

(1) List in paragraph (b)(3) of the clause all foreign construction material excepted from the requirements of the Buy American Act, other than designated country construction material.

(2) If the head of the agency determines that a higher percentage is appropriate, substitute the higher evaluation percentage in paragraph (b)(4)(i) of the clause.

(3) For acquisitions valued at \$7,777,000 or more, but less than \$10,074,262, use the clause with its Alternate I. List in paragraph (b)(3) of the clause all foreign construction material excepted from the requirements of the Buy American Act, unless the excepted foreign construction material is from a designated country other than Bahrain, Mexico, and Oman.

(d)(1) Insert the provision at 52.225–12, Notice of Buy American Act Requirement—Construction Materials under Trade Agreements, in solicitations containing the clause at 52.225–11.

(2) If insufficient time is available to process a determination regarding the inapplicability of the Buy American Act before receipt of offers, use the provision with its *Alternate I*.

(3) For acquisitions valued at \$7,777,000 or more, but less than \$10,074,262, use the clause with its Alternate II.

(e)(1) When using funds appropriated under the Recovery Act for construction, use provisions and clauses 52.225–21, 52.225–22, 52.225–23, or 52.225–24 (with appropriate Alternates) in lieu of the provisions and clauses 52.225–9, 52.225–10, 52.225–11, or 52.225–12 (with appropriate Alternates), respectively, that would be applicable as prescribed in paragraphs (a) through (d) of this section if Recovery Act funds were not used.

(2) If these Recovery Act provisions and clauses are only applicable to a project consisting of certain line items in the contract, identify in the schedule the line items to which the provisions and clauses apply.

(3) When using clause 52.225–23, list foreign construction material in paragraph (b)(3) of the clause as follows:

(i) *Basic clause*. List all foreign construction materials excepted from the Buy American Act or section 1605 of the Recovery Act, other than manufac-

tured construction material from a Recovery Act designated country or unmanufactured construction material from a designated country.

(ii) *Alternate I*. List in paragraph (b)(3) of the clause all foreign construction material excepted from the Buy American Act or section 1605 of the Recovery Act, other than—

(A) Manufactured construction material from a Recovery Act designated country other than Bahrain, Mexico, or Oman; or

(B) Unmanufactured construction material from a designated country other than Bahrain, Mexico, or Oman.

[64 FR 72419, Dec. 27, 1999, as amended at 65 FR 36026, June 6, 2000; 67 FR 21536, Apr. 30, 2002; 67 FR 56124, Aug. 30, 2002; 69 FR 1055, Jan. 7, 2004; 69 FR 77876, Dec. 28, 2004; 71 FR 219, Jan. 3, 2006; 71 FR 866, Jan. 5, 2006; 71 FR 20308, Apr. 19, 2006; 73 FR 10963, Feb. 28, 2008; 74 FR 14628, Mar. 31, 2009; 74 FR 22810, May 14, 2009; 75 FR 38691, July 2, 2010; 75 FR 53167, Aug. 30, 2010; 77 FR 12934, Mar. 2, 2012]

#### 25.1103 Other provisions and clauses.

(a) *Restrictions on certain foreign purchases*. Insert the clause at 52.225–13, Restrictions on Certain Foreign Purchases, in solicitations and contracts, unless an exception applies.

(b) *Translations*. Insert the clause at 52.225–14, Inconsistency Between English Version and Translation of Contract, in solicitations and contracts if anticipating translation into another language.

(c) *Foreign currency offers*. Insert the provision at 52.225–17, Evaluation of Foreign Currency Offers, in solicitations that permit the use of other than a specified currency. Insert in the provision the source of the rate to be used in the evaluation of offers.

(d) The contracting officer shall include in each solicitation for the acquisition of products or services (other than commercial items procured under Part 12) the provision at 52.225–20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification.

(e) The contracting officer shall include in all solicitations the provision at 52.225–25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to

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Iran—Representation and Certifications.

[64 FR 72419, Dec. 27, 1999, as amended at 65 FR 36026, 36028, June 6, 2000; 67 FR 21538, Apr. 30, 2002; 67 FR 56122, 56124, Aug. 30, 2002; 68 FR 4051, Jan. 27, 2003; 68 FR 56686, Oct. 1, 2003; 69 FR 1055, Jan. 7, 2004; 69 FR 8315, Feb. 23, 2004; 71 FR 866, Jan. 5, 2006; 71 FR 20306, Apr. 19, 2006; 71 FR 57368, Sept. 28, 2006; 73 FR 33639, June 12, 2008; 75 FR 60257, Sept. 29, 2010; 76 FR 68031, Nov. 2, 2011; 77 FR 73518, Dec. 10, 2012]

### PART 26—OTHER SOCIOECONOMIC PROGRAMS

#### Subpart 26.1—Indian Incentive Program

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- 26.100 Scope of subpart.
- 26.101 Definitions.
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#### Subpart 26.2—Disaster or Emergency Assistance Activities

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#### Subpart 26.3—Historically Black Colleges and Universities and Minority Institutions

- 26.300 Scope of subpart.
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- 26.400 Scope of subpart.
- 26.401 Definitions.
- 26.402 Policy.
- 26.403 Procedures.
- 26.404 Contract clause.

AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

SOURCE: 56 FR 41737, Aug. 22, 1991, unless otherwise noted.

NOTE: This part has been created to facilitate promulgation of additional FAR and agency level socioeconomic coverage which properly fall under FAR Subchapter D—So-

cioeconomic Programs, but neither implements nor supplements existing FAR Parts 19 or 22 through 25.

### Subpart 26.1—Indian Incentive Program

#### 26.100 Scope of subpart.

This subpart implements 25 U.S.C. 1544, which provides an incentive to prime contractors that use Indian organizations and Indian-owned economic enterprises as subcontractors.

#### 26.101 Definitions.

As used in this subpart—

*Indian* means any person who is a member of any Indian tribe, band, group, pueblo, or community that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs (BIA) in accordance with 25 U.S.C. 1452(c) and any “Native” as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

*Indian organization* means the governing body of any Indian tribe or entity established or recognized by the governing body of an Indian tribe for the purposes of 25 U.S.C., chapter 17.

*Indian-owned economic enterprise* means any Indian-owned (as determined by the Secretary of the Interior) commercial, industrial, or business activity established or organized for the purpose of profit, provided that Indian ownership constitutes not less than 51 percent of the enterprise.

*Indian tribe* means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, that is recognized by the Federal Government as eligible for services from BIA in accordance with 25 U.S.C. 1452(c).

*Interested party* means a prime contractor or an actual or prospective offeror whose direct economic interest would be affected by the award of a subcontract or by the failure to award a subcontract.

[56 FR 41737, Aug. 22, 1991, as amended at 61 FR 39210, July 26, 1996; 65 FR 24323, Apr. 25, 2000]