

“The information specifically identified on pages \_\_\_\_\_ of this proposal constitutes trade secrets or confidential commercial and financial information which the offeror believes to be exempt from disclosure under the Freedom of Information Act. The offeror requests that this information not be disclosed to the public, except as may be required by law. The offeror also requests that this information not be used in whole or part by the government for any purpose other than to evaluate the proposal, except that if a contract is awarded to the offeror as a result of or in connection with the submission of the proposal, the Government shall have the right to use the information to the extent provided in the contract.”

(c) The offeror shall also specifically identify trade secret information and confidential commercial and financial information on the pages of the proposal on which it appears and shall mark each such page with the following legend:

“This page contains trade secrets or confidential commercial and financial information which the offeror believes to be exempt from disclosure under the Freedom of Information Act and which is subject to the legend contained on the cover page of this proposal.”

(d) Information in a proposal identified by an offeror as trade secret information or confidential commercial and financial information shall be used by the Government only for the purpose of evaluating the proposal, except that (i) if a contract is awarded to the offeror as a result of or in connection with submission of the proposal, the Government shall have the right to use the information as provided in the contract, and (ii) if the same information is obtained from another source without restriction it may be used without restriction.

(e) If a request under the Freedom of Information Act seeks access to information in a proposal identified as trade secret information or confidential commercial and financial information, full consideration will be given to the offeror's view that the information constitutes trade secrets or confidential commercial or financial information. The offeror will also be promptly notified of the request and given an opportunity to provide additional evidence and argument in support of its position, unless administratively unfeasible to do so. If it is determined that information claimed by the offeror to be trade secret information or confidential commercial or financial information is not exempt from disclosure under the Freedom of Information Act, the offeror will be notified of this determination prior to disclosure of the information.

(f) The Government assumes no liability for the disclosure or use of information contained in a proposal if not marked in accordance with paragraphs (b) and (c) of this pro-

vision. If a request under the Freedom of Information Act is made for information in a proposal not marked in accordance with paragraphs (b) and (c) of this provision, the offeror concerned shall be promptly notified of the request and given an opportunity to provide its position to the Government. However, failure of an offeror to mark information contained in a proposal as trade secret information or confidential commercial or financial information will be treated by the Government as evidence that the information is not exempt from disclosure under the Freedom of Information Act, absent a showing that the failure to mark was due to unusual or extenuating circumstances, such as a showing that the offeror had intended to mark, but that markings were omitted from the offeror's proposal due to clerical error.

(End of provision)

#### 1452.224-1 Privacy Act Notification.

(a) As prescribed in 1424.104, the clause at FAR 52.224-1, Privacy Act Notification, shall be modified before insertion into solicitations and contracts by—

(1) Changing the title of the clause to read “Privacy Act Notification (JUL 1996) (Deviation)”;

(2) Adding the following sentence to the end of the clause:

“Applicable Department of the Interior regulations concerning the Privacy Act are set forth in 43 CFR 2, subpart D. The CFR is available for public inspection at the Departmental Library, Main Interior Bldg., 1849 C St. NW, Washington DC, at each of the regional offices of bureaus of the Department and at many public libraries.”

(b) As prescribed in FAR 52.103(a) and 52.107(f), the clause at FAR 52.252-6, Authorized Deviation in Clauses, shall be inserted into solicitations and contracts containing the clause in paragraph (a) of this section.

#### 1452.226-70 Indian Preference.

As prescribed in 1426.7003(a), insert the following clause in solicitations issued and contracts awarded by the Bureau of Indian Affairs except those pursuant to Title I and to Indian Tribes and Indian Organizations under Title II of Public Law 93-638 (25 U.S.C. 450 *et seq.* and 25 U.S.C. 455 *et seq.*, respectively); a contracting activity other than the Bureau of Indian Affairs