

**26.100**

26.104 Contract clause.

**Subpart 26.2—Disaster or Emergency Assistance Activities**

26.200 Scope of subpart.

26.201 Policy.

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

26.300 Scope of subpart.

26.301 [Reserved]

26.302 General policy.

26.303 Data collection and reporting requirements.

26.304 Solicitation provision.

AUTHORITY: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

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—Socioeconomic 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]

**26.102 Policy.**

Indian organizations and Indian-owned economic enterprises shall have the maximum practicable opportunity to participate in performing contracts awarded by Federal agencies. In fulfilling this requirement, the Indian Incentive Program allows an incentive payment equal to 5 percent of the amount paid to a subcontractor in performing the contract, if the contract so authorizes and the subcontractor is an Indian organization or Indian-owned economic enterprise.

[61 FR 39211, July 26, 1996]

**26.103 Procedures.**

(a) Contracting officers and prime contractors, acting in good faith, may rely on the representation of an Indian organization or Indian-owned economic enterprise as to its eligibility, unless an interested party challenges its status or the contracting officer has independent reason to question that status.

(b) In the event of a challenge to the representation of a subcontractor, the contracting officer shall refer the matter to the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), Attn: Chief, Division of Contracting and Grants Administration, 1849 C Street, NW., MS-2626-MIB, Washington, DC 20240-4000. The BIA will determine the eligibility and notify the contracting officer.