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SUBCHAPTER H—CLAUSES AND FORMS

PART PHS 352—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 49 FR 36242, Sept. 14, 1984, unless otherwise noted.

Subpart 352.2—Texts of Provisions and Clauses

PHS 352.215–10 Late proposals, modifications of proposals, and withdrawals of proposals.

As prescribed in PHS 315.412, the following provision may be included in the solicitation when authorized by the principal official responsible for acquisition.

LATE PROPOSALS, MODIFICATIONS OF PROPOSALS, AND WITHDRAWALS OF PROPOSALS (NOV 1986)

Notwithstanding the procedures contained in the provision of this solicitation entitled Late Submissions, Modifications, and Withdrawals of Proposals, a proposal received after the date specified for receipt may be considered if it offers significant cost or technical advantages to the Government, and it was received before proposals were distributed for evaluation, or within five calendar days after the exact time specified for receipt, whichever is earlier.

(End of provision)

[51 FR 43357, Dec. 2, 1986; 51 FR 45229, Dec. 17, 1987, and 52 FR 44357, Nov. 19, 1987]

PHS 352.223–70 Safety and health.

The following clause is covered by the policy set forth in Subpart PHS 323.70 and is to be used in accordance with the instructions set forth in PHS 323.7002 and PHS 323.7003.

SAFETY AND HEALTH (APR 1984)

(a) In order to provide safety controls for protection to the life and health of employees and other persons; for prevention of damage to all property; and for avoidance of work interruptions in the performance of the contract; the Contractor will comply with the following standards: (Insert codes, standards, and criteria (including any applicable State and local requirements) prescribed by the Safety Officer.)

Further, the Contractor shall take or cause to be taken such additional safety measures as the Contracting Officer may determine to be reasonably necessary; *Provided,* that, if compliance with such additonal safety measures results in a material increase in the cost or time of performance of the contract, an equitable adjustment will be made in accordance with the clause of this contract entitled ''Changes.''

(b) Prior to commencement of work, the Contractor will submit in writing its plan for complying with the safety and health provisions of this contract, and will meet with the Contracting Officer or his/her designated representative to discuss and develop a mutual understanding relative to administration of the overall safety program.

(c) During the performance of work under this contract, the Contractor share comply with all procedures prescribed by the Contracting Officer for the control and safety of persons visiting the job site and will comply with such requirements to prevent accidents as may be prescribed by the Contracting Officer.

(d) The Contractor will maintain an accurate record of, and report to the Contracting Officer in such manner as the Contracting Officer may prescribe, all accidents and incidents resulting in death, traumatic injury, occupational disease, and/or damage to all property incident to work performed under the contract.

(e) The Contracting Officer shall notify (if otherwise, confirm in writing) the Contractor of any noncompliance with the provisions of this clause and corrective action to be taken. After receipt of such notice, the Contractor shall immediately take such corrective action. (Such notice, when delivered to the Contractor or its representative at the site of the work, shall be deemed sufficient for the purpose.) If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop order shall be the subject of claim for extension of time or for costs or damages by the Contractor.

(f) The Contractor shall insert the substance of this clause in each subcontract involving the use of hazardous materials or operations. Compliance with the provisions of this clause by subcontractors will be the responsibility of the Contractor.

(End of clause)

[51 FR 20489, June 5, 1986]

PHS 352.223–71 Safety and health—construction.

The following clause shall be included in all solicitations and resultant contracts for construction and construction services, as required by PHS 323.7005.

SAFETY AND HEALTH—CONSTRUCTION (APR 1984)

Your attention is invited to the regulations issued by the Secretary of Labor pursuant to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) entitled ''Safety and Health Regulations for Construction'' (29 CFR part 1926). The Contractor is required to comply with the referenced regulations to the extent that the resultant contract involves construction.

(End of clause)

[51 FR 20490, June 5, 1986]

PHS 352.232–70 Additional payment provision.

The following clause shall be included in all solicitations and resultant contracts for construction which contain the ''Payments Under Fixed-Price Construction Contracts'' clause set forth in FAR 52.232–4:

ADDITIONAL PAYMENT PROVISION (APR 1984)

Unless otherwise stated in this contract, there will be taken into consideration in computing progress payments material that will be incorporated into the structure if such material is delivered at the site, or is delivered to the Contractor and properly stored by it in a suitable warehouse, storage yard, or similar place either within 25 miles of the site or as otherwise approved by the Contracting Officer. Before each payment is made, the Contractor shall furnish to the Contracting Officer such evidence as he/she may require of the quantity and value of such material and that it will be incorporated into the structure. If such material is stored off the site, the Contractor shall also furnish to the Contracting Officer, before payment, properly executed bills of sale to the Government for the delivered material upon which such payment is to be made.

(End of clause)

[51 FR 20490, June 5, 1986]

PHS 352.280–1 Protection of human subjects.

The policy and procedures to be followed whenever individuals may be involved as subjects in research activities supported or conducted by the Department under a contract are provided in Subpart PHS 380.1 and 45 CFR Part 46, Protection of Human Subjects.

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

NOTICE TO OFFERORS OF REQUIREMENTS OF 45 CFR PART 46, PROTECTION OF HUMAN SUBJECTS (SEP 1985)

(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 Protection from Research Risks (OPRR), National Institutes of Health, 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 (1) data through intervention of interaction with the individual, or (2) 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 noninvolvement of human subjects or of exempt categories of research in a project may result in delays in the review of a proposal. The Public Health Service 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 risks to the subjects are reasonable in relation to the potential benefits, if any, to the subjects and the importance of the knowledge to be gained, and that informed consent will be obtained by methods that are adequate and appropriate. Prospective Contractors proposing research that involves human subjects shall be contacted by OPRR and given detailed instructions for establishing an institutional review board and filing an Assurance of Compliance.

(f) It is recommended that OPRR be consulted for advice or guidance concerning either regulatory requirements or ethical issues pertaining to research involving human subjects.

(End of provision)

(b) The following clause shall be included in contracts involving human subjects:

PROTECTION OF HUMAN SUBJECTS (OCT 1986)

(a) The Contractor agrees that the rights and welfare of human subjects involved in research under this contract shall be protected in accordance with 45 CFR part 46 and with the Contractor's current Assurance of Compliance on file with the Office for Protection for Research Risks, National Institutes of Health, Public Health Service. The Contractor further agrees to provide certification at least annually that the institutional review board has reviewed and approved the procedures which involve human subjects in accordance with 45 CFR part 46 and the Assurance of Compliance.

(b) The Contractor shall bear full responsibility for the performance of all work and services involving the use of human subjects under this contract in a proper manner and as safely as is feasible. The parties hereto agree that the Contractor retains the right to control and direct the performance of all work under this contract. Nothing in this contract shall be deemed to constitute the Contractor or any subcontractor, agent or employee of the Contractor, or any other person, organization, institution, or group of any kind whatsoever, as the agency or employee of the Government. The Contractor agrees that it has entered into this contract and will discharge its obligations, duties, and undertakings and the work pursuant thereto, whether requiring professional judgement or otherwise, as an independent Contractor without imputing liability on the part of the Government for the acts of the Contractor or its employees.

(c) If at any time during performance of this contract, the Contracting Officer determines, in consultation with the Office for Protection from Research Risks (OPRR), National Institutes of Health (NIH), that the Contractor is not in compliance with any of the requirements and/or standards stated in paragraphs (a) and (b), above, the Contracting Officer may immediately suspend, in whole or in part, work and further payments under this contract until the Contractor corrects such noncompliance. Notice of the suspension may be communicated by telephone and confirmed in writing. If the Contractor fails to complete the corrective action within the period of time designated in the Contracting Officer's written notice of suspension, the Contracting Officer may, in consultation with OPRR, NIH, terminate this contract in whole or in part, and the Contractor's name may be removed from the list of those Contractors with approved Department of Health and Human Services Human Subject Assurances.

(End of clause)

[51 FR 20490, June 5, 1986, as amended at 52 FR 9300, Mar. 24, 1987]

PHS 352.280–2 Care of laboratory animals.

The policies and procedures to be used when contracts involve live vertebrate animals are provided in Subpart PHS 380.2, and in the *PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions* and accompanying implementation instructions published in a special edition of the *NIH Guide for Grants and Contracts,* Vol. 14, No. 8, June 25, 1985.

(a) The following provision shall be included in solicitations expected to involve vertebrate animals:

NOTICE TO OFFERORS OF REQUIREMENT FOR ADEQUATE ASSURANCE OF PROTECTION OF VERTEBRATE ANIMAL SUBJECTS (SEP 1985)

The *PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions* establishes a number of requirements for research activities involving animals. Before a PHS award may be made to an applicant organization, the organization shall file, with the Office for Protection from Research Risks (OPRR), National Institutes of Health (NIH), PHS, a written Animal Welfare Assurance which commits the organization to comply with the provisions of the *PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions*, the Animal Welfare Act, and the *Guide for the Care and Use of Laboratory Animals* prepared by the Institute of Laboratory Animal Resources. In accordance with the *PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions*, applicant organizations must establish a committee, qualified through the experience and expretise of its members, to oversee the institution's animal program, facilities and procedures. No PHS award involving the use of animals shall be made unless the Animal Welfare Assurance has been approved by OPRR. Prior to award, the contracting officer will notify Contractor(s) selected for projects that involve live vertebrate animals that an Animal Welfare Assurance is required. The contracting officer will request that OPRR negotiate an acceptable Animal Welfare Assurance with those Contractor(s). *For further information, OPRR may be contacted at NIH, Bethesda, Maryland 20892 (301–496–7041).*

(End of provision)

(b) The following clause shall be included in all contracts involving research on vertebrate animals:

CARE OF LIVE VERTEBRATE ANIMALS (OCT 1986)

(a) Before undertaking performance of any contract involving research on live vertebrate animals, the Contractor shall register with the Secretary of Agriculture of the United States in accordance with 7 U.S.C. 2316 and 9 CFR 2.25–2.28. The Contractor shall furnish evidence of such registration to the Contracting Officer.

(b) The Contractor shall acquire vertebrate animals used in research from a dealer licensed by the Secretary of Agriculture under 7 U.S.C. 2133 and 9 CFR 2.1–2.11, or from a source that is exempt from licensing under those sections.

(c) The Contractor agrees that the care and use of any live vertebrate animals used or intended for use in the performance of this contract will conform with the *PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions*, the current Animal Welfare Assurance, the *Guide for the Care and Use of Laboratory Animals* prepared by the Institute of Laboratory Animal Resources and the pertinent laws and regulations of the United States Department of Agriculture (see 7 U.S.C. 2131 *et seq.* and 9 CFR subchapter A, parts 1–4). In case of conflict between standards, the more stringent standard shall be used.

(d) If at any time during performance of this contract, the Contracting Officer determines, in consultation with the Office for Protection from Research Risks (OPRR), National Institutes of Health (NIH), that the Contractor is not in compliance with any of the requirements and/or standards stated in paragraphs (a) and (c), above, the Contracting Officer may immediately suspend, in whole or in part, work and further payments under this contract until the Contractor corrects such noncompliance. Notice of the suspension may be communicated by telephone and confirmed in writing. If the Contractor fails to complete corrective action within the period of time designated in the Contracing Officer's written notice of suspension, the Contracting Officer may, in consultation with OPRR, NIH, terminate this contract in whole or in part, and the Contractor's name may be removed from the list of those Contractors with approved Public Health Service Animal Welfare Assurances.

NOTE: The Contractor may request registration of its facility and a current listing of licensed dealers from the Regional Office of the Animal and Plant Health Inspection Service (APHIS), USDA, for the region in which its research facility is located. The location of the appropriate APHIS Regional Office, as well as information concerning this program may be obtained by contacting the Senior Staff Officer, Animal Care Staff, USDA/APHIS, Federal Center Building, Hyattsville, Maryland 20782.

(End of clause)

[51 FR 20491, June 5, 1986, as amended at 52 FR 9300, Mar. 24, 1987]

PHS 352.280–3 Maximum allowable cost for drugs.

The following clause, or one reading substantially as follows, shall be included in all contracts subject to the provisions of the Maximum Allowable Cost (MAC) regulation and PHS 380.305.

MAXIMUM ALLOWABLE COST FOR DRUGS (APR 1984)

(a) Reimbursement for drugs provided or used under this contract shall be in accordance with the Maximum Allowable Cost (MAC) regulation set forth in 45 CFR subtitle A, part 19. In accordance with 19.3 of the MAC regulation, the amount which is recognized for reimbursement or payment purposes for any drug purchased under the terms of the contract shall not exceed the lowest of:

(1) The maximum allowable cost of the drug, if any, established in accordance with 19.5 of the MAC regulation plus a reasonable dispensing fee;

(2) The acquisition cost of the drug plus a reasonable dispensing fee; or

(3) The provider's usual and customary charge to the public for the drug; *Provided,* That:

(i) The maximum allowable cost established for any drug shall not apply to a brand of that drug prescribed for a patient which the prescriber has certified in his/her own handwriting is medically necessary for that patient; and *Provided, further,* That:

(ii) When compensation for drug dispensing is included in some other amount payable to the provider by the reimbursing or payment program agency, a separate dispensing fee will not be recognized.

(b) The Contractor agrees:

(1) To include the following solicitation notification in all applicable solicitations issued under this contract and to ensure that subcontractors include it in any subsequent applicable solicitation:

This acquisition is subject to the Maximum Allowable Cost (MAC) regulation set forth in part 19 to subtitle A of title 45 of the Code of Federal Regulations.

(2) To include this clause, including this paragraph (b), in all applicable subcontracts, regardless of tier, awarded pursuant to this contract.

(3) To include the furnished MAC determination or acquisition cost data in all applicable solicitations issued under this contract and in all resultant subcontracts awarded pursuant to this contract.

(End of clause)

PHS 352.280–4 Contracts Awarded Under the Indian Self-Determination Act.

(a) Insert the following clauses in cost-reimbursement contracts awarded under the Indian Self-Determination Act as described in subpart PHS 380.4.

CLAUSE NO. 1—DEFINITIONS (JUN 1977)

As used throughout this contract, the following terms shall have the meaning set forth below:

(a) The term ''Secretary'' means the Secretary, the Under Secretary, or any Assistant Secretary of the Department of Health and Human Services (HHS); and the term ''his/her duly authorized representative'' means any person, persons, or board (other than the Contracting Officer) authorized to act for the Secretary.

(b) The term ''Contracting Officer'' means the person executing this contract on behalf of the Government, and any other officer or employee who is properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his/her authority.

(c) The term ''Project Officer'' means the person representing the Government for the purpose of monitoring contract performance. The Project Officer is not authorized to issue any instructions or directions which effect any increase or decrease in the cost of this contract or which change the period of this contract.

(d) The term ''Department'' means the Department of Health and Human Services.

(e) Except as otherwise provided in this contract, the term ''subcontract'' includes purchase orders under this contract.

(End of clause)

CLAUSE NO. 2—DISPUTES (JUN 1977)

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his/her decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary. The decision of the Secretary or his/her duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final

decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This ''Disputes'' clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above: *Provided,* That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

(End of clause)

CLAUSE NO. 3—LIMITATION OF COST (JUN 1977)

(a) It is estimated that the total cost to the Government for the performance of this contract will not exceed the estimated cost set forth in this contract and the Contractor agrees to use its best efforts to perform all work and all obligations under this contract within such estimated costs. If at any time the Contractor has reason to believe that the costs which it expects to incur in the performance of this contract in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the estimated cost set forth in the contract, or, if at any time the Contractor has reason to believe that the total cost to the Government, for the performance of this contract, will be substantially greater or less than the estimated cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving its revised estimate of such total cost for the performance of this contract.

(b) The Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost set forth in the contract and the Contractor shall not be obligated to continue performance under the contract or to incur costs in excess of such estimated cost unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated cost has been increased and shall have specified in such notice a revised estimated cost which shall thereupon constitute the estimated cost of performance of this contract. When and to the extent that the estimated cost set forth in this contract has been increased by the Contracting Officer in writing, any costs incurred by the Contractor in excess of such estimated cost prior to the increase in estimated cost shall be allowable to the same extent as if such costs had been incurred after such increase in estimated cost.

(End of clause)

CLAUSE NO. 4—ALLOWABLE COST (JUN 1977)

(a) *Compensation for Contractor's performance.* Payment for the allowable cost, as herein defined and as actually incurred by the Contractor shall constitute full and complete compensation for the performance of the work under this contract.

(b) *Allowable cost.* The allowable cost of performing the work under this contract shall be the cost actually incurred by the Contractor, either directly incident or properly allocable to the contract, in the performance of this contract in accordance with its terms. The allowable cost, direct and indirect, including acceptability of cost allocation methods, shall be determined by the Contracting Officer in accordance with:

(1)(i) ''A Guide for Nonprofit Institutions Establishing Indirect Cost Rates for Research Grants and Contracts with the Department of Health and Human Services, HHS Publication OASC–5'' or (ii) ''A Guide for Hospitals, Grants and Contracts with the Department of Health and Human Services, HHS Publication OASC–3,'' or (iii) Subpart 1–15.7 of the Federal Procurement Regulations (41 CFR subpart 1–15.7) if the contract is with a state or local government agency, or (iv) Subpart 1–15.4 of the Federal Procurement Regulations (41 CFR subpart 1–15.4) if the contract is for the procurement of construction or architect-engineer services.

(2) The terms of the contract.

(End of clause)

CLAUSE NO. 5—NEGOTIATED OVERHEAD RATES (JUN 1977)

(a) Notwithstanding the provisions of the clause of this contract entitled, ''Allowable Cost,'' the allowable indirect costs shall be obtained by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(b) The Contractor, as soon as possible, but not later than six (6) months after the expiration of each of the Contractor's financial years or such period as may mutually be agreed upon by the Government and the Contractor, shall submit to the Contracting Officer, with a copy to the cognizant audit agency, a proposed final overhead rate or rates for that period based on the Contractor's cost experience during that period, together with supporting cost data. Negotiation of final overhead rates by the Contractor and the Contracting Officer shall be undertaken as promptly as practicable after receipt of the Contractor's proposal.

(c) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the applicable cost principles set forth in paragraph (b)(1) of Clause 4, as in effect on the date of this contract, and the same hereby incorporated herein by reference.

(d) The results of each negotiation shall be set forth in an amendment to this contract, which shall specify (1) the agreed final rate,

(2) the bases to which the rates apply, and (3) the periods for which the rates apply.

(e) Pending establishment of final overhead rates for any period, the Contractor shall be reimbursed either at negotiated provisional rates as provided in this contract or at billing rates acceptable to the Contracting Officer, subject to appropriate adjustment when the final rates for that period are established. To prevent substantial over or under payment, the provisional or billing rates may, at the request of either party, be revised by mutual agreement, either retroactively or prospectively. Any such revision of negotiated provisional rates provided in this contract shall be set forth in an amendment to this contract.

(f) Any failure by the parties to agree on any final rate or rates under this clause shall be considered a dispute concerning a question of fact for decision by the Contracting Officer within the meaning of the clause of this contract entitled ''Disputes.''

(g) Submission of proposed provisional and/or final overhead rates, together with appropriate data in support thereof, to the Secretary or his/her duly authorized representative, and agreements on provisional and/or final overhead rates entered into between the Contractor and the Secretary or his/her duly authorized representative, as evidenced by Negotiated Overhead Rate Agreements signed by both parties, shall be deemed to satisfy the requirements of (b), (d) and (e) above.

(End of clause)

CLAUSE NO. 6—PAYMENT (JUN 1977)

(a) *Payment on account of allowable cost.* Once each month (or at more frequent intervals if approved by the Contracting Officer) the Contractor may submit to the Contracting Officer, in such form and reasonable detail as may be required, an invoice or voucher supported by a statement of costs incurred by the Contractor in the performance of this contract and claimed to constitute allowable costs. Promptly after receipt of each invoice or voucher, the Government shall, subject to the provisions of (b) below, make payment thereon as approved by the Contracting Officer.

(b) *Audit Adjustments.* At any time or times prior to settlement under this contract the Contracting Officer may have invoices or vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related invoice or voucher which are found by the Contracting Officer, on the basis of such audit, not to constitute allowable cost. Any payment may be reduced for overpayment, or increased for underpayments on preceding invoices or vouchers.

(c) *Completion voucher.* On receipt and approval of the invoice or voucher designated by the Contractor as the ''completion invoice'' or ''Completion Voucher'' and upon compliance by the Contractor with all the provisions of this contract (including without limitation, the provisions relating to patents and provisions of (d) below) the Government shall promptly pay to the Contractor any balance of allowable cost. The completion invoice or voucher shall be submitted by the Contractor promptly following completion of the work under this contract but in no event later than 6 months (or such longer period as the Contracting Officer may in his/her discretion approve in writing) from the date of such completion.

(d) *Applicable credits.* The Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor or any assignee under this contract shall be paid by the Contractor to the Government, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the Contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable cost hereunder when approved by the Contracting Officer.

(e) *Financial settlement.* Prior to final payment under this contract, the Contractor and each assignee under this contract whose assignment is in effect at the time of final payment under this contract shall execute and deliver:

(1) An assignment to the Government in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract, and

(2) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions:

(i) Specified claims in stated amounts or in estimated amounts where the amounts are susceptible to exact statement by the Contractor;

(ii) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract; Provided, That such claims are not known to the Contractor on the date of the execution of the release; And provided further, That the Contractor gives notice of such claims in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier; and

(iii) Claims for reimbursement of costs (other than expenses of the Contractor by

reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents.

(End of clause)

CLAUSE NO. 7—ADVANCE PAYMENTS (JUN 1977)

(a) *Amount of Advance.* At the request of the Contractor, and subject to the conditions hereinafter set forth, the Government shall make an advance payment, or advance payments from time to time, to the Contractor. No advance payment shall be made (1) without the approval of the office administering advance payments (hereinafter called the ''Administering Office'' and designated in paragraph (k)(4) as with all advance payments theretofore made, shall exceed the amount stated in paragraph (k)(1) hereof; and (3) without a properly certified invoice or invoices.

(b) *Special Bank Account.* Until all advance payments made hereunder are liquidated and the Administering Office approves in writing the release of any funds due and payable to the Contractor, all advance payments and all other payments under the contract shall be made by check payable to the Contractor, and be marked for deposit only in a Special Bank Account with the bank designated in paragraph (k)(2) hereof. No part of the funds in the Special Bank Account shall be mingled with other funds of the Contractor prior to withdrawal thereof from the Special Bank Account as hereinafter provided. Except as hereinafter provided, each withdrawal shall be made only by check of the Contractor countersigned on behalf of the Government by the Contracting Officer or such other person or persons as he/she may designate in writing (hereinafter called the ''Countersigning Agent''). Until otherwise determined by the Administering Office, countersignature on behalf of the Government will not be required.

(c) *Use of Funds.* The funds in the Special Bank Account may be withdrawn by the Contractor solely for the purposes of making payments for items of allowable cost or to reimburse the Contractor for such items of allowable cost, and for such other purposes as the Administering Office may approve in writing. An interpretation required as to the proper use of funds shall be made in writing by the Administering Office.

(d) *Return of Funds.* The Contractor may at any time repay all or any part of the funds advanced hereunder. Whenever so requested in writing by the Administering Office, the Contractor shall repay to the Government such part of the unliquidated balance of advance payments as shall in the opinion of the Administering Office be in excess of current requirements, or (when added to total advance previously made and liquidated) in excess of the amount specified in paragraph (k)(1) hereof. In the event the Contractor fails to repay such part of the unliquidated balance of advance payments when so requested by the Administering Office, all or any part thereof may be withdrawn from the Special Bank Account by checks payable to the Treasurer of the United States signed solely by the Countersigning Agent and applied in reduction of advance payments then outstanding hereunder.

(e) *Liquidation.* If not otherwise liquidated, the advance payments made hereunder shall be liquidated as herein provided. When the sum of all payments under this contract, other than advance payments, plus the unliquidated amount of advance payments are equal to the total estimated cost for the work under this contract or such lesser amount to which the total estimated cost under this contract may have been reduced, plus increases, if any, in this total estimated cost not exceeding, in the aggregate (including, without limitation, reimbursable costs incident to termination for cause and retrocession as estimated by the Contracting Officer), the Government shall thereafter withhold further payments to the Contractor and apply the amounts withheld against the Contractor's obligation to repay such advance payments until such advance payments shall have been fully liquidated. If upon completion, termination, or retrocession of the contract all advance payments have not been fully liquidated, the balances therefor shall be deducted from any sums otherwise due or which may become due to the Contractor from the Government, and any deficiency shall be paid by the Contractor to the Government upon demand.

(f) *Bank Agreement.* Before an advance payment is made hereunder, the Contractor shall transmit to the Administering Office, in the form prescribed by such office, an Agreement in triplicate from the bank in which the Special Bank Account is established, clearly setting forth the special character of the account and the responsibilities of the bank thereunder. Wherever possible, such bank shall be a member bank of the Federal Reserve System, or an ''insured'' bank within the meaning of the Act creating the Federal Deposit Insurance Corporation Act of August 23, 1935, 49 Stat. 685, as amended (12 U.S.C. 264).

(g) *Lien on Special Bank Account.* The Government shall have a lien upon any balance in the Special Bank Account paramount to all other liens, which lien shall secure the repayment of any advance payments made hereunder.

(h) *Lien on Property Under Contract.* Any and all advance payments made under this contract shall be secured, when made, by a lien in favor of the Government, paramount to all other liens, upon the supplies or other

things covered by this contract and on all material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government by virtue of any other provision of this contract, or otherwise, shall have valid title to such supplies, materials, or other property as against other creditors of the Contractor. The Contractor shall identify, by marking or segregation, all property which is subject to a lien in favor of the Government by virtue of any provision of this contract in such a way as to indicate that it is subject to such lien and that it has been acquired for or allocated to the performance of this contract. If for any reason such supplies, materials, or other property are not identified by marking or segregation, the Government shall be deemed to have a lien to the extent of the Government's interest under this contract on any mass of property with which such supplies, materials, or other property are commingled. The Contractor shall maintain adequate accounting control over such property on its books and records. If at any time during the progress of the work on the contract it becomes necessary to deliver any item or items and materials upon which the Government has a lien as aforesaid to a third person, the Contractor shall notify such third person of the lien herein provided and shall obtain from such third person a receipt, in duplicate, acknowledging, inter alia, the existence of such lien. A copy of each receipt shall be delivered by the Contractor to the Contracting Officer. If this contract is terminated in whole or in part and the Contractor is authorized to sell or retain termination inventory acquired for or allocated to this contract, such sale or retention shall be made only if approved by the Contracting Officer, which approval shall constitute a release to the Government's lien hereunder to the extent that such termination inventory is sold or retained, and to the extent that the proceeds of the sale, or the credit allowed for such retention on the Contractor's termination claim, is applied in reduction of advance payments then outstanding hereunder.

(i) *Insurance.* The Contractor represents and warrants that it is now maintaining with responsible insurance carriers, (1) insurance upon its own plant and equipment against fire and other hazards to the extent that like properties are usually insured by others operating plants and properties of similar character in the same general locality; (2) adequate insurance against liability on account of damage to persons or property; and (3) adequate insurance under all applicable workmen's compensation laws. The Contractor agrees that, until work under this contract has been completed and all advance payments made hereunder have been liquidated, it will (i) maintain such insurance; (ii) maintain adequate insurance upon any materials, parts, assembles, subassemblies, supplies, equipment and other property acquired for or allocable to this contract and subject to the Government lien hereunder; and (iii) furnish such certificates with respect to its insurance as the Administering Office may from time to time require.

(j) *Prohibition Against Assignment.* Notwithstanding any other provision of this contract, the Contractor shall not transfer, pledge, or otherwise assign this contract, or any interest therein, or any claim arising thereunder, to any party or parties, bank, trust company, or other financing institution.

(k) *Designations and Determinations.* (1) *Amount.* The amount of advance payments at any time outstanding hereunder shall not exceed $_____.

(2) *Depository.* The bank designated for the deposit of payments made hereunder shall be:

(3) *Interest Charge.* No interest shall be charged for advance payments made hereunder. The Contractor shall charge interest at the rate of 6 percent per annum on subadvances or down payments to subcontractors, and such interest will be credited to the account of the Government. However, interest need not be charged on subadvances on nonprofit subcontracts with nonprofit educational or research institutions for experimental, research or development work.

(4) *Administering Office.* The office administering advance payments shall be the office designated as having responsibility for awarding the contract.

(l) *Other Security.* The terms of this contract shall be considered adequate security for advance payments hereunder, except that if at any time the administering office deems the security furnished by the Contractor to be inadequate, the Contractor shall furnish such additional security as may be satisfactory to the administering office, to the extent that such additional security is available.

(End of clause)

CLAUSE NO. 8—EXAMINATION OF RECORDS (JUN 1977)

(a) This clause is applicable if the amount of this contract exceeds $2,500 and was entered into by means of negotiation including small business restricted advertising, but is not applicable if this contract was entered into by means of formal advertising.

(b) The Contractor agrees that the Comptroller General of the United States and the Secretary, or any of their duly authorized representatives, shall until expiration of 3 years after final payment under this contract or of the time period for the particular records in Part 1–20 of the Federal Procurement Regulations (41 CFR part 1–20) whichever expires earlier, have access to and the

right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

(c) The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States, or his/her duly authorized representatives shall, until expiration of 3 years after final payment under the subcontract or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR part 1–20) whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term ''subcontract'' as used in this clause excludes (1) purchases orders not exceeding $2,500 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(d) The periods of access and examination described in (b) and (c) above, for records which relate to (1) appeals under the ''Disputes'' clause of this contract, (2) litigation or the settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General or any of his/her duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

(End of clause)

CLAUSE NO. 9—INSPECTION AND REPORTS (JUN 1977)

(a) *Inspection of work.* The Government shall have the right to inspect the work and activities under this contract, including without limitation, premises where any Government property may be located at such reasonable times and in such manner as it may deem appropriate and the Contractor shall afford the Government proper facilities and assistance for such inspection.

(b) *Reports.* The Contractor shall furnish such progress reports, schedules, financial and cost reports, and other reports, concerning the work under this contract as specified elsewhere in this contract. Cost and other financial data and projections furnished pursuant to this paragraph (b) shall not relieve the Contractor of the requirements for furnishing notice specified in the clause of this contract entitled ''Limitation of Cost.''

(c) In addition, where Federal financial assistance is involved in the contract effort, the following clause will apply:

Reports to the Indian People

The contractor, as a recipient of Federal financial assistance, shall make reports and information available to the Indian people served or represented by the contractor. Such reports will reflect how the Federal assistance funds were utilized to the benefit of the Indian people served or represented as follows: (specific reporting requirements, formats and methods of distribution to the Indian people will be prescribed in the scope of the contract.)

(d) *Annual Reporting.*

(1) For each fiscal year during which a tribal organization receives or expends funds pursuant to a contract under this Part, the tribe which requested the contract must submit a report to the Contracting Officer. The report shall include, but not be limited to, an accounting of the amounts and purposes for which the contract funds were expended and information on the conduct of the program or services involved. The reports shall include any other information requested by the Contracting Officer and may be submitted as follows:

(i) When the contract is with the governing body of an Indian tribe, the tribe shall submit the report to the Contracting Officer.

(ii) When the contract is with a tribal organization other than the governing body of the tribe, the tribe has the option of having the tribal organization prepare the report and submit it to the tribe for review and approval before the tribe submits it to the Contracting Officer.

(iii) When the contract benefits more than one tribe, the tribal organization shall prepare and submit the report to each of the tribes benefiting under the contract. Each tribe shall endorse the report before submitting it to the Contracting Officer.

(2) The annual report shall be submitted to the Contracting Officer within 90 days of the end of the fiscal year in which the contract was performed. However, the period for submitting the report may be extended if there is just cause for such extension.

(3) In addition to the yearly reporting requirement given in paragraphs (a) and (b) of this section, the tribal contractor shall furnish other reports when and as required by the Secretary.

(End of clause)

CLAUSE NO. 10—SUBCONTRACTING (JUN 1977)

(a) *Prior approval required.* Except as provided in (c) below, the Contractor shall not enter into any subcontract or purchase order not otherwise expressly authorized elsewhere in this contract without the prior written approval of the Contracting Officer and subject to such conditions as the Contracting Officer may require.

(b) *Request for approval.* The Contractor's request for approval to enter into a subcontract pursuant to this clause shall include: (1) A description of the supplies or services to be called for by the subcontract; (2) identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the degree of competition obtained; (3) the proposed subcontract price, together with the Contractor's cost or price analysis thereof; (4) identification of the type of subcontract to be used; (5) a copy or draft of the proposed subcontract, if available; and (6) any other information which the Contracting Officer may require.

(c) *Certain purchases of property and services.* Prior written approval shall not be required for firm fixed-price subcontracts for the purchase or rental of items of personal property having a unit acquisition cost of less than $200 or for subcontracts in a total amount less than $1,000 unless otherwise specified elsewhere in this contract: Provided, however, That advance notification shall be given by the Contractor of any subcontract which exceeds in dollar amount 5 percentum of the total estimated cost of this contract.

(d) *Contractor's procurement system.* The contractor shall use methods, practices or procedures in subcontracting or purchasing (hereinafter referred to as the Contractor's ''procurement system'') acceptable to the Contracting Officer. The Contracting Officer may, at any time during the performance of this contract, require the Contractor to provide information concerning its procurement system.

(e) *Effect of subcontracting.* Subcontracts shall be made in the name of the Contractor and shall not bind nor purport to bind the Government. The making of subcontracts hereunder shall not relieve the Contractor of any requirement under this contract (including, but not limited to, the duty to properly supervise and coordinate the work of subcontracts, and the duty to maintain and account for property pursuant to the clause of this contract entitled ''Government Property''). Approval of the provisions of any subcontract by the Contracting Officer shall not be construed to constitute a determination of the allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such cost. In no event shall approval of any subcontract by the Contracting Officer be construed as effecting any increase in the estimated cost set forth in this contract. No subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(f) *Procurements from contractor-controlled sources.* Procurement or transfer of equipment, materials, supplies, or services from contractor-controlled source (any division or other organizational component of the prime contractor, exclusive of the contracting component, and any subsidiary or affiliate of the Contractor under a common control) shall be considered a subcontract for the purpose of this clause.

(End of clause)

CLAUSE NO. 11—ACCOUNTS, AUDIT AND RECORDS (JUN 1977)

(a) The Contractor shall maintain books, records, documents, and other evidence, accounting procedures, and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. The foregoing constitutes ''records'' for the purposes of this clause.

(b) The Contractor's facility(ies), or such part thereof as may be engaged in the performance of this contract, and its records shall be subject at all reasonable times to inspection and audit by the Contracting Officer or his/her authorized representative.

(c) The contractor shall preserve and make available its records (1) until the expiration of 3 years from the date of final payment under this contract, or the time periods for the particular records specified in (41 CFR part 1–20), whichever expires earlier and (2) for such longer period, if any, as is required by applicable statute, or by other clause of this contract, or by (i) or (ii) below.

(i) If this contract is completely or partially retroceded or reassumed by the Government, the records relating to the work terminated shall be preserved and made available for a period of 3 years from the date of any resulting final settlement.

(ii) Records which relate to (A) appeals under the ''Disputes'' clause of this contract, (B) litigation or the settlement of claims arising out of the performance of this contract, or (C) costs and expenses of this contract to which exception has been taken by the Contracting Officer or any of his/her duly authorized representatives, shall be retained until such appeals, litigation, claims, or exceptions have been disposed of.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract hereunder that is not firm fixed-price or fixed-price with escalation. When so inserted, changes shall be made to designate the higher-tier subcontractor at this level involved in place of the Contractor: to add ''of the Government prime contract'' in place of ''this contract'' in (B) of subparagraph (c)(ii) above.

(End of clause)

CLAUSE NO. 12—GOVERNMENT PROPERTY (JUN 1977)

(a) *Government furnished property.* (1) The Government reserves the right to furnish any property or services required for the performance of the work under this contract.

(2) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described elsewhere in this contract, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (such property to be referred to as ''Government furnished property'').

In the event that Government furnished property is not delivered to the contractor by the time or times as stated, or if not stated, in sufficient time to enable the Contractor to meet such delivery or performance dates under this contract, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor and make appropriate equitable adjustments to any contractual provisions affected by any such delay in accordance with the provisions of the clause of this contract entitled ''Changes.''

In the event that Government furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, immediately upon receipt thereof, notify the Contracting Officer of such fact, and, as directed by the Contracting Officer either (i) return or otherwise dispose of such property, or (ii) effect repairs or modifications thereto. Upon completion of (i) or (ii) above, the Contracting Officer, upon timely written request of the Contractor, shall make appropriate equitable adjustments to any contractual provisions affected thereby in accordance with the provisions of the clause of this contract entitled ''Changes.'' The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government furnished property or delivery of such property in a condition not suitable for its intended use.

(b) *Title.* (1) Title to all property furnished by the Government shall remain in the Government. Title to all property purchased by the Contractor, the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass and vest in the Government upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government in whole or in part, whichever first occurs. All Government furnished property, together with all property acquired by the Contractor, title to which vests in the Government under this paragraph, are subject to the provisions of this clause and are hereinafter collectively referred to as ''Government property.''

(2) Title to the Government property shall not be affected by the incorporation or attachment thereof to any property now owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity or personality by reason of affixation to any realty.

(c) *Use of Government property.* Government property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(d) *Property management and control.* The Contractor shall maintain and administer in accordance with sound business practice a program for the maintenance repair, protection, and preservation, control of and accountability for Government property, so as to assure its full availability and usefulness for the performance of this contract. The Contractor shall comply with Federal, State, and local laws, codes, ordinances, regulations, and orders pertaining to standards of construction, safety, environment quality, energy conservation, historic site preservation, facilities for the handicapped, emergency preparedness, and other requirements that are applicable to the physical characteristics, operation, and maintenance of Government property. The Contractor agrees to promptly receipt for all Government property in a form and manner as prescribed by the Contracting Officer. The Contractor further agrees to take all reasonable steps to comply with all directions or instructions which the Contracting Officer may prescribe regarding the management and control of Government property.

(e) *Risk or loss.* (1) The Contractor shall not be liable for any loss of or damage to Government property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto);

(i) Which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives, who have supervision or direction of

(A) all or substantially all of the Contractor's operations at any one plant, laboratory or separate location in which this contract is being performed or

(B) a separate and complete major organization, industrial or otherwise in connection with the performance of this contract;

(ii) Which results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of any of its directors, officers, or other representatives mentioned in subparagraph (i) above, (A) to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection, and preservation of Government property as required by paragraph (d) hereof, or (B) to take all reasonable steps to comply with any appropriate written directions of the Contracting Officer under paragraph (4) hereof;

(iii) For which the Contractor is otherwise responsible under the express terms of this contract;

(iv) Which results from a risk expressly required to be insured under this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement; Provided That, if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) If the Contractor transfers Government property to the possession and control of a subcontractor the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to Government property as set forth in (1) above. The Contractor shall require the subcontractor to assume the risk of and be responsible for any loss or destruction of or damage to Government property while in the latter's possession or control, and the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received (except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of this contract). Provided, however, That the subcontractor may be relieved from such liability only to the extent that the subcontract, with the prior approval of the Contracting Officer, so provides.

(3) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provisions for a reserve, covering the risk of loss or damage to the Government property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provision of this contract.

(4) Upon the happening of loss or destruction of or damage to the Government property, the Contractor shall notify the Contracting Officer thereof, and shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, and damaged Government property;

(ii) The time and origin of the loss, destruction or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall make repairs and renovation of the damaged Government property, or take such other actions as the Contracting Officer directs.

(5) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government property, it shall use the proceeds to repair, renovate, or replace the Government property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The loss, destruction or damage and, upon the request of the Constracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of or damage to Government property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government property for the benefit of the Government.

(f) *Disposition of Government property*.

(1) During the period of performance of this contract, the Contractor shall promptly and regularly report to the Contracting Officer, in such form and manner as the Contracting Officer may direct, concerning the status of Government property under the contract, including all Government property in the Contractor's possession which is not in use or which is excess to the needs of the contract. The Contractor shall make such disposition of Government property as the Contracting Officer may direct. The Contractor shall in no way be relieved of responsibility for Government property without the prior written approval of the Contracting Officer.

(2) Upon completion or expiration of this contract, or at such earlier date as may be fixed by the Contracting Officer, the Contractor shall render an accounting, as prescribed by the Contracting Officer, of all

Government property which had come into the possession or custody of the Contractor under this contract. Such accounting shall include inventory schedules covering all items of Government property not consumed in the performance of this contract, or not theretofore delivered to the Government, or for which the Contractor has not otherwise been relieved of responsibility. The Contractor shall deliver or make such other disposition of Government property covered in such inventory schedules as the Contracting Officer may direct.

(3) The net proceeds of any disposition of Government property, in accordance with (1) and (2) above, shall be credited to the cost of the work covered by the contract or shall be paid in such manner as the Contracting Officer may direct.

(g) *Restoration of premises.* Unless otherwise provided herein, the Government shall not be under any duty or obligation to restore or rehabilitate, or to pay the costs of the restoration or rehabilitation of the Contractor's facility or any portion thereof which is affected by removal of any Government property.

(End of clause)

CLAUSE NO. 13—CHANGES (JUN 1977)

The Contracting Officer may at any time, with the consent of the Contractor, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (a) Drawings, designs, or specifications; (b) method of shipment or packing; (c) place of inspection, delivery, or acceptance; and (d) the amount of Government furnished property. If any such change causes an increase or decrease in the estimated cost of, or the time required for performance of this contract, or otherwise affects any other provisions of this contract, whether changed or not by any such order, an equitable adjustment shall be made (a) in the estimated cost or delivery schedule, or both, and (b) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change: Provided, however, That the Contracting Officer, if he/she decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled ''Disputes.'' However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)

CLAUSE NO. 14—NOTICE TO THE GOVERNMENT OF DELAYS (JUN 1977)

Whenever the Contractor has knowledge that any actual or potential situation, including, but not limited to, labor disputes, is delaying or threatens to delay the timely performance of the work under this contract, the Contractor shall immediately give written notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

(End of clause)

CLAUSE NO. 15—RETROCESSION (JUN 1977)

(a) The Indian Tribe that initially requested this contract may also request its retrocession, notwithstanding the fact that the Contractor may be a tribal organization other than the Tribe.

(b) Should the Tribe request retrocession of the contract and the Contractor is other than the Tribe, the Contracting Officer will notify the Contractor of the request and in consultation with the Tribe and the Contractor establish the effective date of the retrocession. The retrocession will become effective no later than 120 days after the Contracting Officer receives the Tribe's request unless the Tribe and the Contracting Officer mutually agree on a later date.

(c) Immediately after receipt of the request for retrocession and where applicable notifying the Contractor, the Contracting Officer will meet with the Contractor and, where applicable, the tribal governing body or bodies, mutually agree to:

(1) A plan for the orderly transfer of responsibilities;

(2) A plan for inventorying materials and supplies on hand;

(3) An accounting for funds, including but not limited to current and anticipated obligations;

(4) The cost of operation until retrocession; and,

(5) The identification of all records relating to the contract and the contracted function.

(End of clause)

CLAUSE NO. 16—ASSUMPTION AND REASSUMPTION OF CONTRACT PROGRAMS (JUN 1977)

(a) When the Director or his/her delegate determines that the performance of a Contractor under these regulations involves (1)

the violation of the rights or endangerment of the health, safety, or welfare of any persons, or (2) gross negligence or the mismanagement in the handling or use of funds under the contract, he/she will, in writing, notify the contractor of such determinations and will request that the Contractor take such corrective action within such period of time as the Director or his/her delegate may prescribe.

(b) When the Director or his/her delegate determines that a Contractor has not taken corrective action (as prescribed by him/her under paragraph (a) of this section) to his/her satisfaction, he/she may, after the Contractor has been provided an opportunity for a hearing in accordance with paragraph (c) of this section, rescind the contract in whole or in part and, if he/she deems it appropriate, assume or resume control or operation of the program, activity, or service involved.

(c)(1) When the Director or his/her delegate has made a determination described in paragraph (b) of this section, he/she shall in writing notify the Contractor of such determination and of the Contractor's right to request a review of such determination and of the determination described in paragraph (a) of this section. Such notification by the Director or his/her delegate shall set forth the reasons for the determination in sufficient detail to enable the Contractor to respond and shall inform the Contractor of its right to a hearing on the record before a Contract Appeals Board described in paragraph (d) of this section. Upon the request of the Contractor for a hearing, the Board, established pursuant to paragraph (d) of this section shall in writing within 10 days of the establishment notify the Contractor of the time, place and date of the hearing which will be held not later than 45 days after the request for a hearing.

(2) Where the Director or his/her delegate determines that a Contractor's performance under a contract awarded under this subpart poses an immediate threat to the safety of any person, he/she may immediately rescind the contract in whole or in part and, if he/she deems it appropriate, assume or resume control or operation of the program, activity, or service involved. Upon such a decision he/she will immediately notify the Contractor of such action and the basis therefor; and offer the Contractor an opportunity for a hearing on the record before the Contract Appeals Board established pursuant to paragraph (d) of this section to be held within 10 days of each action.

(d)(1) The Contract Appeals Board shall be composed of 3 persons appointed by the Director, Indian Health Service. Such persons may not be selected from the immediate office of any person participating in the determination at issue. The Board shall afford the Contractor the right:

(i) To notice of the issues to be considered;

(ii) To be represented by counsel;

(iii) To present witnesses on Contractor's behalf;

(iv) To cross-examine other witnesses either orally or through written interrogatories; and

(v) To compel the appearance of Indian Health Service personnel or to take depositions of such persons at reasonable times and places.

(2) The Contract Appeals Board shall make an initial written decision which shall become final within 20 days unless the Director, Indian Health Service or his/her representative modifies or reverses the decision. Any such decision by the Director of the Indian Health Service or his/her representative shall be in writing, shall be specific as to the reasons for such decision, and shall be considered final.

(3) Where the Board is considering issues arising under paragraph (2) of this section, the Board shall within 25 days after the conclusion of the hearing, notify all parties in writing of its decision.

(c) In any case where the officer has rescinded a contract under paragraph (b) or (c) of this section, he/she may decline to enter into a new contract agreement with the Contractor until such time as he/she is satisfied that the basis for the recision has been corrected.

Nothing in this section shall be construed as contravening the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651).

(End of clause)

CLAUSE NO. 17—KEY PERSONNEL (JUN 1977)

Where ''key personnel'' have been identified in this contract, it has been determined that such named personnel are necessary for the successful performance of the work under this contract; and the Contractor agrees to assign such personnel to the performance of the work under this contract, and shall not reassign or remove any of them without the consent of the Contracting Officer. Whenever, for any reason, one or more of the aforementioned personnel is unavailable for assignment for work under the contract, the Contractor shall immediately notify the Contracting Officer to that effect and shall, subject to the approval of the Contracting Officer without formal modification to the contract, replace such personnel with personnel of substantially equal ability and qualifications.

(End of clause)

CLAUSE NO. 18—LITIGATION AND CLAIMS (JUN 1977)

The Contractor shall give the Contracting Officer immediate notice in writing of (a)

any action, including any proceeding before an administrative agency, filed against the Contractor arising out of the performance of this contract, including, but not limited to, the performance of any subcontract hereunder; and (b) any claim against the Contractor the cost and expense of which is allowable under the clause entitled ''Allowable Cost,'' except as otherwise directed by the Contracting Officer, the Contractor shall furnish immediately to the Contracting Officer copies of all pertinent papers received by the Contractor with respect to such action or claim. To the extent not in conflict with any applicable policy of insurance, the Contractor may, with the Contracting Officer's approval, settle any such action or claim. If required by the Contracting Officer, the Contractor shall (a) effect an assignment and subrogation in favor of the Government of all the Contractor's rights and claims (except those against the Government) arising out of any such action or claim against the Contractor; and (b) authorize representatives of the Government to settle or defend any such action or claim and to represent the Contractor in, or to take charge of, any action. If the settlement or defense of an action or claim is undertaken by the Government, the Contractor shall furnish all reasonable assistance in effecting a settlement or asserting a defense. Where an action against the Contractor is not covered by a policy of insurance, the Contractor shall, with the approval of the Contracting Officer, proceed with the defense of the action in good faith. The Government shall not be liable for the expense of defending any action or for any cost resulting from the loss thereof to the extent that the Contractor would have been compensated by insurance which was required by law or regulation or by written direction of the Contracting Officer, but which the Contractor failed to secure through its own fault or negligence.

In any event, unless otherwise expressly provided in this contract, the Contractor shall not be reimbursed or indemnified by the Government for any liability loss, cost or expense, which the Contractor may incur or be subject to by reason of any loss, injury, or damage, to the person or to real or personal property of any third parties as may accrue during, or arise from, the performance of this contract.

(End of clause)

CLAUSE NO. 19—INDEMNITY AND INSURANCE (JUN 1977)

(a) The Contractor shall indemnify and save and keep harmless the Government against any or all loss, cost, damage, claim, expense or liability whatsoever, because of accident or injury to persons or property or others occurring in connection with any program included as a part of this contract, by providing where applicable, the insurance described below:

(b) The Contractor shall secure, pay the premium for, and keep in force until the expiration of this contract, or any renewal period thereof, insurance as provided below. Such insurance policies shall specifically include a provision stating the liability assumed by the Contractor under this contract.

(1) Workman's compensation insurance as required by laws of the state.

(2) Owner's, landlord's, and tenant's bodily injury liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(3) Property damage liability insurance with limits of not less than $25,000 for each accident.

(4) Automobile bodily injury liability insurance with limits of not less than $50,000 for each person, and $500,000 for each accident and property damage liability insurance with a limit of not less than $5,000 for each accident.

(5) Food products liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(6) Professional malpractice insurance where medical, dental and other health professional services are involved.

(7) Other liability insurance not specifically mentioned when required.

(c) Each policy of insurance shall contain an endorsement providing that cancellation by the insurance company shall not be effective unless a copy of the cancellation is mailed (registered) to the Contracting Officer 30 days prior to the effective date of cancellation.

(d) A certificate of each policy of insurance, and any change therein, shall be furnished to the Contracting Officer immediately upon receipt from the insurance company.

(e) Insurance companies of the Contractor shall be satisfactory to the Contracting Officer. When in his/her opinion an insurance company is not satisfactory for reasons that will be stated, the Contractor shall provide insurance through companies that are satisfactory to the Contracting Officer.

(f) Each policy of insurance shall contain a provision that the insurance carrier waives any rights it may have to raise as a defense the tribe's sovereign immunity from suit, but such waivers shall extend only to claims the amount and nature of which are within the coverage and limits of the policy of insurance. The policy shall contain no provision, either expressed or implied, that will serve to authorize or empower the insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy insurance.

(End of clause)

CLAUSE NO. 20—OVERTIME (JUN 1977)

Except as provided in this contract, the Contractor shall not perform overtime work under or in connection with this contract for which premium compensation is required to be paid, without specific written approval from the Contracting Officer.

(End of clause)

CLAUSE NO. 21—FOREIGN TRAVEL (JUN 1977)

Foreign travel shall not be performed without the prior written approval of the Contracting Officer. As used in this clause ''Foreign Travel'' means travel outside the United States, its Territories and Possessions, and Canada.

(End of clause)

CLAUSE NO. 22—QUESTIONNAIRE AND SURVEYS (JUN 1977)

In the event the performance of this contract involves the collection of information upon identical items from 10 or more persons, other than Federal employees, the Contractor shall obtain written approval from the Contracting Officer, prior to the use thereof, of any forms, schedules, questionnaires, survey plans or other documents, and any revisions thereto, intended to be used in such collection.

(End of clause)

CLAUSE NO. 23—PRINTING (JUN 1977)

Unless otherwise specified in this contract, the Contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract; Provided, however, That performance of a requirement under this contract involving the reproduction of less than 5,000 production units of any one page or less than 25,000 production units in the aggregate of multiple pages, will not be deemed to be printing. A production unit is defined as one sheet, size 8 by 10 and ½ inches, one side only, one color.

(End of clause)

CLAUSE NO. 24—SERVICES OF CONSULTANTS (JUN 1977)

Except as otherwise expressly provided elsewhere in this contract, and notwithstanding the provisions of the clause of this contract entitled ''Subcontracting,'' the prior written approval of the Contracting Officer shall be required:

(a) Whenever any employee of the Contractor is to be reimbursed as a ''consultant'' under this contract; and

(b) For the utilization of the services of any consultant under this contract exceeding the daily rate set forth elsewhere in this contract or, if no amount is set forth, $100, exclusive of travel costs or where the services of any consultant under this contract will exceed 10 days in any calendar year. Whenever Contracting Officer approval is required, the Contractor will obtain and furnish to the Contracting Officer information concerning the need for such consultant services and the reasonableness of the fees to be paid, including but not limited to, whether fees to be paid to any consultant exceed the lowest fee charged by such consultant to others for performing consultant services of a similar nature.

(End of clause)

CLAUSE NO. 25—ASSIGNMENT OF CLAIMS (JUN 1977)

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this contract provides for payments aggregating $1,000 or more, claims for moneys due or to become due the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this contract, payment to assignee of any moneys due or to become due under this contract shall not, to the extent provided in said Act, as amended, be subject to reduction or setoff. (The preceding sentence applies only if this contract is made in time of war or national emergency as defined in said Act and is with the Department of Defense, the General Services Administration, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency or any other department or agency of the United States designated by the President pursuant to Clause 4 of the proviso of section 1 of the Assignment of Claims Act of 1940, as amended by the Act of May 15, 1951, 65 Stat. 41.)

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked ''Top Secret,'' ''Secret,''

or ''Confidential,'' be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same. However, a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

(End of clause)

CLAUSE NO. 26—CONTRACT WORK HOURS AND SAFETY STANDARD ACT—OVERTIME COMPENSATION (JUN 1977)

This contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

(a) *Overtime requirements.* No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he/she is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek on work subject to the provisions of the Contract Work Hours Standards Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his/her basic rate of pay for all such hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is the greater number of overtime hours.

(b) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the provisions of paragraph (a), the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for his/her unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by paragraph (a).

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer may withhold from the Government Prime Contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) *Subcontracts.* The Contractor shall insert paragraphs (a) through (d) of this clause in all subcontracts, and shall require their inclusion in all subcontracts for any tier.

(e) *Records.* The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for three years from the completion of the contract. This requirement does not apply where the tribal contractor is the governing body of the tribe and the work is being performed by the tribal contractor or the tribe with its regular employees.

(End of clause)

CLAUSE NO. 27—WALSH-HEALEY PUBLIC CONTRACTS ACT (JUN 1977)

If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed $10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S. Code 35–45), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect. This requirement does not apply where the tribal contractor is the governing body of the tribe and the work is being performed by the tribal contractor or the tribe with its regular employees.

(End of clause)

CLAUSE NO. 28—EQUAL OPPORTUNITY (JUN 1977)

Subject to the Indian preference in training and employment of Clause 29 during the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be

provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(End of clause)

CLAUSE NO. 29—INDIAN PREFERENCE IN TRAINING AND EMPLOYMENT (JUN 1977)

(a) The Contractor shall give preference in employment for all work performed under the contract, including subcontracts thereunder, to qualified Indians0 regardless of age, religion, or sex, and to the extent feasible consistent with the efficient performance of the contract, provide employment and training opportunities to Indians, regardless of age, religion, or sex, that are not fully qualified to perform under the contract. The Contractor shall comply with any Indian preference requirements established by the Tribe receiving services under the contract to the extent that such requirements are consistent with the purpose and intent of this paragraph.

(b) If the Contractor or any of its subcontractors is unable to fill its employment openings after giving full consideration to Indians as required in paragraph (a) above, these employment openings may then be filled by other than Indians under the conditions set forth in the Equal Opportunity clause of this contract.

(c) The Contractor agrees to include this clause or one similar thereto in all subcontracts issued under the contract.

(End of clause)

CLAUSE NO. 30—CERTIFICATE OF NONSEGREGATED FACILITIES (JUN 1977)

By signing the contract the Contractor certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term ''segregated facilities'' means any waiting rooms, work areas, rest rooms, and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated

by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom or otherwise. It further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause; that it will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to prospective subcontractors of requirement for certifications of nonsegregated facilities. A certificate of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

(End of clause)

CLAUSE NO. 31—CONVICT LABOR (JUN 1977)

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor, except as provided by Public Law 89–176, September 10, 1965 (18 U.S.C. 4082(c)(2)), and Executive Order No. 11755, December 29, 1973.

(End of clause)

CLAUSE NO. 32—OFFICIALS NOT TO BENEFIT (JUN 1977)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

(End of clause)

CLAUSE NO. 33—BUY AMERICAN ACT FOR SUPPLY AND SERVICE CONTRACTS (JUN 1977)

(a) In acquiring end products, the Buy American Act (41 U.S. Code 10a–d) provides that the Government give preference to domestic source end products. For the purpose of this clause:

(i) ''Components'' means those articles, materials, and supplies which are directly incorporated in the end products;

(ii) ''End products'' means those articles, materials, and supplies which are to be acquired under this contract for public use; and

(iii) A ''domestic source end product'' means (A) an unmanufactured end product which has been mined or produced in the United States and (B) an end product manufactured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. For the purpose of this (a)(iii) (B), components of foreign origin of the same type or kind as the products referred to in (b) (ii) or (iii) of this clause shall be treated as components mined, produced or manufactured in the United States.

(b) The Contractor agrees that there will be delivered under this contract only domestic source end products, except end products:

(i) Which are for use outside the United States;

(ii) Which the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(iii) As to which the Secretary determines the domestic preference to be inconsistent with the public interest; or

(iv) As to which the Secretary determines the cost to the Government to be unreasonable.

(The foregoing requirements are administered in accordance with Executive Order No. 10582, dated December 17, 1954).

(End of clause)

CLAUSE NO. 34—ANTI-KICKBACK ACT (JUN 1977)

(a) Public Law 86–695, September 2, 1960 (41 U.S.C. 51–54) among other things prohibits the payment, directly or indirectly, by or on behalf of a subcontractor in any tier under any Government negotiated contract of any fee, gift or gratuity to the prime contractor or any higher tier subcontractor or any officer, agent, partner or employee thereof, as an inducement or acknowledgment for the award of a subcontact or order.

(b) The provisions of Public Law 86–695 are applicable to this contract and any subcontracts entered into under the contract.

(End of clause)

CLAUSE NO. 35—USE OF INDIAN BUSINESS CONCERNS (JUN 1977)

(a) As used in this clause, the term ''Indian business concern'' means Indian organizations or an Indian-owned economic enterprise as defined in 42 FR 36.204(i).

(b) The contractor agrees to give preference to qualified Indian business concerns in the awarding of any subcontracts entered

into under the contract consistent with the efficient performance of the contract. The contractor shall comply with any preference requirements regarding Indian business concerns established by the Tribe(s) receiving services under the contract to the extent that such requirements are consistent with the purpose and intent of this paragraph.

(c) If no Indian business concerns are available under the conditions in paragraph (b) above, the Contractor agrees to accomplish the maximum amount of subcontracting, as the Contractor determines is consistent with its efficient performance of the contract, with small business concerns, labor surplus area concerns or minority business enterprises, the definitions for which are contained in Subparts 1–1.7, 1–1.8, and 1–1.13 of the Federal Procurement Regulations. The Contractor is not, however, required to establish a small business, labor surplus, or minority business subcontracting program as described in sections 1–1.710–3(b), 1–1.805–3(b), and 1–1.1310–2(b), respectively, of the Federal Procurement Regulations (41 CFR chapter 1).

(End of clause)

CLAUSE NO. 36—PAYMENT OF INTEREST ON CONTRACTOR'S CLAIMS (JUN 1977)

(a) If an appeal is filed by the Contractor from a final decision of the Contracting Officer under the Disputes clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the Contractor. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to P.L. 92–41, 85 Stat. 97, from the date the Contractor furnished to the Contracting Officer his written appeal under the Disputes clause of this contract, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to the Contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a board of contract appeals.

(b) Notwithstanding (a), above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeals, and (2) interest shall not be paid for any period of time that the Contracting Officer determines the Contractor has unduly delayed in pursuing its remedies before a board of contract appeals or a court of competent jurisdiction.

The Contractor further agrees to comply with any rules, regulations and reporting requirements which may be imposed by the HHS Office for Civil Rights for purposes of insuring the proper exercise of this authority. The Contractor agrees to insert this clause in all subcontract(s) under this contract.

(End of clause)

CLAUSE NO. 37—FAIR AND EQUAL TREATMENT OF INDIAN PEOPLE (JUN 1977)

(a) The Contractor agrees consistent with medical needs to make no discriminatory distinctions among Indian patients or beneficiaries of this contract. For the purpose of this contract discriminatory distinctions include but are not limited to the following:

(i) denying a patient any service or benefit or availability of a facility;

(ii) providing any service or benefit to a patient which is different, or is provided in a different manner or at a different time from that provided to other patients under this contract; subjecting a patient to segregation or separate treatment in any manner related to his/her receipt of any service; restricting a patient in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; treating a patient differently from others in determining whether he/she satisfies any admission, enrollment, quota, eligibility membership, or other requirements of condition which individuals must meet in order to be provided any service or benefit; the assignment of times or places for the provision of services on the basis of discriminatory distinctions which may be made of the patients to be served.

(b) The Government reserves the right to reassume this contract in whole or in part whenever the Contractor fails to comply with the requirements of this clause.

(End of clause)

CLAUSE NO. 38—PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

The following clause applies to all contracts where cost and pricing data is required in accordance with P.L. 87–653.

Price Reduction for Defective Cost or Pricing Data (JUN 1977)

(a) If the Contracting Officer determines that any price negotiated in connection with this contract or any cost reimbursable under this contract was increased by any significant sums because the Contractor, or any subcontractor pursuant to the Clause of this contract entitled ''Subcontractor Cost or Pricing Data'' or ''Subcontractor Cost or Pricing Data-Price Adjustments,'' or any subcontract clause therein required, furnished incomplete or inaccurate cost or pricing data or data not current as certified in its Contractor's Certificate of Current Cost or Pricing Data, then such price or cost shall be reduced accordingly and the contract shall be modified in writing to reflect such reduction.

(b) Failure to agree on a reduction shall be a dispute concerning a question of fact within the meaning of the ''Disputes'' clause of this contract.

NOTE: Since this contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by its lower tier subcontractors.)

(End of clause)

CLAUSE NO. 39—SUBCONTRACTOR COST AND PRICING DATA

The following clauses should be included in all contracts, when the subcontracts of the type and size described therein are contemplated.

Subcontractor Cost and Pricing Data (JUN 1977)

(a) The Contractor shall require subcontractors hereunder to submit in writing cost or pricing data under the following circumstances:

(1) Prior to award of any cost-reimbursed type, time and material, labor-hour, incentive, or price redeterminable subcontract the price of which is expected to exceed $100,000; and

(2) Prior to the award of any other subcontract, the price of which is expected to exceed $100,000, or to the pricing of any subcontract change or other modification of which the price adjustment is expected to exceed $100,000, where the price or price adjustment is not based on adequate price competition, established catalog or market price or commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, substantially the same form as that used in the certificate by the Prime Contractor to the Government, that, to the best of their knowledge and belief, the cost and pricing data submitted under (a) above are accurate, complete, and current as of the date of the execution, which date shall be as close as possible to the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The Contractor shall insert the substance of this clause including this paragraph (c) in each of its cost-reimbursement type, time and material, labor-hour, price redeterminable, or incentive subcontracts hereunder, and in any other subcontract hereunder which exceeds $100,000 unless the price thereof is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such expected subcontract hereunder which exceeds $100,000, the Contractor shall insert the substance of the following clauses:

Subcontractor Cost and Pricing Data—Price Adjustments

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any change or other modification made pursuant to one or more provisions of this contract which involves a price adjustment in excess of $100,000. The requirements of this clause shall be limited to such price adjustments.

(b) The Contractor shall require subcontractors hereunder to submit cost or pricing data under the following circumstances:

(1) Prior to award of any cost-reimbursement type, time and material, labor-hour, incentive, or price redeterminable subcontract, the price of which is expected to exceed $100,000; and

(2) Prior to award of any other subcontract, the price of which is expected to exceed $100,000, or to the pricing of any subcontract change or other modification for which the price adjustment is expected to exceed $100,000, where the price or price adjustment is not based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the Certificate by the Prime Contractor to the Government, that, to the best of their knowledge and belief, the cost and pricing data submitted under (b) above are accurate, complete, and current as of the date of the execution, which date shall be as close as possible to the date of agreement on the negotiated price of the contract modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds $100,000.

(End of clause)

CLAUSE NO. 40—PENALTIES (JUN 1977)

(a) Any officer, director, agent, employee or such other person connected in any capacity with this contract or any subcontract thereunder that embezzles, willfully misapplies, steals or obtains by fraud any of the money, funds, assets or property provided through the contract shall be fined not

more than $10,000 or imprisoned for more than two years, or both; Provided, That if the amount embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(b) The Contractor agrees to insert the clause in all subcontracts.

(End of clause)

CLAUSE NO. 41—EFFECT ON EXISTING RIGHTS (JUN 1977)

(a) Nothing in this contract shall be construed as:

(1) Affecting, modifying, diminishing, or otherwise impairing the sovereign immunity for suit enjoyed by an Indian tribe; or,

(2) Authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

(End of clause)

CLAUSE NO. 42—GENERAL SERVICES ADMINISTRATION (GSA) SUPPLY SOURCES

Indian tribal organizations which are awarded cost-reimbursement type contracts under the Indian Self-Determination Act, may be authorized to utilize GSA supply sources. The following clause will be inserted in all cost-reimbursement type contracts under which the Contractor may be authorized to acquire items for the account of the Government from GSA supply sources:

General Services Administration Supply Sources (June 1977)

The Contracting Officer may issue the Contractor an authorization to utilize General Services Administration supply sources for property to be used in the performance of this contract. Title to all property acquired by the Contractor under such an authorization shall vest in the Government, (1) unless otherwise specifically provided in the contract, (2) unless otherwise provided in the Government Property clause of this contract, or (3) in the absence of both the conditions in (1) and (2) of the clause. However, such property shall not be considered to be ''Government-furnished property.''

(End of clause)

(b) Insert the following clauses in fixed price contracts awarded under the Indian Self-Determination Act as described in Subpart PHS 380.4:

CLAUSE NO. 1—DEFINITIONS (JUN 1977)

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) The term ''Secretary'' means the Secretary, the Under Secretary, or any Assistant Secretary of the Department of Health and Human Services and the term ''his/her duly authorized representative'' means any person or persons or board (other than the Contracting Officer) authorized to act for the Secretary.

(b) The term ''Contracting Officer'' means the person executing this contract on behalf of the Government, and any other officer or employee who is properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his/her authority.

(c) The term ''Department'' means the Department of Health and Human Services (HHS).

(d) The term ''constituent agency'' means the agency of the Department responsible for the administration of this contract.

(e) Except as otherwise provided in this contract, the term ''subcontract'' includes purchase orders under this contract.

(f) The term ''Project Officer'' means the person representing the Government for the purpose of technical direction of contract performance. The Project Officer is not authorized to issue any instructions or directions which effect any increase or decrease in the cost of this contract or which change the period of this contract.

(End of clause)

CLAUSE NO. 2—DISPUTES (JUN 1977)

(a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his/her decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Secretary. The decision of the Secretary or his/her duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

(b) This ''Disputes'' clause does not preclude consideration of law questions in connection with decisions provided for in paragraph (a) above; Provided, That nothing in this contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

(End of clause)

CLAUSE NO. 3—CONTRACT WORK HOURS AND SAFETY STANDARD ACT—OVERTIME COMPENSATION (JUN 1977)

This contract, to the extent it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330), is subject to the following provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

(a) *Overtime requirements.* No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he/she is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek on work subject to the provisions of the Contract Work Hours Standard Act unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his/her basic rate of pay for all such hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is the greater numbers of overtime hours.

(b) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the provisions of paragraph (a), the Contractor and any subcontractor responsible therefor shall be liable to any affected employee for his/her unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) at the sum of $10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by paragraph (a).

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer may withhold from the Government Prime Contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) *Subcontracts.* The Contractor shall insert paragraphs (a) through (d) of this clause in all subcontracts, and shall require their inclusion in all subcontracts of any tier.

(e) *Records.* The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for three years from the completion of the contract. This requirement does not apply where the tribal contractor is the governing body of the Tribe and the work is being performed by the tribal organization or Tribe with its own regular employees.

(End of Clause)

CLAUSE NO. 4—WALSH-HEALEY PUBLIC CONTRACTS ACT (JUN 1977)

If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed $10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S. Code 34–45), there are hereby incorporated by reference all representations and stipulations required by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect. This requirement does not apply where the tribal contractor is the governing body of the Tribe and the work is being performed by the tribal organization or Tribe with its own regular employees.

(End of Clause)

CLAUSE NO. 5—CONVICT LABOR (JUN 1977)

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor except as provided by Public Law 89–176, September 10, 1965 (18 U.S.C. 4082(c)(2) and Executive Order No. 11755, December 29, 1973.

(End of clause)

CLAUSE NO. 6—NOTICE TO THE GOVERNMENT OF DELAYS (JUN 1977)

Whenever the Contractor has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, the Contractor shall within ten days give notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

(End of clause)

CLAUSE NO. 7—ASSIGNMENT OF CLAIMS (JUN 1977)

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this contract provides for payment aggregating $1,000 or more, claims for moneys due or to become due the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. Unless otherwise provided in this contract payments to assignee of any moneys due or due to become due under this contract shall not, to the extent provided in said Act, as amended, be subject to reduction or setoff. (The preceding sentence applies only if this contract is made in time of war or national emergency as defined in said Act and is with the Department of Defense, the General Services Administration, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, or any other department or agency of the United States designated by the President pursuant to Clause 4 of the proviso of section 1 of the Assignment of Claims Act of 1940, as amended by the Act of May 15, 1951, 65 Stat. 41).

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked ''Top Secret,'' ''Secret,'' or ''Confidential,'' be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same. However, a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

(End of clause)

CLAUSE NO. 8—OFFICIALS NOT TO BENEFIT (JUN 1977)

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

(End of clause)

CLAUSE NO. 9—ANTI-KICKBACK ACT (JUN 1977)

(a) Public Law 86–695, September 2, 1960 (41 U.S.C. 51–54) among other things, prohibits the payment, directly or indirectly, by or on behalf of a subcontractor in any tier under any Government negotiated contract of any fee, gift, or gratuity to the prime contractor or any officer, agent, partner or employee thereof, as an inducement or acknowledgement for the award of a subcontract or order.

(b) The provisions of Public Law 86–695 are applicable this contract and any subcontracts entered into under the contract.

(End of clause)

CLAUSE NO. 10—PENALTIES (JUN 1977)

Any officer, director, agent, employee or such other person connected in any capacity with this contract or any subcontract thereunder that embezzles, willfully misapplies, steals or obtains by fraud any of the money, funds, assets or property provided through the contract shall be fined not more than $10,000 or imprisoned for not more than two years, or both; Provided, That if the amount embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(b) The Contractor agrees to insert this clause in all subcontracts.

(End of clause)

CLAUSE NO. 11—BUY AMERICAN ACT (JUN 1977)

(a) In acquiring end products, the Buy American Act (41 U.S. Code 10a–d) provides that the Government give preference to domestic source end products. For the purpose of this clause:

(i) ''Components'' means those articles, materials, and supplies, which are directly incorporated in the end products;

(ii) ''End products'' means those articles, materials, and supplies, which are to be acquired under this contract for public use; and

(iii) ''A domestic source end product'' means (A) an unmanufactured end product which has been mined or produced in the United States and (B) an end product manufactured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. For the purposes of this (a)(iii)(B), components of foreign origin of the same type or kind as the products referred to in (b) (ii) or (iii) of this clause shall be treated as components mined, produced, or manufactured in the United States.

(b) The Contractor agrees that there will be delivered under this contract only domestic source end products, except end products:

(i) Which are for use outside the United States;

(ii) Which the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(iii) As to which the Secretary determines the domestic preference to be inconsistent with the the public interest; or

(iv) As to which the Secretary determines the cost to the Government to be unreasonable. (The foregoing requirements are administered in accordance with Executive Order No. 10582, dated December 17, 1954).

(End of clause)

CLAUSE NO. 12—EQUAL OPPORTUNITY (JUN 1977)

Subject to the Indian preference requirements of Clause 17, during the performance of this contract the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(b) The Contractor will, in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers representative of the Contractor's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of Sepember 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(e) The Contrator will furnish all information and reports required by executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(End of clause)

CLAUSE NO. 13—CERTIFICATE OF NONSEGREGATED FACILITIES (JUN 1977)

By signing the contract the Contractor certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Contractor agrees that a

breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term ''Segregated facilities'' means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. It futher agrees that (except where it has obtained identical certification from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause; that it will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to prospective subcontractors of requirement for certifications of nonsegregated facilities. A certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or all subcontracts during a period (i.e., quarterly, semiannually, or annually).

(End of clause)

CLAUSE NO. 14—SUBCONTRACTING (JUN 1977)

The Contractor shall not enter into subcontracts for any of the work contemplated under this contract without obtaining the prior written approval of the Contracting Officer and subject to such conditions and provisions as he/she may deem necessary, in his/her discretion, to protect the interests of the Government: Provided, however, That notwithstanding the foregoing, unless otherwise provided herein, such prior written approval shall not be required for the purchase by the Contractor of articles, supplies, equipment and services which are both necessary for and merely incidental to the performance of the requirements under this contract; Provided, further, however, That the aforesaid right of Contractor to engage such services shall in no event be construed to permit the Contractor to subcontract with a third-party for the performance of any major function contemplated under this contract to be performed by the Contractor, and Provided, further, however, That no provision of this clause and no such approval by the Contracting Officer of any subcontract shall be deemed in any event or in any manner to provide for the incurrence of any obligation of the Government in addition to the total contract price.

(End of clause)

CLAUSE NO. 15—COMPETITION IN SUBCONTRACTING (JUN 1977)

The Contractor agrees to select subcontractors on a competitive basis to the maximum practical consistent with the objectives and requirements of this contract.

(End of clause)

CLAUSE NO. 16—USE OF INDIAN BUSINESS CONCERNS (JUN 1977)

(a) As used in this clause, the term, ''Indian business concern'' means Indian organizations or an Indian-owned economic enterprise as defined in 42 CFR 36.204(i).

(b) The Contractor agrees to give preference to qualified Indian business concerns in the awarding of any subcontracts entered into under the contract consistent with efficient performance of the contract. The Contractor shall comply with any preference requirements regarding Indian business concerns established by the tribe(s) receiving services under the contract to the extent that such requirements are consistent with the purpose and intent of this paragraph.

(c) If no Indian business concerns are available under the conditions in paragraph (b) above, the Contractor agrees to accomplish the maximum amount of subcontracting, as the Contractor determines is consistent with its efficient performance of the contract, with small business concerns, labor surplus area concerns or minority business enterprises, the definitions for which are contained in Subparts 1–1.7, 1–1.8, and 1–1.13 of the Federal Procurement Regulations. The Contractor is not, however, required to establish a small business, labor surplus, or minority business subcontracting program as described in sections 1–1.710–3(b), 1–1.805–3(b), and 1–1.1310–2(b), respectively of the Federal Procurement Regulations (41 CFR chapter 1).

(End of clause)

CLAUSE NO. 17—INDIAN PREFERENCE IN TRAINING AND EMPLOYMENT (JUN 1977)

(a) The Contractor shall give preference in employment for all work performed under the contract, including subcontracts thereunder, to qualified Indians regardless of age, religion, or sex, and to the extent feasible consistent with the efficient performance of the contract, provide employment and training opportunities to Indians, regardless of

age, religion, or sex, that are not fully qualified to perform under the contract. The Contractor shall comply with any Indian preference requirements established by the tribe receiving services under the contract to the extent that such requirements are consistent with the purpose and intent of this paragraph.

(b) If the Contractor or any of its subcontractors is unable to fill its employment openings after giving full consideration to Indians as required in paragraph (a) above, these employment openings may then be filled by other than Indians under the conditions set forth in the Equal Opportunity clause of this contract.

(c) The Contractor agrees to include this clause or one similar thereto in all subcontracts issued under this contract.

(End of clause)

CLAUSE NO. 18—INSPECTION (JUN 1977)

The Government, through any authorized representatives, has the right, at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If any inspection, or evaluation is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require its subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

(End of clause)

CLAUSE NO. 19—CHANGES (JUN 1977)

The Contracting Officer may at any time, with the consent of the Contractor, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following (i) drawings, designs, or specifications, (ii) place of inspection, delivery, or acceptance, and (iii) the amount of Government-furnished property. If any such change causes an increase or decrease in the cost of, or the time required for performance of, this contract, or otherwise affects any other provisions of this contract, whether changed or not changed by any such order, an equitable adjustment shall be made (i) in the contract price or time of performance, or both, and (ii) in such provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change; Provided, however, That the Contracting Officer, if he/she decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled ''Disputes.'' However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)

CLAUSE NO. 20—RETROCESSION (JUN 1977)

(a) The Indian tribe that initially requested this contract may also request its retrocession, notwithstanding the fact that the Contractor may be a tribal organization other than the Tribe.

(b) Should the Tribe request retrocession of the contract and the Contractor is other than the Tribe, the Contracting Officer will notify the Contractor of the request and in consultation with the Tribe and the Contractor establish the effective date of the retrocession. The retrocession will become effective no later than 120 days after the Contracting Officer receives the Tribe's request unless the Tribe and the Contracting Officer mutually agree on a later date.

(c) Immediately after receipt of the request for retrocession and where applicable notifying the Contractor, the Contracting Officer will meet with the Contractor and, where applicable, the tribal governing body or bodies mutually agree to:

(1) A plan for the orderly transfer of responsibilities;

(2) A plan for inventorying materials and supplies on hand;

(3) An accounting for funds, including but not limited to current and anticipated obligations;

(4) The cost of operation until retrocession; and,

(5) The identification of all records relating to the contract and the contracted function.

(End of clause)

CLAUSE NO. 21—ASSUMPTION AND REASSUMPTION OF CONTRACT PROGRAMS (JUN 1977)

(a) When the Contracting Officer determines that the performance of a Contractor under these regulations involves (1) the violation of the rights or endangerment of the health, safety, or welfare of any person, or (2) gross negligence or the mismanagement

in the handling or use of funds under the contract, the Contracting Officer will, in writing, notify the Contractor of such determination and will request that the Contractor take such corrective action within such period of time as the Secretary may prescribe.

(b) When the Director or his/her delegate determines that a Contractor has not taken corrective action (as prescribed by him/her under paragraph (a) of this section) to his/her satisfaction, he/she may, after the Contractor has been provided an opportunity for a hearing in accordance with paragraph (c) of this section, rescind the contract in whole or in part and, if he/she deems it appropriate, assume or resume control or operation of the program, activity, or service involved.

(c)(1) When the Director or his/her delegate has made a determination described in paragraph (b) of this section, he/she shall in writing notify the Contractor of such determination and of the Contractor's right to request a review of such determination and of the determination described in paragraph (a) of this section. Such notification by the Director or his/her delegate shall set forth the reasons for the determination in sufficient detail to enable the Contractor to respond and shall inform the Contractor of its rights to a hearing on the record before a Contract Appeals Board described in paragraph (d) of this section. Upon the request of the Contractor for a hearing, the Board, established pursuant to paragraph (d) of this section, shall in writing within 10 days of the establishment notify the Contractor of the time, place and date of the hearing which will be held not later than 45 days after the request for a hearing.

(2) Where the Director or his/her delegate determines that a Contractor's performance under a contract awarded under this subpart poses an immediate threat to the safety of any person, he/she may immediately rescind the contract in whole or in part and, if he/she deems it appropriate, assume or resume control or operation of the program, activity, or service involved. Upon such a decision he/she will immediately notify the Contractor of such action and the basis therefor; and offer the Contractor an opportunity for a hearing on the record before the Contract Appeals Board established pursuant to paragraph (d) of this section to be held within 10 days of each action.

(d)(1) The Contract Appeals Board shall be composed of 3 persons appointed by the Director, Indian Health Service. Such persons may not be selected from the immediate office of any person participating in the determinations at issue. The Board shall afford the Contractor the right:

(i) To notice of the issues to be considered;

(ii) To be represented by counsel;

(iii) To present witnesses on contractor's behalf;

(iv) To cross-examine other witnesses either orally or through written interrogation; and

(v) To compel the appearance of Indian Health Service personnel or to take depositions of such persons at reasonable times and places.

(2) The Contract Appeals Board shall make an initial written decision which shall become final within 20 days unless the Director, Indian Health Service or his/her representative modifies or reverses the decision. Any such decision by the Director of the Indian Health Service or his/her representative shall be in writing, shall be specific as to the reasons for such decision, and shall be considered final.

(3) Where Board is considering issues arising under paragraph (2) of this section, the Board shall within 25 days after the conclusion of the hearing, notify all parties in writing of its decision.

(e) In any case where the officer has rescinded a contract under paragraphs (b) or (c) of this section, he/she may decline to enter into a new contract agreement with the Contractor until such time as he/she is satisfied that the basis for the rescission has been corrected.

Nothing in this section shall be construed as contravening the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651).

(End of clause)

CLAUSE NO. 22—PAYMENT OF INTEREST ON CONTRACTORS' CLAIMS (JUN 1977)

(a) If an appeal is filed by the Contractor from a final decision of the Contracting Officer under the Disputes clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the Contractor. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to Public Law 92–41, 85 Stat. 97, from the date the Contractor furnished to the Contracting Officer his written appeal under the Disputes clause of this contract, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to the Contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a board of contract appeals.

(b) Notwithstanding (a), above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal, and (2) interest shall not be paid for any period of time that the Contracting Officer determines the Contractor has unduly delayed in pursuing its remedies before a board of contract appeals or a court of competent jurisdiction.

(End of clause)

CLAUSE NO. 23—GOVERNMENT-FURNISHED PROPERTY (JUN 1977)

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described elsewhere in this contract, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as ''Government-Furnished Property''). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-Furnished Property suitable for use will be delivered to the Contractor at the times stated elsewhere in this contract or, if not so stated, in sufficient time to enable the Contractor by such time or times, to meet such delivery or performance dates. In the event that Government-Furnished Property is not delivered to the Contractor to meet such delivery or performance dates, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay occasioned the Contractor and shall equitably adjust the delivery or performance dates, or the contract price, or both, and any other contractual provision affected by the delay. In the event that Government-Furnished Property is received by the Contractor in a condition not suitable for its intended use, the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (1) return such property at the Government's expense or otherwise dispose of such property, or (2) effect repairs or modifications. Upon completion of (1) or (2) above, the Contracting Officer upon timely written request of the Contractor shall equitably adjust the delivery or performance dates of the contract price, or both, and any other contractual provision effected by the return, disposition, repair, or modification. The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-Furnished Property or delivery of such property in a condition not suitable for its intended use.

(b) By notice in writing the Contracting Officer may decrease the property furnished or to be furnished by the Government under this contract. In any such case, the Contracting Officer upon timely written request of the Contractor shall equitably adjust the delivery or performance date or the contract price, or both, and any other contractual provisions affected by the decrease.

(c) Title to the Government-Furnished Property shall remain in the Government. Title to Government-Furnished Property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government-Furnished Property, or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty.

(d) The Government-Furnished Property, unless otherwise specifically provided herein, and except as otherwise approved or directed by the Contracting Officer in writing, shall be used exclusively for the performance of this contract.

(e) The Contractor shall maintain and administer, in accordance with sound business practice, a program for the maintenance, repair, protection and preservation of Government-Furnished Property, until disposed of by the Contractor in accordance with this clause. In the event that any damage occurs to Government-Furnished Property the risk of which has been assumed by the Government under this contract, the Government shall replace such items or the Contractor shall make such repair of the property, as the Government directs; Provided, however, That if the Contractor cannot effect such repair within the time required, the Contractor may reject such property. The contract price includes no compensation to the Contractor for the performance of any repair or replacement for which the Government is responsible; and an equitable adjustment will be made in the contract price for any such repair or replacement of Government-Furnished Property made at the direction of the Government. Any repair or replacement for which the Contractor is responsible under the provisions of this contract shall be accomplished by the Contractor at its own expense.

(f) The Contractor also agrees to maintain and administer, in accordance with sound business practice, a property control system which will provide the following: Contract number; nomenclature of item; quantity received; issued; and balance on hand; posting reference to include date received, issued unit price and location; marking or identification of item; adequate maintenance, storage, and security of Government-Furnished Property, until disposed of by the Contractor in accordance with this clause. The Contractor further agrees to receipt promptly for all Government property in a form and manner as prescribed by the Contracting Officer.

(g) The Contractor agrees to make available to authorized representatives of the Contracting Officer at all reasonable times at the office of the Contractor all of its property records under this contract, and access to any premises where any of the Government-Furnished Property is located.

(h) (i) The Contractor shall not be liable for any loss or damage to the Government-

Furnished Property, or for expenses incidental to such loss or damage except that the Contractor shall be liable for any such loss or damage (including expenses incidental thereto):

(A) Which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of its managers, superintendents, or other equivalent representatives who have supervision or direction of all or substantially all of the Contractor's business, or all or substantially all of the Contractor's operations at any one plant, laboratory, or separate location in which this contract is being performed; or

(B) Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of its directors, officers, or other representatives mentioned in subparagraph (A) above, to maintain and administer, in accordance with sound business practice, the program for maintenance, repair, protection and preservation of Government-Furnished Property as required by subparagraph (e) above; or

(C) For which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in this contract; or

(D) Which results from a risk expressly required to be insured under some other provision of this contract, or of the schedules or task orders thereunder, but only to the extent of the insurance so required to be procured and maintained or to the extent of insurance actually procured and maintained, whichever is greater; or

(E) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed but only to the extent of such insurance or reimbursement; Provided, That, if more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(ii) The Contractor represents that it is not including the price hereunder, and agrees that it will not hereafter include in any price to the Government, any charge or reserve for insurance (including self-insurance funds or reserves) covering loss or destruction of or damage to the Government-Furnished Property, except the extent that the risk of loss is imposed on the Contractor under (i)(C) above, or insurance has been required under (i)(D) above.

(iii) Upon the happening of loss or destruction of or damage to any Government-Furnished Property, the Contractor shall notify the Contracting Officer thereof and shall take all reasonable steps to protect the Government-Furnished Property from further damage, separate the damaged and undamaged Government-Furnished Property in the best possible order, and furnish to the Contracting Officer a statement of:

(A) The lost, destroyed and damaged Government-Furnished Property;

(B) The time and origin of the loss, destruction or damage;

(C) All known interest in commingled property of which the Government-Furnished Property is a part; and

(D) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall be reimbursed for the expenditures made by it in performing its obligations under the subparagraph (iii), to the extent approved by the Contracting Officer and set forth in a supplemental agreement or amendment to this contract.

(iv) With the prior written approval of the Contracting Officer after loss or destruction of or damage to Government-Furnished Property, and subject to such conditions and limitations as may be imposed by the Contracting Officer, the Contractor may, in order to minimize the loss to the Government or in order to permit resumption of business or the like, sell for the account of the Government any item of Government-Furnished Property which has been damaged beyond practicable repair, or which is so commingled or combined with property of other, including the Contractor, that separation is impracticable.

(v) Except to the extent of any loss or destruction of or damage to Government-Furnished Property for which the Contractor is relieved of liability under the foregoing provisions of this clause, and except for reasonable wear and tear or depreciation, or the utilization of the Government-Furnished Property in accordance with the provisions of this contract, the Government-Furnished Property (other than property permitted to be sold) shall be returned to the Government in as good condition as when received by the Contractor in connection with this contract, or as repaired under paragraph (e) above.

(vi) In the event the Contractor is reimbursed or compensated for any loss or destruction of or damage to the Government-Furnished Property, it shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss, destruction or damage and, upon the request of the Contracting Officer shall at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(i) Upon completion or expiration of this contract, any Government property which has not been consumed in the performance of this contract or which has not been previously disposed of in accordance with the

provisions of this clause, or for which the Contractor has not otherwise been relieved of responsibility, shall be disposed of as the Contracting Officer may direct. The Contractor shall in no way be relieved of responsibility for Government property without the prior written approval of the Contracting Officer.

(j) If the Contracting Officer determines that the interests of the Government require removal of any Government-Furnished Property, or if the Contractor determines any Government-Furnished Property to be in excess of its need under this contract such Government-Furnished Property shall be disposed of in the same manner as covered by paragraph (i) above. In the event that the Contracting Officer requires the removal of any Government-Furnished Property under this paragraph (j) or paragraph (i) above, upon timely written request of the Contractor, an equitable adjustment shall be made in the contract price to cover the direct cost to the Contractor of such removal and of any property damage occasioned thereby.

(End of clause)

CLAUSE NO. 24—EXAMINATION OF RECORDS BY THE COMPTROLLER GENERAL (JUN 1977)

(a) The Contractor agrees that the Comptroller General of the United States or any of his/her duly authorized representatives shall, until expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR part 1–20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this contract.

(b) The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his/her duly authorized representatives shall, until expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Part 1–20 of the Federal Procurement Regulations (41 CFR part 1–20), whichever expires earlier, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term ''subcontract'' as used in this clause excludes (1) purchase orders not exceeding $2,500 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(End of clause)

CLAUSE NO. 25—INDEMNITY AND INSURANCE (JUN 1977)

(a) The Contractor shall indemnify and save and keep harmless the Government against any or all loss, cost, damage, claim, expense or liability whatsoever, because of accident or injury to persons or property or others occurring in connection with any program including as a part of this contract, by providing where applicable, the insurance described below:

(b) The Contractor shall secure, pay the premium for, and keep in force until the expiration of this contract, or any renewal period thereof, insurance as provided below. Such insurance policies shall specifically include a provision stating the liability assumed by the Contractor under this contract.

(1) Workman's compensation insurance as required by laws of the state.

(2) Owner's, landlord's, and tenant's bodily injury liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(3) Property damage liability insurance with limits of not less than $25,000 for each accident.

(4) Automobile bodily injury liability insurance with limits of not less than $50,000 for each person, and $500,000 for each accident and property damage liability insurance with a limit of not less than $5,000 for each accident.

(5) Food products liability insurance with limits of not less than $50,000 for each person and $500,000 for each accident.

(6) Professional malpractice insurance where medical, dental, or other health professional services are involved.

(7) Other liability insurance not specifically mentioned when required.

(c) Each policy of insurance shall contain an endorsement providing that cancellation by the insurance company shall not be effective unless a copy of the cancellation is mailed (registered) to the Contracting Officer 30 days prior to the effective date of cancellation.

(d) A certificate of each policy of insurance, and any change therein, shall be furnished to the Contracting Officer immediately upon receipt from the insurance company.

(e) Insurance companies of the Contractor shall be satisfactory to the Contracting Officer. When in his/her opinion an insurance company is not satisfactory for reasons that will be stated, the Contractor shall provide insurance through companies that are satisfactory to the Contracting Officer.

(f) Each policy of insurance shall contain a provision that the insurance carrier waives any rights it may have to raise as a defense

the tribe's sovereign immunity from suit, but such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy of insurance. The policy shall contain no provision, either expressed or implied, that will serve to authorize or empower the insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy or insurance.

(End of clause)

CLAUSE NO. 26—FAIR AND EQUAL TREATMENT OF INDIAN PEOPLE (JUN 1977)

(a) The Contractor agrees to make no discriminatory distinctions among Indian patients or beneficiaries of this contract. For the purpose of this contract discriminatory distinctions include but are not limited to the following:

(i) Denying a patient any service or benefit or availability of a facility;

(ii) Providing any service or benefit to a patient which is different, or is provided in a different manner or at a different time from that provided to other patients under this contract; subjecting a patient to segregation or separate treatment in any manner related to his/her receipt of any service; restricting a patient in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; treating a patient differently from others in determining whether he/she satisfies any admission, enrollment, quota, eligibility membership, or other requirements or conditions which individuals must meet in order to be provided any service or benefit; the assignment of times or places for the provision of services on the basis of discriminatory distinctions which may be made of the patients to be served.

(b) The Government reserves the right to terminate this contract in whole or in part whenever the Contractor fails to comply with the requirements of this clause.

(End of clause)

CLAUSE NO. 27—REPORTS TO THE INDIAN PEOPLE AND ANNUAL REPORTS (JUN 1977)

(a) The Contractor, as a recipient of Federal financial assistance, shall make reports and information available to the Indian people serviced or represented by the Contractor. Such reports will reflect how the Federal assistance funds were utilized to the benefit of the Indian people served or represented as follows: (specific reporting requirements, formats and methods of distribution to the Indian people will be prescribed in the scope of the contract.)

(b) *Annual reports.*

(1) For each fiscal year during which a tribal organization receives or expends funds pursuant to the contract under this part, the tribe which requested the contract must submit a report to the Contracting Officer. The report shall include, but not be limited to, an accounting of the amounts and purposes for which the contract funds were expended and information on the conduct of the program or services involved. The report shall include any other information requested by the Contracting Officer and may be submitted as follows:

(i) When the contract is with the governing body of an Indian tribe, the tribe shall submit the reports to the Contracting Officer.

(ii) When the contract is with a tribal organization other than the governing body of the tribe, the tribe has the option of having the tribal organization prepare the report and submit it to the tribe for review and approval before the tribe submits it to the Contracting Officer.

(iii) When the contract benefits more than one tribe, the tribal organization shall prepare and submit the report to each of the tribes benefiting under the contract. Each tribe shall endorse the report before submitting it to the Contracting Officer.

(2) The annual report shall be submitted to the Contracting Officer within 90 days of the end of the fiscal year in which the contract was performed. However, the period for submitting the report may be extended if there is just cause for such extension.

(3) In addition to the yearly reporting requirement given in paragraphs (a) and (b) of this section, the tribal contractor shall furnish other reports when and as required by the Secretary.

(End of clause)

CLAUSE NO. 28—QUESTIONNAIRES AND SURVEYS (JUN 1977)

In the event the performance of this contract involves the collection of information upon identical items from 10 or more persons, other than Federal employees, the Contractor shall obtain written approval from the Contracting Officer, prior to the use thereof, of any forms, schedules, questionnaires, survey plans or other documents, and any revisions thereto, intended to be used in such collection.

(End of clause)

CLAUSE NO. 29—PRINTING (JUN 1977)

Unless otherwise specified in this contract, the Contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this

contract: Provided, however, That performance of a requirement under this contract involvingthe reproduction of less than 5,000 production units of any one page, or less than 25,000 production units in the aggregate of multiple pages, will not be deemed to be printing. A production unit is defined as one sheet, size 8 by 10 and ½ inches, one side only, one color.

(End of clause)

CLAUSE NO. 30—PRICE REDUCTION FOR DEFECTIVE COST OR PRICING

The following clause applies to all contracts where cost and pricing data is required in accordance with P.L. 87–653.

Price Reduction for Defective Cost or Pricing Data (June 1977)

(a) If the Contracting Officer determines that any price negotiated in connection with this contract or any cost reimbursable under this contract was increased by any significant sums because the Contractor, or any subcontractor pursuant to the clause of this contract entitled ''Subcontractor Cost, or Pricing Data'' or ''Subcontractor Cost or Pricing Data—Price Adjustments,'' or any subcontract clause therein required, furnished incomplete or inaccurate cost or pricing data or data not current as certified in its Contractor's Certificate of Current Cost or Pricing Data, then such price or cost shall be reduced accordingly and the contract shall be modified in writing to reflect such reduction.

(b) Failure to agree on a reduction shall be a dispute concerning a question of fact within the meaning of the ''Disputes'' clause of this contract.

(NOTE: Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the Contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by its lower tier subcontractors).

(End of clause)

CLAUSE NO. 31—SUBCONTRACTOR COST AND PRICING DATA

The following clause should be included in all contracts when the subcontracts of the type and size described therein are contemplated.

Subcontractor Cost and Pricing Data (JUN 1977)

(a) The Contractor shall require subcontractors hereunder to submit in writing cost or pricing data under the following circumstances:

(1) Prior to award of any cost-reimbursed type, time and material, labor-hour, incentive, or price redeterminable subcontract the price of which is expected to exceed $100,000; and

(2) Prior to the award of any other subcontract, the price of which is expected to exceed $100,000, or to the pricing of any subcontract change or other modification for which the price adjustment is expected to exceed $100,000, where the price or price adjustment is not based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Contractor shall require subcontractors to certify, substantially the same form as that used in the certificate by the Prime Contractor to the Government, that, to the best of their knowledge and belief, the cost and pricing data submitted under (a) above are accurate, complete, and current as of the date of the execution, which date shall be as close as possible to the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The contractor shall insert the substance of this clause including this paragraph (c) in each of its cost-reimbursement type, time and material, labor-hour, price redeterminable, or incentive subcontracts hereunder, and in any other subcontract hereunder which exceeds $100,000 unless the price thereof is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such excepted subcontract hereunder which exceeds $100,000, the Contractor shall insert the substance of the following clause:

Subcontractor Cost and Pricing Data—Price Adjustment

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any change or other modification made pursuant to one or more provisions of this contract which involves a price adjustment in excess of $100,000. The requirements of this clause shall be limited to such price adjustments.

(b) The Contractor shall require subcontractors hereunder to submit cost or pricing data under the following circumstances:

(1) Prior to award of any cost-reimbursement type, time and material, labor-hour,

incentive, or price redeterminable subcontract, the price of which is expected to exceed $100,000; and

(2) Prior to award of any other subcontract, the price of which is expected to exceed $100,000, or to the pricing of any subcontract change or other modification for which the price adjustment is expected to exceed $100,000, where the price or price adjustment is not based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Contractor shall require subcontractors to certify, in substantially the same form as that used in the Certificate by the Prime Contractor to the Government, that, to the best of their knowledge and belief, the cost and pricing data submitted under (b) above are accurate, complete, and current as of the date of the execution, which date shall be as close as possible to the date of agreement on the negotiated price of the contract modification.

(d) The Contractor shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds $100,000.

(End of clause)

CLAUSE NO. 32—ADVANCE PAYMENT (JUN 1977)

(a) *Amount of Advance.* At the request of the Contractor, and subject to the conditions hereinafter set forth, the Government shall make an advance payment, or advance payments from time to time, to the Contractor. No advance payment shall be made (1) without the approval of the office administering advance payments (hereinafter called the ''Administering Office'' and designated in paragraph (k)(4) hereof) as with all advance payments theretofore made, shall exceed the amount stated in paragraph (k)(1) hereof; and (3) without a properly certified invoice or invoices.

(b) *Special Bank Account.* Until all advance payments made hereunder are liquidated and the Administering Office approves in writing the release of any funds due and payable to the Contractor, all advance payments and all other payments under the contract shall be made by check payable to the Contractor, and be marked for deposit only in a Special Bank Account with the bank designated in paragraph (k)(2) hereof. No part of the funds in the Special Bank Account shall be mingled with other funds of the Contractor prior to withdrawal thereof from the Special Bank Account as hereinafter provided. Except as hereinafter provided, each withdrawal shall be made only by check of the Contractor countersigned on behalf of the Government by the Contracting Officer or such other person or persons as he/she may designate in writing (hereinafter called the ''Countersigning Agent''). Until otherwise determined by the Administering Office, countersignature on behalf of the Government will not be required.

(c) *Use of Funds.* The funds in the Special Bank Account may be withdrawn by the Contractor solely for the purpose of making payments for items of allowable cost or to reimburse the Contractor for such items of allowable cost, and or such other purposes as the Administering Office may approve in writing. Any interpretation required as to the proper use of funds shall be made in writing by the Administering Office.

(d) *Return of Funds.* The Contractor may at any time repay all or any part of the funds advanced hereunder. Whenever so requested in writing by the Administering Office, the Contractor shall repay to the Government such part of the unliquidated balance of advance payments as shall in the opinion of the Administering Office be in excess of current requirements, or (when added to total advance previously made and liquidated) in excess of the amount specified in paragraph (k)(1) hereof. In the event the Contractor fails to repay such part of the unliquidated balance of advance payments when so requested by the Administering Office, all or any part thereof may be withdrawn from the Special Bank Account by checks payable to the Treasurer of the United States signed solely by the Countersigning Agent and applied in reduction of advance payments then outstanding hereunder.

(e) *Liquidation.* If not otherwise liquidated, the advance payments made hereunder shall be liquidated as herein provided. When the sum of all payments under this contract, other than advance payments, plus the unliquidated amount of advance payments are equal to the total estimated cost for the work under this contract or such lesser amount to which the total estimated cost under this contract may have been reduced, plus increases, if any, in this total estimated cost not exceeding, in the aggregate (including, without limitation, reimbursable costs incident to termination for cause and retrocession as estimated by the Contracting Officer), the Government shall thereafter withhold further payments to the Contractor and apply the amounts withheld against the Contractor's obligation to repay such advance payments until such advance payments shall have been fully liquidated. If upon completion, termination, or retrocession of the contract all advance payments have not been fully liquidated, the balances therefor shall be deducted from any sums otherwise due or which may become due to the Contractor from the Government, and any deficiency shall be paid by the Contractor to the government upon demand.

(f) *Bank Agreement.* Before an advance payment is made hereunder, the Contractor shall transmit to the Administering Office,

in the form prescribed by such office, an Agreement in triplicate from the bank in which the Special Bank Account is established, clearly setting forth the special character of the account and the responsibilities of the bank thereunder. Wherever possible, such bank shall be a member bank of the Federal Reserve System, or an ''insured'' bank within the meaning of the Act creating the Federal Deposit Insurance Corporation Act of August 23, 1935, 49 Stat. 685, as amended (12 U.S.C. 264).

(g) *Lien on Special Bank Account.* The Government shall have a lien upon any balance in the Special Bank Account paramount to all other items, which lien shall secure the repayment or any advance payments made hereunder.

(h) *Lien on Property under Contract.* Any and all advance payments made under this contract shall be secured, when made, by a lien in favor of the Government, paramount to all other liens, upon the supplies or other things covered by this contract and on all material and other property acquired for or allocated to the performance of this contract, except to the extent that the Government by virtue of any other provision of this contract, or otherwise, shall have valid title to such supplies, materials, or other property as against other creditors of the Contractor. The Contractor shall identify, by marking or segregation, all property which is subject to a lien in favor of the Government by virtue of any provision of this contract in such a way as to indicate that it is subject to such lien and that it has been acquired for or allocated to the performance of this contract. If for any reason such supplies, materials, or other property are not identified by marking or segregation, the Government shall be deemed to have a lien to the extent of the Government's interest under this contract on any mass of property with which such supplies, materials, or other property are commingled. The Contractor shall maintain adequate accounting control over such property on its books and records. If at any time during the progress of the work on the contract it becomes necessary to deliver any item or items and materials upon which the Government has a lien as aforesaid to a third person, the Contractor shall notify such third person of the lien herein provided and shall obtain from such third person a receipt, in duplicate, acknowledging, inter alia the existence of such lien. A copy of each receipt shall be delivered by the Contractor to the Contracting Officer. If this contract is terminated in whole or in part and the Contractor is authorized to sell or retain termination inventory acquired for or allocated to this contract, such sale or retention shall be made only if approved by the Contracting Officer, which approval shall constitute a release of the Government's lien hereunder to the extent that such termination inventory is sold or retained, and to the extent that the proceeds of the sale, or the credit allowed for such retention on the Contractor's termination claim, is applied in reduction of advance payments then outstanding hereunder.

(i) *Insurance.* The Contractor represents and warrants that it is now maintaining with responsible insurance carriers, (1) insurance upon its own plant and equipment against fire and other hazards to the extent that like properties are usually insured by other operating plants and properties of similar character in the same general locality; (2) adequate insurance against liability on account of damage to persons or property; and (3) adequate insurance under all applicable workmen's compensation laws. The Contractor agrees that, until work under this contract has been completed and all advance payments made hereunder have been liquidated, it will (i) maintain such insurance; (ii) maintain adequate insurance upon any materials, parts, assemblies, subassemblies, supplies, equipment and other property acquired for or allocable to this contract and subject to the Government lien hereunder; and (iii) furnish such certificates with respect to its insurance as the Administering Office may from time to time require.

(j) *Prohibition against Assignment.* Notwithstanding any other provision of this contract, the Contractor shall not transfer, pledge, or otherwise assign this contract, or any interest therein, or any claim arising thereunder, to any party or parties, bank, trust company, or other financing institution.

(k) *Designations and Determinations.* (1) *Amount.* The amount of advance payments at any time outstanding hereunder shall not exceed $_____.

(2) *Depository.* The bank designated for the deposit of payments made hereunder shall be:

(3) *Interest Charge.* No interest shall be charged for advance payments made hereunder. The Contractor shall charge interest at the rate of 6 percent per annum on subadvances or down payments to subcontractors, and such interest will be credited to the account of the Government. However, interest need not be charged on subadvances on nonprofit subcontracts with nonprofit educational or research institutions for experimental, research or development work.

(4) *Administering Office.* The office administering advance payments shall be the office designated as having responsibility for awarding the contract.

(l) *Other Security.* The terms of this contract shall be considered adequate security for advance payments hereunder, except that if at any time the administering office deems the security furnished by the Contractor to be inadequate, the Contractor shall furnish

such additional security as may be satisfactory to the administering office, to the extent that such additional security is available.

(End of clause)

CLAUSE NO. 33—EFFECT ON EXISTING RIGHTS (JUN 1977)

(a) Nothing in this contract shall be construed as:

(1) Affecting, modifying, diminishing, or otherwise impairing the sovereign immunity for suit enjoyed by an Indian tribe; or

(2) Authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

(End of clause)

CLAUSE NO. 34—FEDERAL, STATE, AND LOCAL TAXES (JUN 1977)

(a) Except as may be otherwise provided in this contract, the contract price includes all applicable Federal, State, and local taxes and duties.

(b) Nevertheless, with respect to any Federal excise tax or duty on the transactions or property covered by this contract, if a statute, court decision, written ruling, or regulation takes effect after the contract date, and (1) Results in the Contractor being required to pay or bear the burden of any such Federal excise tax or duty or increase in the rate thereof which would not otherwise have been payable on such transactions or property, the contract price shall be increased by the amount of such tax or duty or rate increase; Provided, That the Contractor if requested by the Contracting Officer, warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price as a contingency reserve or otherwise; or

(2) Results in the Contractor not being required to pay or bear the burden of, or in its obtaining a refund or drawback of, any such Federal excise tax or duty which would otherwise have been payable on such transactions or property or which was the basis of an increase in the contract price, the contract price shall be decreased by the amount of the relief, refund, or drawback, or the amount shall be paid to the Government, as directed by the Contracting Officer. The contract price shall be similarly decreased if the Contractor, through its fault or negligence or its failure to follow instructions of the Contracting Officer, is required to pay or bear the burden of, or does not obtain, a refund or drawback of, any such Federal excise tax or duty.

(c) No adjustment pursuant to paragraph (b) above will be made under this contract unless the aggregate amount thereof is or may reasonably be expected to be over $100.

(d) As used in paragraph (b) above, the term ''contract date'' means the date set for the bid opening, or if this is a negotiated contract, the date of this contract. As to additional supplies or services procured by modification to this contract, the term ''contract date'' means the date of such modification.

(e) Unless there does not exist any reasonable basis to sustain an exemption, the Government, upon request of the Contractor, without further liability, agrees, except as otherwise provided in this contract, to furnish evidence appropriate to establish exemption from any tax which the Contractor warrants in writing was excluded from the contract price. In addition, the Contracting Officer may furnish evidence to establish exemption from any tax that may, pursuant to this clause, give rise to either an increase or decrease in the contract price. Except as otherwise provided in this contract, evidence appropriate to establish exemption from duties will be furnished only at the direction of the Contracting Officer.

(f) The Contractor shall promptly notify the Contracting Officer of matters which will result in either an increase or decrease in the contract price, and shall take action with respect thereto as directed by the Contracting Officer.

(End of clause)

[49 FR 36242, Sept. 14, 1984, as amended at 51 FR 20491, June 5, 1986]

PHS 352.280–6 Demurrage charge provisions for reusable cylinders and containers.

The clause set forth below shall be inserted in solicitations and resultant contracts when delivery of the items may be in contractor-furnished reusable gas cylinders or other containers.

DEMURRAGE CHARGE PROVISIONS FOR REUSABLE CYLINDERS AND CONTAINERS (APR 1984)

(a) Reusable gas cylinders or other containers identified below by offereors shall remain the property of the Contractor (except as provided in (c) below), and will be loaned without charge to the Government for the period stipulated below. In computing the period involved, such free loan period shall commence on the first day after date of delivery of each container to the herein specified f.o.b. point(s). Offerors who specify less than _____ days (to be determined by the Contracting Officer in accordance with trade custom), shall have their offers increased for

evaluation purposes only by an amount arrived at by multiplying the number of days less than the established free loan period by the daily rental charge. In the event the offeror does not specify a free loan period, such period shall be _____ days (insert the same number of days as the established free loan period). Beginning with the first day after expiration of the free loan period to and including the date the containers are delivered to the Contractor's designated carrier, the Government shall pay the Contractor demurrage (rental) in the amount specified below. No demurrage shall accrue to the Contractor in excess of the herein specified container's replacement value. For each container lost or damaged beyond repair while in the Government's possession, the Government shall pay to the Contractor the herein specified replacement value less allocable demurrage paid therefor. Such lost or damaged containers paid for by the Government shall become the property of the Government.

(b) Empty containers will be delivered to the Contractor's designated carrier (offeror to identify applicable carrier below) f.o.b. points of original delivery specified in this solicitation/contract.

OFFERORS SHALL FURNISH THE FOLLOWING INFORMATION, AS APPLICABLE, FOR CONTAINERS

Applicable item No.	Type and size of container	Quantity	Free loan period	Demurrage charges per day per cylinder

Replacement value for each container	Identification and location of offeror's carrier for return of empty container

(c) When the offeror indicates that containers have a replacement value of less than $10, the Government shall have the option to purchase containers and add the cost to the offered price. When purchase option is exercised, offers shall be evaluated accordingly. In this event, the container shall become the property of the Government.

(End of clause)

Subpart PHS 352.3—Provision and Clause Matrices

PHS 352.380–4 Contract clauses for contracts awarded under the Indian Self-Determination Act.

(a) PHS Acquisition Regulations (PHSAR) Clauses for Cost-Reimbursement Contracts Awarded under the Indian Self-Determination Act.

Number, PHSAR Clause No., and Title and Date of Clause

1. 352.280–4(a)(1) Definitions. (June 1977)
2. 352.280–4(a)(2) Disputes. (June 1977)
3. 352.280–4(a)(3) Limitation of Cost. (June 1977)
4. 352.280–4(a)(4) Allowable Cost. (June 1977)
5. 352.280–4(a)(5) Negotiated Overhead Rates. (June 1977)
6. 352.280–4(a)(6) Payment (June 1977)
7. 352.280–4(a)(7) Advance Payment. (June 1977)
8. 352.280–4(a)(8) Examination of Records. (June 1977)
9. 352.280–4(a)(9) Inspection and Reports. (June 1977)
10. 352.280–4(a)(10) Subcontracting. (June 1977)
11. 352.280–4(a)(11) Accounts, Audit, and Records. (June 1977)
12. 352.280–4(a)(12) Government Property. (June 1977)
13. 352.280–4(a)(13) Changes. (June 1977)
14. 352.280–4(a)(14) Notice to the Government of Delays. (June 1977)
15. 352.280–4(a)(15) Retrocession. (June 1977)
16. 352.280–4(a)(16) Reassumption of Programs. (June 1977)
17. 352.280–4(a)(17) Key Personnel. (June 1977)
18. 352.280–4(a)(18) Litigation and Claims. (June 1977)
19. 352.280–4(a)(19) Indemnity and Insurance. (June 1977)
20. 352.280–4(a)(20) Overtime. (June 1977)
21. 352.280–4(a)(21) Foreign Travel. (June 1977)
22. 352.280–4(a)(22) Questionnaires and Surveys. (June 1977)
23. 352.280–4(a)(23) Printing. (June 1977)
24. 352.280–4(a)(24) Services of Consultants. (June 1977)
25. 352.280–4(a)(25) Assignment of Claims. (June 1977)
26. 352.280–4(a)(26) Contract Work Hours and Safety Standards Act-Overtime Compensation. (June 1977)
27. 352.280–4(a)(27) Walsh-Healey Public Contracts Act. (June 1977)
28. 352.280–4(a)(28) Equal Opportunity. (June 1977)
29. 352.280–4(a)(29) Indian Preference in Training and Employment. (June 1977)
30. 352.280–4(a)(30) Certificate of Nonsegregated Facilities. (June 1977)
31. 352.280–4(a)(31) Convict Labor. (June 1977)
32. 352.280–4(a)(32) Officials not to Benefit. (June 1977)
33. 352.280–4(a)(33) Buy American Act Supply and Service contracts. (June 1977)
34. 352.280–4(a)(34) Anti-Kickback Act. (June 1977)

35. 352.280–4(a)(35) Use of Indian Business Concerns. (June 1977)
36. 352.280–4(a)(36) Payment of Interest on Contractors' Claims. (June 1977)
37. 352.280–4(a)(37) Fair and Equal Treatment of Indian People. (June 1977)
38. 352.280–4(a)(38) Price Reduction for Defective Cost or Pricing Data. (June 1977)
39. 352.280–4(a)(39) Subcontractor Cost and Pricing Data. (June 1977)
40. 352.280–4(a)(40) Penalties. (June 1977)
41. 352.280–4(a)(41) Effect on Existing Rights. (June 1977)
42. 352.280–4(a)(42) General Services Administration Supply Sources. (June 1977)

(b) PHSAR Clauses for Fixed-Price Contracts Awarded under the Indian Self-Determination Act.

Number, PHSAR Clause No. and Title and Date of Clause

1. 352.280–4(b)(1) Definitions. (June 1977)
2. 352.280–4(b)(2) Disputes. (June 1977)
3. 352.280–4(b)(3) Contract Work Hours and Safety Standards Act-Overtime Compensation. (June 1977)
4. 352.280–4(b)(4) Walsh-Healey Public Contracts Act. (June 1977)
5. 352.280–4(b)(5) Convict Labor. (June 1977)
6. 352.280–4(b)(6) Notice to the Government of Delays. (June 1977)
7. 352.280–4(b)(7) Assignment of Claims. (June 1977)
8. 352.280–4(b)(8) Officials not to Benefit. (June 1977)
9. 352.280–4(b)(9) Anti-Kickback Act. (June 1977)
10. 352.280–4(b)(10) Penalties. (June 1977)
11. 352.280–4(b)(11) Buy American Act. (June 1977)
12. 352.280–4(b)(12) Equal Opportunity. (June 1977)
13. 352.280–4(b)(13) Certificate of Nonsegregated Facilities. (June 1977)
14. 352.280–4(b)(14) Subcontracting. (June 1977)
15. 352.280–4(b)(15) Competition in Subcontracting. (June 1977)
16. 352.280–4(b)(16) Use of Indian Business Concerns. (June 1977)
17. 352.280–4(b)(17) Indian Preference in Training and Employment. (June 1977)
18. 352.280–4(b)(18) Inspection. (June 1977)
19. 352.280–4(b)(19) Changes. (June 1977)
20. 352.280–4(b)(20) Retrocession. (June 1977)
21. 352.280–4(b)(21) Assumption and Reassumption of Contract Programs. (June 1977)
22. 352.280–4(b)(22) Payment of Interest on Contractor's Claims. (June 1977)
23. 352.280–4(b)(23) Government-Furnished Property. (June 1977)
24. 352.280–4(b)(24) Examination of Records by the Comptroller General. (June 1977)
25. 352.280–4(b)(25) Indemnity and Insurance. (June 1977)
26. 352.280–4(b)(26) Fair and Equal Treatment of Indian People. (June 1977)
27. 352.280–4(b)(27) Reports to the Indian People and Annual Reports. (June 1977)
28. 352.280–4(b)(28) Questionnaires and Surveys. (June 1977)
29. 352.280–4(b)(29) Printing. (June 1977)
30. 352.280–4(b)(30) Price Reduction for Defective Cost or Pricing. (June 1977)
31. 352.280–4(b)(31) Subcontractor Cost and Pricing Data. (June 1977)
32. 352.280–4(b)(32) Advance Payment. (June 1977)
33. 352.280–4(b)(33) Effect on Existing Rights. (June 1977)
34. 352.280–4(b)(34) Federal, State, and Local Taxes. (June 1977)