



## DEPARTMENT OF THE INTERIOR

### DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION (DIAR)

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#### PART 1452 -- SOLICITATION PROVISIONS AND CONTRACT CLAUSES

<a href="#">1452.000</a>	Scope of part
<b><i>Subpart 1452.1</i></b>	<b>INSTRUCTIONS FOR USING PROVISIONS AND CLAUSES</b>
<a href="#">1452.103</a>	Identification of provisions and clauses
<b><i>Subpart 1452.2</i></b>	<b>TEXTS OF PROVISIONS AND CLAUSES</b>
<a href="#">1452.200</a>	Scope of subpart
<a href="#">1452.203-70</a>	Restrictions on Endorsements
<a href="#">1452.204-70</a>	Release of Claims
<a href="#">1452.210-70</a>	Brand Name or Equal
<a href="#">1452.215-70</a>	Examination of Records by the Department of the Interior
<a href="#">1452.215-71</a>	Postaward Use and Disclosure of Proposal Information
<a href="#">1452.224-1</a>	Privacy Act Notification
<a href="#">1452.225-70</a>	Use of Foreign Construction Materials
<a href="#">1452.226-70</a>	Indian Preference
<a href="#">1452.226-71</a>	Indian Preference Program
<a href="#">1452.227-70</a>	Appeals of Use or Exceptions
<a href="#">1452.228-7</a>	Insurance - Liability to Third Persons
<a href="#">1452.228-70</a>	Liability Insurance
<a href="#">1452.228-71</a>	Aircraft and General Public Liability Insurance
<a href="#">1452.228-72</a>	Liability for Loss or Damage
<a href="#">1452.228-73</a>	Liability for Loss or Damage (Property Interest)
<a href="#">1452.233-2</a>	Service of Protest
<a href="#">1452.236-70</a>	Prohibition Against Use of Lead-based Paint
<a href="#">1452.236-71</a>	Additive or Deductive Items
<a href="#">1452.237-70</a>	Information Collection

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#### SUBPART 1445.3 -- PROVIDING GOVERNMENT PROPERTY TO CONTRACTORS

**1445.302 Providing facilities** PART 1452 SOLICITATION PROVISIONS AND CONTRACT CLAUSES

## **1452.000 Scope of part**

This part prescribes Department of the Interior provisions and clauses for use in acquisition.

## **SUBPART 1452.1 -- INSTRUCTIONS FOR USING PROVISIONS AND CLAUSES**

### **1452.103 Identification of provisions and clauses**

(a) Individual or class deviations of provisions and clauses in FAR Part 52 or Part 1452 shall be authorized by the Director, Office of Acquisition and Property Management as prescribed in [Subpart 1401.4](#).

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## **SUBPART 1452.2 -- TEXTS OF PROVISIONS AND CLAUSES**

### **1452.200 Scope of subpart**

This subpart sets forth the texts of all DIAR provisions and clauses. Consistent with the numbering scheme prescribed in [FAR 52.101](#) and the approach used in [FAR Subpart 52.2](#), this subpart is arranged by subject matter, in the same order as, and keyed to, the parts of the DIAR in which provisions and clause requirements are addressed.

### **1452.203-70 Restriction on Endorsements**

As prescribed in [1403.570-3](#), insert the following clause:

RESTRICTION ON ENDORSEMENTS -  
DEPARTMENT OF THE INTERIOR (JUL 1996)

The Contractor shall not refer to contracts awarded by the Department of the Interior in commercial advertising, as defined in FAR 31.205-1, in a manner which states or implies that the product or service provided is approved or endorsed by the Government, or is considered by the Government to be superior to other products or services. This restriction is intended to avoid the appearance of preference by the Government toward any product or service. The Contractor may request the Contracting Officer to make a determination as to the propriety of promotional material.

(End of clause)

### **1452.204-70 Release of Claims**

As prescribed in [1404.804-70](#), insert the following clause:

RELEASE OF CLAIMS -- DEPARTMENT OF THE INTERIOR (JUL 1996)

After completion of work and prior to final payment, the Contractor shall furnish the Contracting Officer with a release of claims against the United States relating to this contract. The Release of Claims form (DI-137) shall be used for this purpose. The form provides for exception of specified claims from operation of the release.

(End of clause)

#### **1452.210-70 Brand Name or Equal**

As prescribed in [1410.004-70](#), insert the following provision:

#### **BRAND NAME OR EQUAL -- DEPARTMENT OF THE INTERIOR (JUL 1996)**

(a) The definition for "brand name" includes identification of products by make and model.

(b) The Government has affixed the term "brand name or equal" to one or more requirements in this solicitation. Such description is intended to provide an example of the quality and characteristics the Government deems satisfactory to fulfill this requirement. Unless the bidder/offeror clearly indicates in its bid or proposal that it is offering an "equal" product, the bid/offer will be assumed to offer the brand name product referenced in this solicitation.

(c)(1) Bidders/offerors may offer "equal" products (including products of the brand name manufacturer other than the one described by brand name) if such products are clearly identified in the bids or proposals. The evaluation of bids or proposals and the determination as to equality of the product offered will be based on information furnished or identified by the bidder/offeror in its bid or proposal. The Contracting Officer is not responsible for locating or securing information which is not identified in the bid or proposal. Each bidder and offeror shall furnish as a part of its bid or proposal all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the Contracting Officer to:

1. establish exactly what the bidder/offeror proposes to furnish.
2. determine whether the product offered meets the salient characteristics required by the solicitation.

(2) If the bidder/offeror proposes to modify a product to make it conform to the requirements of the solicitation, the bid or proposal should contain a clear description of the proposed modification and clearly mark the descriptive material to show the proposed modification.

(3) Modifications proposed after bid opening to make a product conform to a brand name product referenced in the solicitation will not be considered.

(End of provision)

Alternate I (JUL 1996). If the CO determines that the product has no material effect on the acceptability of a deliverable end item in a bid or proposal, the CO shall add the following paragraph at the end of the provision:

(d) The information for an "equal" product required by paragraph (c) to be submitted in the bid may be furnished after contract award for ... [*Insert list of excluded products or indicate how excluded products are identified in the specification*].

(End of provision)

#### **1452.215-70 Examination of Records by the Department of the Interior**

As prescribed in [1415.106-70](#), insert the following clause:

EXAMINATION OF RECORDS BY THE DEPARTMENT OF THE INTERIOR (APR 1984) For purposes of the Examination of Records by the Comptroller General clause of this contract (FAR 52.215-1), the Secretary of the Interior, the Inspector General, and their duly authorized representative(s) from the Department of the Interior shall have the same access and examination rights as the Comptroller General of the United States.

(End of clause)

#### **1452.215-71 Use and Disclosure of Proposal Information**

As prescribed in [1415.413-70\(d\)](#), insert the following provision:

USE AND DISCLOSURE OF PROPOSAL INFORMATION -- DEPARTMENT OF THE INTERIOR (APR 1984)

(a) Definitions. For the purposes of this provision and the Freedom of Information Act (5 U.S.C. 552), the following terms shall have the meaning set forth below:

(1) "Trade Secret" means an unpatented, secret, commercially valuable plan, appliance, formula, or process, which is used for making, preparing, compounding, treating or processing articles or materials which are trade commodities.

(2) "Confidential commercial or financial information" means any business information (other than trade secrets) which is exempt from the mandatory disclosure requirement of the Freedom of Information Act, 5 U.S.C. 552. Exemptions from mandatory disclosure which may be applicable to business information contained in proposals include exemption (4), which covers "commercial and financial information obtained from a person and privileged or confidential," and exemption (9), which covers "geological and geophysical information, including maps, concerning wells."

(b) If the offeror, or its subcontractor(s), believes that the proposal contains trade secrets or confidential commercial or financial information exempt from disclosure under the

Freedom of Information Act, (5 U.S.C. 552), the cover page of each copy of the proposal shall be marked with the following legend:

"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 provision. 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)"; and

(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 D.C., 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 (a) above.

**1452.225-70 Use of Foreign Construction Materials**

As prescribed in [1425.205](#), insert the following clause in solicitations and contracts for construction, alteration, or repair inside the United States:

USE OF FOREIGN CONSTRUCTION MATERIALS-  
DEPARTMENT OF THE INTERIOR (JUL 1996)

(a) The Government has determined that the Buy American Act is not applicable to the following construction materials because they are not mined, produced, or manufactured in the U.S. in sufficient quantities of a satisfactory quality:

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_

(b) Offers based on the use of foreign construction materials other than those listed in (a) above may be acceptable if the Government determines that U.S. construction material is not available, would be impracticable or constitute an unreasonable price. Please contact the contracting officer with questions or comments concerning non-availability or impracticability of U.S. material.

(c)(1) Offers based upon use of foreign construction material for cost savings will be considered reasonable if the cost of each foreign construction material, plus 6 percent, is less than the cost of each comparable U.S. construction material. The Contracting Officer shall compute the cost of each foreign construction material to include all delivery costs to the construction site, and any applicable duty (whether or not a duty-free entry certificate is issued.) This evaluation shall be made for each foreign construction material included in the offer, but not listed in subparagraph (a) above in this clause.

(2) Any contractor cost savings from post-award approval to substitute foreign construction material for U.S. construction material shall be passed on to the Government.

(d)(1) This offer is based on the use of foreign construction material not listed in (a) above. For each foreign item proposed the offeror shall furnish the following information for the foreign material offered: item description, supplier, unit of measure, quantity, unit price, duty (even if a duty free certificate is issued), delivery costs, and total price and shall also identify information on a U.S. item comparable to the foreign item including: supplier, unit of measure, quantity, unit price, delivery costs and total price.

(2) If the Government rejects the use of foreign construction material listed under paragraph (d)(1) above, the Government will evaluate the Contractor's offer using the offeror's stated price for the comparable U.S. construction material, and the offeror shall be required to furnish such domestic construction material at the Contractor's originally offered price. In preaward situations, an offer which does not state a price for a comparable U.S. construction material will be rejected by the Government. In postaward situations an offer proposing foreign material which does not state the price for the comparable U.S. construction material will be rejected by the Government. The Contractor shall use comparable U.S. material for the project and any additional cost for the use of this U.S. material shall be absorbed by the Contractor.

(End of clause)

### **1452.226-70 Indian Preference**

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

the Bureau of Indian Affairs when 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.

INDIAN PREFERENCE --  
DEPARTMENT OF THE INTERIOR (APR 1984)

(a) The Contractor agrees to give preferences to Indians who can perform the work required regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation for training and employment opportunities under this contract and, to the extent feasible consistent with the efficient performance of this contract, training and employment preferences and opportunities shall be provided to Indians regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation who are not fully qualified to perform under this contract. The Contractor also agrees to give preference to Indian organizations and Indian-owned economic enterprises in the awarding of any subcontracts consistent with the efficient performance of this contract. The Contractor shall maintain such records as are necessary to indicate compliance with this paragraph.

(b) In connection with the Indian employment preference requirements of this clause, the Contractor shall also provide opportunities for training incident to such employment. Such training shall include on-the-job, classroom, or apprenticeship training which is designed to increase the vocational effectiveness of an Indian employee.

(c) If the Contractor is unable to fill its training and employment needs after giving full consideration to Indians as required by this clause, those needs may be satisfied by selection of persons other than Indians in accordance with the clause of this contract entitled "Equal Opportunity."

(d) If no Indian organizations or Indian-owned economic enterprises are available for awarding of subcontracts in connection with the work performed under this contract, the Contractor agrees to comply with the provisions of this contract involving utilization of small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, or labor surplus area concerns.

(e) As used in this clause:

(1) "Indian" means a person who is a member of an Indian Tribe. If the Contractor has reason to doubt that a person seeking employment preference is an Indian, the contractor shall grant the preference but shall require the individual within thirty (30) days to provide evidence from the Tribe concerned that the person is a member of that Tribe.

(2) "Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451); and

(3) "Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit provided that such Indian ownership shall constitute not less than 51 percent of the enterprise.

(4) "Indian Tribe" means an Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 668; 43 U.S.C. 1601) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(f) The Contractor agrees to include the provisions of the clause including this paragraph (f) in each subcontract awarded under this contract.

(g) In the event of noncompliance with this clause, the Contractor's right to proceed may be terminated in whole or in part by the Contracting Officer and the work completed in a manner determined by the Contracting Officer to be in the best interests of the Government.

(End of clause)

#### **1452.226-71 Indian Preference Program**

As prescribed in [1426.7003\(b\)](#), insert the following clause in all solicitations and contracts, awarded by the contracting activity which may exceed \$50,000, and which contain the clause at 1452.226-70, and where it is determined by the Contracting Officer, 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 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 at 1452.226-70 and which, in the opinion of the Contracting Officer, offer substantial opportunities for Indian employment, training, and subcontracting.

#### INDIAN PREFERENCE PROGRAM -- DEPARTMENT OF THE INTERIOR (APR 1984)

(a) In addition to the requirements of the clause of this contract entitled "Indian Preference -- Department of the Interior," the Contractor agrees to establish and conduct an Indian preference program which will expand the opportunities for Indian organizations and Indian-owned economic enterprises to receive a preference in the awarding of subcontracts and which will expand opportunities for Indians to receive preference for training and employment in connection with the work to be performed under this contract. In this connection, the Contractor shall --

(1) Designate a liaison officer who will:

1. maintain liaison with the Government and Tribe(s) on Indian preference matters;

2. supervise compliance with the provisions of this clause; and
3. administer the Contractor's Indian preference program.

(2) Advise its recruitment sources in writing and include a statement in all advertisements for employment that Indian applicants will be given preference in employment and training incident to such employment.

(3) Not less than twenty (20) calendar days prior to commencement of work under this contract, post a written notice in the Tribal office of any reservations on which or near where the work under this contract is to be performed, which sets forth the Contractor's employment needs and related training opportunities. The notice shall include the approximate number and types of employees needed, the approximate dates of employment; the experience or special skills required for employment, if any; training opportunities available; and all other pertinent information necessary to advise prospective employees of any other employment requirements. The Contractor shall also request the Tribe(s) on or near whose reservation(s) the work is to be performed to provide assistance to the Contractor in filling its employment needs and training opportunities. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to contact in regard to the posting of notices and requests for Tribal assistance.

(4) Establish and conduct a subcontracting program which gives preference to Indian organizations and Indian-owned economic enterprises as subcontractors and suppliers under this contract. Consistent with the efficient performance of this contract, the Contractor shall give public notice of existing subcontracting opportunities by soliciting bids or proposals only from Indian organizations or Indian-owned economic enterprises. The Contractor shall request assistance and information on Indian firms qualified as suppliers or subcontractors from the Tribe(s) on or near whose reservation(s) the work under the contract is to be performed. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to be contacted in regard to the request for assistance and information. Public notices and solicitations for existing subcontracting opportunities shall provide an equitable opportunity for Indian firms to submit bids or proposals by including --

1. a clear description of the supplies or services required including quantities, specifications, and delivery schedules which facilitate the participation of Indian firms;
2. a statement indicating the preference will be given to Indian organizations and Indian-owned economic enterprises in accordance with Section 7(b) of Public Law 93-638; (88 Stat. 2205; 25 U.S.C. 450e(b));
3. definitions for the terms "Indian organization" and "Indian-owned economic enterprise" as prescribed under the "Indian Preference -- Department of the Interior" clause of this contract;
4. a representation to be completed by the bidder or offeror that it is an Indian organization or

Indian-owned economic enterprise; and

(v) a closing date for receipt of bids or proposals which provides sufficient time for preparation and submission of a bid or proposal. If after soliciting bids from Indian organizations and Indian-owned economic enterprises, no responsible bid is received, the Contractor shall comply with the requirements of paragraph (d) of the "Indian Preference -- Department of the Interior" clause of this contract. If one or more responsible bids are received, award shall be made to the low responsible bidder if the bid price is determined to be reasonable. If the low responsive bid is determined to be unreasonable as to price, the Contractor shall attempt to negotiate a reasonable price and award a subcontract. If a reasonable price cannot be agreed upon, the Contractor shall comply with the requirements of paragraph (d) of the "Indian Preference -- Department of the Interior" clause of the contract.

(5) Maintain written records under this contract which indicate:

1. the names and addresses of all Indians seeking employment for each employment position available under this contract;
2. the number and types of positions filled by (A) Indians and (B) non-Indians, and the name, address and position of each Indian employed under this contract;
3. for those positions where there are both Indian and non-Indian applicants, and a non-Indian is selected for employment, the reason(s) why the Indian applicant was not selected;
4. actions taken to give preference to Indian organizations and Indian-owned economic enterprises for subcontracting opportunities which exist under this contract;
5. reasons why preference was not given to Indian firms as subcontractors or suppliers for each requirement where it was determined by the Contractor that such preference would not be consistent with the efficient performance of the contract, and
6. the names and addresses of all Indian organizations and Indian-owned economic enterprises (A) contacted, and (B) receiving subcontract awards under this contract.

(6) The Contractor shall submit to the Contracting Officer for approval a semiannual report which summarizes the Contractor's Indian preference program and indicates (i) the number and types of available positions filled and dollar amounts of all subcontracts awarded to (a) Indian organizations and Indian-owned economic enterprises and (b) all other firms.

(7) Records maintained pursuant to this clause will be kept available for review by the Government until expiration of one (1) year after final payment under this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulation.

(b) For purpose of this clause, the following definitions of terms shall apply:

(1) The terms "Indian," "Indian Tribe," "Indian Organization, and "Indian-owned economic enterprise" are defined in the clause of this contract entitled "Indian Preference."

(2) "Indian reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations on Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act, (85 Stat. 688; 43 U.S.C. 1601 et seq.).

(3) "On or near an Indian Reservation" means on a reservation or reservations or within that area surrounding an Indian reservation(s) where a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

(c) Nothing in the requirements of this clause shall be interpreted to preclude Indian Tribes from independently developing and enforcing their own Indian preference requirements. Such requirements must not hinder the Government's right to award contracts and to administer their provisions.

(d) The Contractor agrees to include the provisions of this clause including this paragraph (d) in each subcontract awarded under this contract and to notify the Contracting Officer of such subcontracts.

(e) In the event of noncompliance with this clause, the Contractor's right to proceed may be terminated in whole or in part by the Contracting Officer and the work completed in a manner determined by the Contracting Officer to be in the best interest of the Government.

(End of clause)

#### **1452.227-70 Appeals of Use of Exceptions**

As prescribed in [1427.303\(d\)\(1\)](#), insert the following clause:

##### **APPEALS OF USE OF EXCEPTIONS (JUL 1996)**

If the Contractor appeals the Contracting Officer determination to use one of the exceptions described in FAR 27.303(d)(1), such appeal shall be made by written notice specifically identifying the basis for the appeal within 30 working days from the receipt of the determination. Such appeal shall be mailed to the Associate Solicitor for General Law, U.S. Department of the Interior, Washington, D.C. 20240, who is designated as the appeals official.

(End of clause)

#### **1452.228-7 Insurance - Liability to Third Persons**

(a) As prescribed in [1428.311-2](#), the clause at [FAR 52.228-7](#), Insurance - Liability to Third Persons, shall be modified before insertion into solicitations and contracts by (1) changing the title of the clause to read:

"INSURANCE - LIABILITY TO THIRD PERSONS (APR 1984) (DEVIATIONS)";

and (2) changing the first sentence in subparagraph (c)(2) of the clause to read:

"For certain liabilities (and expenses incidental to such liabilities) to third persons not compensated by insurance or otherwise but subject to the 'Limitation of Cost' or 'Limitation of Funds' clause of this contract."

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

### **1452.228-70 Liability Insurance**

As prescribed in [1428.301](#), insert the following clause:

#### LIABILITY INSURANCE -- DEPARTMENT OF THE INTERIOR (JUL 1996)

(a) The Contractor shall procure and maintain during the term of this contract and any extension thereof liability insurance in form satisfactory to the Contracting Officer by an insurance company which is acceptable to the Contracting Officer. The named insured parties under the policy shall be the Contractor and the United States of America. The amounts of the insurance shall be not less than as follows:

\$ \_\_\_\_\_ each person\*  
\$ \_\_\_\_\_ each occurrence\*  
\$ \_\_\_\_\_ property damage\*

(b) Each policy shall have a certificate evidencing the insurance coverage. The insurance company shall provide an endorsement to notify the Contracting Officer 30 days prior to the effective date of cancellation or termination of the policy or certificate; or modification of the policy or certificate which may adversely affect the interest of the Government in such insurance. The certificate shall identify the contract number, the name and address of the Contracting Officer, as well as the insured, the policy number and a brief description of contract services to be performed. The contractor shall furnish the Contracting Officer with a copy of an acceptable insurance certificate prior to beginning the work.

\*These amounts to be set by the Contracting Officer.

{End of clause}

### **1452.228-71 Aircraft and General Public Liability Insurance**

As prescribed in [1428.306-70\(c\)\(1\)](#), insert the following clause:

AIRCRAFT AND GENERAL PUBLIC LIABILITY INSURANCE  
DEPARTMENT OF THE INTERIOR (MAR 1989)

(a) The Contractor, at the Contractor's expense, agrees to maintain, during the continuance of this contract, aircraft liability and general public liability insurance with limits of liability for:

(1) bodily injury to or death of aircraft passengers of not less than \$75,000 for any one passenger and a limit for each occurrence in any one aircraft of at least an amount equal to the sum produced by multiplying \$75,000 by 75 percent of the total number of passenger seats installed in the aircraft;

(2) bodily injury to or death of persons (excluding passengers) of not less than \$75,000 for any one person in any one occurrence and \$300,000 for occurrence; and

(3) property damage of not less than \$100,000 for each occurrence; or

(4) a single limit of liability for each occurrence equal to or greater than the combined required minimums set forth in (1) through (3) above.

(b) The Contractor also agrees to maintain worker's compensation and other legally required insurance with respect to the Contractor's own employees and agents.

(End of clause)

**1452.228-72 Liability for Loss or Damage**

As prescribed in [1428.306-70\(c\)\(2\)](#), insert the following clause:

LIABILITY FOR LOSS OR DAMAGE --  
DEPARTMENT OF THE INTERIOR (APR 1984)

(a) The Contractor shall indemnify and hold the Government harmless from any and all loss or damage to the aircraft furnished under this contract except as provided in paragraph (d) of this clause. For the purpose of fulfilling its obligation under this clause, the Contractor shall procure and maintain during the term of this contract, and any extensions thereof, full insurance acceptable to the Contracting Officer. The Contractor's insurance coverage shall apply to pilots furnished by the Government who operate the aircraft. The contractor may request a list of Government pilots by name and qualification who are potential pilots.

(b) Prior to the commencement of work hereunder, the Contractor shall furnish to the Contracting Officer a copy of the insurance policy or policies or a certificate of insurance

issued by the underwriter(s) showing that the coverage required by this clause has been obtained.

(c) Each policy or certificate evidencing the insurance shall contain an endorsement which provides that the insurance company will notify the Contracting Officer 30 days prior to the effective date of any cancellation or termination of any policy or certificate or any modification of a policy or certificate which adversely affects the interests of the Government in such insurance. The notice shall be sent by registered mail and shall identify this contract, the name and address of the contracting office, the policy, and the insured.

(d) If the aircraft is damaged or destroyed while in the custody and control of the Government, the Government will reimburse the Contractor for the deductible stipulated in the insurance coverage (if any) as follows:

(1) In-Motion Accidents -- Up to 5 percent of the current insured value of the aircraft stated in the policy, or \$10,000, whichever is less.

(2) Not In-Motion Accidents -- Up to \$250 per accident. Such reimbursement shall not be made, however, for loss or damage to the aircraft resulting from (i) normal wear and tear, (ii) negligence or fault in maintenance of the aircraft by the Contractor, or (iii) a defect in construction of the aircraft or a component thereof.

(e) If damage to the aircraft is established to be the fault of the Government, rental payments to the Contractor during the repair period will be made as set forth elsewhere in this contract. The Government may, at its option, make necessary repairs or return the aircraft to the Contractor for repair. In the event the aircraft is lost, destroyed, or damaged so extensively as to be beyond repair, no rental payment will be made to the Contractor thereafter.

(f) Any failure to agree as to the responsibility of the Government or the Contractor under this clause shall, after a final finding and determination by the Contracting Officer, be considered a dispute within the meaning of the "Disputes" clause of this contract.

(End of clause)

#### **1452.228-73 Liability for Loss or Damage (Property Interest)**

As prescribed in [1428.306-70\(c\)\(3\)](#), insert the following clause:

LIABILITY FOR LOSS OR DAMAGE  
(PROPERTY INTEREST) --  
DEPARTMENT OF THE INTERIOR (APR 1984)

(a) The Government assumes all risk and liability for damage to or loss of the aircraft for the term of this contract, while the aircraft is in the Government's possession, except for

(1) normal wear and tear to the aircraft, or (2) loss which occurs as a result of negligence or fault in maintenance of the aircraft by the Contractor, or (3) loss resulting from a latent defect in the construction of the aircraft or a component thereof.

(b) In the event of damage to the aircraft, the Government may, at its option, make the necessary repairs with its own facilities, or by contract, or pay the Contractor the reasonable cost of repair of the aircraft. If damage to the aircraft is established to be the fault of the Government, rental payments to the Contractor during the repair period will be made as set forth elsewhere in this contract.

(c) In the event the aircraft is lost, destroyed, or damaged so extensively as to be beyond repair, no rental payment will be made to the Contractor thereafter, but the Government will pay to the Contractor a sum equal to the fair market value of the aircraft just prior to such loss, destruction, or extensive damage, less the salvage value of the aircraft.

(d) The Contractor certifies that the contract price does not include any cost attributable to insurance or to any reserve fund it has established to protect its interests in or use of the aircraft, regardless of whether or not the insurance coverage applies for the period during which the Government has possession of the aircraft. If, in the event of loss or damage to the aircraft, the Contractor receives compensation for such loss or damage, in any form, from any source, the amount of such compensation shall be credited to the Government in determining the amount of the Government's liability under this clause; except that this shall not apply to proceeds of insurance received solely as an advance of insurance pending determination of Government liability, or for an increment of value of the aircraft beyond the value for which the Government is responsible.

(e) In the event of loss or damage, the Government shall be subrogated to all rights of recovery by the Contractor against third parties for such loss or damage and such rights shall be immediately assigned to the Government. Except as the Contracting Officer may permit in writing, the Contractor shall neither release nor discharge any third party from liability for such loss or damage nor otherwise compromise or adversely affect the Government's subrogation or other rights hereunder. The Contractor shall cooperate with the Government in any suit or action undertaken by the Government against any such third party.

(f) Any failure to agree as to the responsibility of the Government or the Contractor under this clause shall, after a final finding and determination by the Contracting Officer, be considered a dispute within the meaning of the "Disputes" clause of this contract.

(End of clause)

#### **1452.233-2 Service of Protest**

As prescribed in [1433.106](#), the provision at [FAR 52.233-2](#), Service of Protest, shall be modified before insertion into solicitations and contracts by changing the title of the provision to read:

"SERVICE OF PROTEST DEPARTMENT OF THE INTERIOR (JUL 1996)  
(DEVIATION)";

and adding the following sentence to the end of the provision:

(c) A copy of the protest served on the Contracting Officer shall be simultaneously furnished by the protester to the Department of the Interior Assistant Solicitor for Procurement and Patents, 1849 C Street, NW, Room 6511, Washington, D.C. 20240."

**1452.236-70 Prohibition Against Use of Lead-based Paint**

As prescribed in [1436.570\(b\)](#), insert the following clause:

PROHIBITION AGAINST USE OF LEAD-BASED PAINT -- DEPARTMENT OF  
THE INTERIOR (JUL 1996)

Paint containing more than .06 percent by weight of lead in paint, or the equivalent measure of lead in the dried film of paint already applied, shall not be used in the construction or rehabilitation of residential structures under this contract or any resulting subcontracts.

(End of clause)

**1452.236-71 Additive or deductive items**

As prescribed in [1436.571](#), insert the following provision:

ADDITIVE OR DEDUCTIVE ITEMS --  
DEPARTMENT OF THE INTERIOR (JUL 1996)

So that the Government may obtain the most desirable features of work within the limit of its funds available at time of bid evaluation, award may be made to the bidder having the lowest total of the base bid and a combination of additive and deductive items. All bids shall be evaluated on the basis of the same additive and deductive bid items using the order of priority of the items listed in the schedule.

(End of provision)

**1452.237-70 Information Collection**

As prescribed in [1437.7102](#), insert the following clause:

INFORMATION COLLECTION -- DEPARTMENT  
OF THE INTERIOR (JUL 1996)

If performance of this contract requires the contractor to collect information on identical items from ten or more public respondents, no action shall be taken or funds expended in the solicitation or collection of such information until the contractor has received from the Contracting Officer written notification that approval has been obtained from the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980. The Contractor agrees to provide all information requested by the Contracting Officer which is necessary to obtain approval from OMB.

(End of clause)

[\[Return to the Top\]](#)

[\[Return to the Department of the Interior Acquisition Regulation page\]](#)

[\[Return to Acquisition Policy and Regulations page\]](#)