

52.226-5

(b) This set-aside is in addition to any small business set-aside contained in this contract.

(End of clause)

[72 FR 63088, Nov. 7, 2007, as amended at 74 FR 52849, Oct. 14, 2009]

52.226-5 Restrictions on Subcontracting Outside Disaster or Emergency Area.

As prescribed in 26.206(c), insert the following clause:

RESTRICTIONS ON SUBCONTRACTING OUTSIDE DISASTER OR EMERGENCY AREA (NOV 2007)

(a) *Definitions.* The definitions of the following terms used in this clause are found in the Small Business Administration regulations at 13 CFR 125.6(e): cost of the contract, cost of contract performance incurred for personnel, cost of manufacturing, cost of materials, personnel, and subcontracting.

(b) The Contractor agrees that in performance of the contract in the case of a contract for—

(1) *Services (except construction).* At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the Contractor or employees of other businesses residing or primarily doing business in the clause at FAR 52.226-4, Notice of Disaster or Emergency Area Set-Aside;

(2) *Supplies (other than procurement from a nonmanufacturer of such supplies).* The Contractor or employees of other businesses residing or primarily doing business in the set-aside area shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials;

(3) *General construction.* The Contractor will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees or employees of other businesses residing or primarily doing business in the set-aside area; or

(4) *Construction by special trade Contractors.* The Contractor will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees or employees of other businesses residing or primarily doing business in the set-aside area.

(End of clause)

[72 FR 63088, Nov. 7, 2007, as amended at 74 FR 52849, Oct. 14, 2009]

52.226-6 Promoting excess food donation to nonprofit organizations.

As prescribed in 26.404, insert the following clause:

48 CFR Ch. 1 (10-1-17 Edition)

PROMOTING EXCESS FOOD DONATION TO NONPROFIT ORGANIZATIONS (MAY 2014)

(a) *Definitions.* As used in this clause—

Apparently wholesome food means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

Excess food means food that—

(1) Is not required to meet the needs of the executive agencies; and

(2) Would otherwise be discarded.

Food-insecure means inconsistent access to sufficient, safe, and nutritious food.

Nonprofit organization means any organization that is—

(1) Described in section 501(c) of the Internal Revenue Code of 1986; and

(2) Exempt from tax under section 501(a) of that Code.

(b) In accordance with the Federal Food Donation Act of 2008 (42 U.S.C. 1792), the Contractor is encouraged, to the maximum extent practicable and safe, to donate excess, apparently wholesome food to nonprofit organizations that provide assistance to food-insecure people in the United States.

(c) *Costs.* (1) The Contractor, including any subcontractors, shall assume the responsibility for all the costs and the logistical support to collect, transport, maintain the safety of, or distribute the excess, apparently wholesome food to the nonprofit organization(s) that provides assistance to food-insecure people.

(2) The Contractor will not be reimbursed for any costs incurred or associated with the donation of excess foods. Any costs incurred for excess food donations are unallowable.

(d) *Liability.* The Government and the Contractor, including any subcontractors, shall be exempt from civil and criminal liability to the extent provided under the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791). Nothing in this clause shall be construed to supersede State or local health regulations (subsection (f) of 42 U.S.C. 1791).

(e) *Flowdown.* The Contractor shall insert this clause in all contracts, task orders, delivery orders, purchase orders, and other similar instruments greater than \$25,000 with its subcontractors or suppliers, at any tier, who will perform, under this contract, the provision, service, or sale of food in the United States.

(End of clause)

[74 FR 11832, Mar. 19, 2009, as amended at 79 FR 24223, Apr. 29, 2014]

52.227-1 Authorization and Consent.

As prescribed in 27.201-2(a)(1), insert the following clause: