

## Department of the Interior

## 1426.7005

### **1426.7003 Applicability and contract clause.**

(a) The Contracting Officer (CO) shall insert the clause at 1452.226-70, Indian Preference—Department of the Interior, in solicitations issued and contracts awarded by

(1) The Bureau of Indian Affairs,

(2) A contracting activity other than the Bureau of Indian Affairs when the contract is entered into pursuant to an act specifically authorizing contracts with Indian organizations and

(3) A contracting activity other than the Bureau of Indian Affairs where the work to be performed is specifically for the benefit of Indians and is in addition to any incidental benefits which might otherwise accrue to the general public.

(b) The CO shall insert the clause at 1452.226-71, Indian Preference Program—Department of the Interior, in all solicitations issued and contracts awarded by a contracting activity which may exceed \$50,000, which contain the clause required by paragraph (a) of this section and where it is determined by the CO, prior to solicitation, that the work under the contract will be performed in whole or in part on or near an Indian reservation(s). The Indian Preference Program clause may also be included in solicitations issued and contracts awarded by a contracting activity which may not exceed \$50,000, but which contain the clause required by paragraph (a) of this section and which, in the opinion of the CO, offer substantial opportunities for Indian employment, training or sub-contracting.

### **1426.7004 Compliance enforcement.**

(a) The CO is responsible for conducting periodic reviews of the contractor to ensure compliance with the requirements of the clauses prescribed in 1426.7003. These reviews may be con-

ducted with the assistance of the Indian Tribe(s) concerned.

(b) Complaints of noncompliance with the requirements of the clauses prescribed under 1426.7003 which are received in writing by the contracting activity shall be promptly investigated by the CO and a written disposition of the complaint shall be prepared.

### **1426.7005 Tribal preference requirements.**

(a) Where the work under a contract is to be performed on an Indian reservation, the CO may supplement the clause at 1452.226-71, Indian Preference Program—Department of the Interior, by adding specific Indian preference requirements of the Tribe on whose reservation the work is to be performed. The supplemental requirements shall be jointly developed for the contract by the CO and the Tribe. Supplemental preference requirements must represent a further implementation of the requirements of section 7(b) of Public Law 93-638 and must be approved by the SOL for legal sufficiency before being added to a solicitation and resultant contract. Any supplemental preference requirements to be added to the clause at 1452.226-71 shall be included in the solicitation and clearly identified in order to ensure uniform understanding of the additional requirements by all prospective bidders or offerors.

(b) Nothing in this subpart shall be interpreted to preclude Tribes from independently developing and enforcing their own tribal preference requirements. Such independently developed tribal preference requirements shall not, except as provided in paragraph (a) of this section, become a requirement in contracts covered under this subpart 1426.70 and must not hinder the Government's right to award contracts and to administer their provisions.