

### 352.242-70

(EIT) products and services developed, acquired, maintained, or used under this contract/order must comply with the "Electronic and Information Technology Accessibility Provisions" set forth by the Architectural and Transportation Barriers Compliance Board (also referred to as the "Access Board") in 36 CFR part 1194. Information about Section 508 is available at <http://www.section508.gov/>. The complete text of Section 508 Final Provisions can be accessed at <http://www.access-board.gov/sec508/provisions.htm>.

(b) The Section 508 accessibility standards applicable to this contract/order are identified in the Statement of Work/Specification/Performance Work Statement. The Contractor must provide a written Section 508 conformance certification due at the end of each contract/order exceeding \$100,000 when the contract/order duration is one year or less. If it is determined by the Government that EIT products and services provided by the Contractor do not conform to the described accessibility standards in the Product Assessment Template, remediation of the products or services to the level of conformance specified in the Contractor's Product Assessment Template will be the responsibility of the Contractor at its own expense.

(c) In the event of a modification(s) to this contract/order, which adds new EIT products or services or revises the type of, or specifications for, products or services the Contractor is to provide, including EIT deliverables such as electronic documents and reports, the Contracting Officer may require that the contractor submit a completed HHS Section 508 Product Assessment Template to assist the Government in determining that the EIT products or services support Section 508 accessibility standards. Instructions for documenting accessibility via the HHS Section 508 Product Assessment Template may be found under Section 508 policy on the HHS Office on Disability Web site (<http://www.hhs.gov/od>).

(c) As prescribed in 339.201-70(c), the Contracting Officer shall add the following paragraph to the end of clause 352.239-73(b):

Prior to the Contracting Officer exercising an option for a subsequent performance period/additional quantity or adding funding for a subsequent performance period under this contract, as applicable, the Contractor must provide a Section 508 Annual Report to the Contracting Officer and Project Officer. Unless otherwise directed by the Contracting Officer in writing, the Contractor shall provide the cited report in accordance with the following schedule. Instructions for completing the report are available in the Section 508 policy on the HHS Office on Disability Web site under the heading Vendor

### 48 CFR Ch. 3 (10-1-10 Edition)

Information and Documents. The Contractor's failure to submit a timely and properly completed report may jeopardize the Contracting Officer's exercising an option or adding funding, as applicable.

#### SCHEDULE FOR CONTRACTOR SUBMISSION OF SECTION 508 ANNUAL REPORT

(To be completed by the Contracting Officer at time of contract/order award.)

[74 FR 62398, Nov. 27, 2009, as amended at 75 FR 21512, Apr. 26, 2010]

### 352.242-70 Key personnel.

As prescribed in 342.302(c)(2), the Contracting Officer shall insert the following clause:

#### KEY PERSONNEL (JANUARY 2006)

The key personnel specified in this contract are considered to be essential to work performance. At least 30 days prior to diverting any of the specified individuals to other programs or contracts (or as soon as possible, if an individual must be replaced, for example, as a result of leaving the employ of the Contractor), the Contractor shall notify the Contracting Officer and shall submit comprehensive justification for the diversion or replacement request (including proposed substitutions for key personnel) to permit evaluation by the Government of the impact on performance under this contract. The Contractor shall not divert or otherwise replace any key personnel without the written consent of the Contracting Officer. The Government may modify the contract to add or delete key personnel at the request of the contractor or Government.

(End of clause)

### 352.242-71 Tobacco-free facilities.

As prescribed in 342.302(c)(3), the Contracting Officer shall insert the following clause:

#### TOBACCO-FREE FACILITIES (JANUARY 2006)

In accordance with Department of Health and Human Services (HHS) policy, the Contractor and its staff are prohibited from using tobacco products of any kind (e.g., cigarettes, cigars, pipes, and smokeless tobacco) while on any HHS property, including use in personal or company vehicles operated by Contractor employees while on an HHS property. This policy also applies to all subcontracts awarded under the contract or order. The term "HHS properties" includes all properties owned, controlled and/or leased by HHS when totally occupied by HHS, including all indoor and outdoor areas of such properties. Where HHS only partially occupies such properties, it includes all HHS-

## Health and Human Services

352.270-1

occupied interior space. Where HHS leases space in a multi-occupant building or complex, the tobacco-free HHS policy will apply to the maximum area permitted by both law and current lease agreements. The Contractor shall ensure that each of its employees, and any subcontractor staff, is made aware of, understand, and comply with this policy.

(End of clause)

### 352.242-72 Native American Graves Protection and Repatriation Act.

As prescribed in 342.302(c)(4), the Contracting Officer shall insert the following clause:

#### NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (JANUARY 2006)

(a) Public Law 101-601, dated November 16, 1990, also known as the *Native American Graves Protection and Repatriation Act* (Act), imposes certain responsibilities on individuals and organizations when they discover Native American cultural items (including human remains) on Federal or Tribal lands.

(b) In the event the Contractor discovers Native American cultural items (including human remains, associated funerary objects, unassociated funerary objects, sacred objects and cultural patrimony), as defined in the Act during contract performance, the Contractor shall—

(i) Immediately cease activity in the area of the discovery;

(ii) Notify the Contracting Officer of the discovery; and

(iii) Make a reasonable effort to protect the items discovered before resuming such activity. Upon receipt of the Contractor's discovery notice, the Contracting Officer will notify the appropriate authorities as required by the Act.

(c) Unless otherwise specified by the Contracting Officer, the Contractor may resume activity in the area on the 31st calendar day following the date that the appropriate authorities certify receipt of the discovery notice. The Contracting Officer shall provide to the Contractor the date that the appropriate authorities certify receipt of the discovery notice and the date on which the Contractor may resume activities.

(End of clause)

### 352.242-73 Withholding of contract payments.

As prescribed in 342.7003-1(a), the Contracting Officer shall insert the following clause:

#### WITHHOLDING OF CONTRACT PAYMENTS (JANUARY 2006)

Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due or failure to perform or deliver required work, supplies, or services, may result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the Contractor as defined by the clause entitled "Excusable Delays" or "Default," as applicable. The Government will immediately notify the Contractor of its intention to withhold payment of any invoice or voucher submitted.

(End of clause)

### 352.242-74 Final decisions on audit findings.

As prescribed in 342.7003-1(b), the Contracting Officer shall insert the following clause:

#### FINAL DECISIONS ON AUDIT FINDINGS (APRIL 1984)

For the purpose of issuing final decisions under the Disputes clause of this contract concerning monetary audit findings, the Contracting Officer is the individual authorized to make such decisions.

(End of clause)

### 352.270-1 Accessibility of meetings, conferences, and seminars to persons with disabilities.

As prescribed in 370.102, the Contracting Officer shall insert the following clause:

#### ACCESSIBILITY OF MEETINGS, CONFERENCES, AND SEMINARS TO PERSONS WITH DISABILITIES (JANUARY 2001)

The Contractor agrees as follows:

(a) *Planning.* The Contractor shall develop a plan to assure that any meeting, conference, or seminar held pursuant to this contract will meet or exceed the minimum accessibility standards set forth in 28 CFR 36.101-36.500 and Appendix A: ADA Accessibility Guidelines (ADAAG). The Contractor shall submit the plan to the Contracting Officer's Technical Representative for approval prior to initiating action. (The Contractor may submit a consolidated or master plan for contracts requiring numerous meetings, conferences, or seminars in lieu of separate plans.)

(b) *Facilities.* Any facility the Contractor intends to utilize for meetings, conferences, or seminars in performance of this contract shall be in compliance with 28 CFR 36.101-