



DEPARTMENT OF HEALTH AND HUMAN SERVICES
INDIAN HEALTH SERVICE



MEMORANDUM TO THE CONTRACT FILE

Subject: Approved Deviation from the Buy Indian Act

PR #:

Sol #:

Control #:

Pursuant to 48 CFR Part 326, Subpart 326.603-3 and IHM 5.5-6, Indian Health Service must use the negotiation authority of the Buy Indian Act, 25 U.S.C. 47, to give preference to Indian Economic Enterprises (IEE) whenever the use of that authority is authorized and practicable. Requirements under FAR Part 26, Other Socioeconomic Programs, apply when deviating from the Buy Indian Act.

Supporting Facts for the Deviation:

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Check Box	Proposed Contract Action	Required Authorization
<input type="checkbox"/>	Exceeding the micro-purchase threshold but not exceeding \$25,000.	Contracting Officer
<input type="checkbox"/>	Exceeding \$25,000, but not exceeding \$700,000.00	Chief Contracting Officer [or the IHS Division of Acquisition Policy (DAP) Director, absent a CCO]
<input type="checkbox"/>	Exceeding \$700,000, but not exceeding \$13.5 million	IHS Competition Advocate
<input type="checkbox"/>	Exceeding \$13.5 million, but not exceeding \$68 million.	Head of Contracting Activity
<input type="checkbox"/>	Exceeding \$68 million.	HHS Office of Small & Disadvantaged Business Utilization (OSDBU), Office of General Counsel (OGC), HHS Department Competition Advocate and the HHS Senior Procurement Executive

Deviations may be issued prior to or after issuing the solicitation. Please check the appropriate box.

☐ Deviation is authorized prior to issuing the solicitation for simplified or commercial items.

Basis: The Contracting Officer determines, after a thorough market survey/research, that there is no reasonable expectation of obtaining offers that will be competitive in terms of market price, quality, and delivery from two or more reasonable IEEs or at least one such enterprise that does not exceed the dollar threshold in FAR 13.003. The Contracting Officer shall not rely solely on the program for this determination.

☐ Deviation is authorized prior to issuing the solicitation for other than simplified or commercial items.

Basis: The Contracting Officer determines, after a thorough research, that there is no reasonable expectation that offers will be received from two or more responsible IEEs at a reasonable and fair market price. The Contracting Officer shall not rely solely on the program for this determination.

☐ Deviation is authorized after issuing the solicitation for simplified or commercial items.

Basis: Only one offer has been received from a responsible IEE and the price is unreasonable, or no offers have been received from a responsible IEE.

☐ Deviation is authorized after issuing the solicitation for other than simplified or commercial items.

Basis:

☐

All otherwise acceptable offers received from IEE's are unreasonable;

☐

Only one (1) offer has been received from an IEE and the CO determines the price to be unreasonable; or

☐

No responsive offers have been received from IEE's.

Certification:

☐

Supporting documentation obtained through market research, sources sought, pre/post solicitation and any other information that assists in justifying the deviation is attached for review by the authorizing official.

☐

I hereby certify that the information above, including ALL attachments, are true and accurate.

All signatures are required before the intended signature. (Select as required)

Requestor:

Concurrence: