)

**352.270-5 Key personnel.**

Insert the following clause in all solicitations and resultant cost-reimbursement contracts.

**KEY PERSONNEL (APR 1984)**

The personnel specified in this contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other programs, the Contractor shall notify the Contracting Officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Contractor without the written consent of the Contracting Officer; provided, that the Contracting Officer may ratify in writing such diversion and such ratification shall constitute the consent of the Contracting Officer required by this clause. The contract may be modified from time to time during the course of the contract to either add or delete personnel, as appropriate.

(End of clause)

**352.270-6 Publications and publicity.**

Insert the following clause in all solicitations and resultant contracts.

## Health and Human Services

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### PUBLICATIONS AND PUBLICITY (JUL 1991)

(a) Unless otherwise specified in this contract, the Contractor is encouraged to publish the results of its work under this contract. A copy of each article submitted by the Contractor for publication shall be promptly sent to the Project Officer. The Contractor shall also inform the Project Officer when the article or other publication is published, and furnish a copy of it as finally published.

(b) The Contractor shall include in any publication resulting from work performed under this contract a disclaimer reading as follows:

The content of this publication does not necessarily reflect the views or policies of the Department of Health and Human Services, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government."

(End of clause)

### 352.270-7 Paperwork Reduction Act.

Insert the following clause in all solicitations and contracts.

#### PAPERWORK REDUCTION ACT (JAN 2001)

(a) In the event that it subsequently becomes a contractual requirement to collect or record information calling either for answers to identical questions from 10 or more persons other than Federal employees, or information from Federal employees which is outside the scope of their employment, for use by the Federal government or disclosure to third parties, the Paperwork Reduction Act of 1995 (Pub. L. 104-13) shall apply to this contract. No plan, questionnaire, interview guide or other similar device for collecting information (whether repetitive or single-time) may be used without first obtaining clearance from the Office of Management and Budget (OMB). Contractors and Project Officers should be guided by the provisions of 5 CFR Part 1320, Controlling Paperwork Burdens on the Public, and seek the advice of the HHS operating division or Office of the Secretary Reports Clearance Officer to determine the procedures for acquiring OMB clearance.

(b) The Contractor shall obtain the required OMB clearance through the Project Officer before expending any funds or making public contracts for the collection of data. The authority to expend funds and proceed with the collection of information shall be in writing by the Contracting Officer. The Contractor must plan at least 120 days for OMB clearance. Excessive delays caused by the Government which arises out of causes beyond the control and without the fault or negligence of the Contractor will be consid-

ered in accordance with the Excusable Delays or Default clause of this contract.

(End of clause)

### 352.270-8 Protection of human subjects.

(a) The following provision shall be included in solicitations expected to involve human subjects:

#### NOTICE TO OFFERORS OF REQUIREMENTS OF 45 CFR PART 46, PROTECTION OF HUMAN SUBJECTS (JAN 2001)

(a) Copies of the Department of Health and Human Services (Department) regulations for the protection of human subjects, 45 CFR Part 46, are available from the Office for Human Research Protections (OHRP), Bethesda, Maryland 20892. The regulations provide a systematic means, based on established ethical principles, to safeguard the rights and welfare of individuals who participate as subjects in research activities supported or conducted by the Department.

(b) The regulations define a human subject as a living individual about whom an investigator (whether professional or student) conducting research obtains data through intervention or interaction with the individual, or identifiable private information. The regulations extend to the use of human organs, tissue, and body fluids from individually identifiable human subjects as well as to graphic, written, or recorded information derived from individually identifiable human subjects. The use of autopsy materials is governed by applicable State and local law and is not directly regulated by 45 CFR Part 46.

(c) Activities in which the only involvement of human subjects will be in one or more of the categories set forth in 45 CFR 46.101(b)(1-6) are exempt from coverage.

(d) Inappropriate designations of the non-involvement of human subjects or of exempt categories of research in a project may result in delays in the review of a proposal. The OpDiv will make a final determination of whether the proposed activities are covered by the regulations or are in an exempt category, based on the information provided in the proposal. In doubtful cases, prior consultation with OPRR, (telephone: 301-496-7014), is recommended.

(e) In accordance with 45 CFR Part 46, prospective Contractors being considered for award shall be required to file with OPRR an acceptable Assurance of Compliance with the regulations, specifying review procedures and assigning responsibilities for the protection of human subjects. The initial and continuing review of a research project by an institutional review board shall assure that the rights and welfare of the human subjects involved are adequately protected, that the