

225.7019-2

bearings and bearing components manufactured in the United States or Canada.

[61 FR 10900, Mar. 18, 1996, as amended at 61 FR 58489, Nov. 15, 1996; 62 FR 34124, June 24, 1997; 63 FR 43888, Aug. 17, 1998; 65 FR 77828, Dec. 13, 2000]

225.7019-2 Exceptions.

(a) The restriction in 225.7019-1(a) does not apply to—

(1) Acquisitions using simplified acquisition procedures, unless ball or roller bearings or bearing components are the end items being purchased;

(2) Purchases of commercial items incorporating ball or roller bearings;

(3) Miniature and instrument ball bearings when necessary to meet urgent military requirements;

(4) Items acquired overseas for use overseas; or

(5) Ball and roller bearings or bearing components or items containing bearings for use in a cooperative or co-production project under an international agreement. This exception does not apply to miniature and instrument ball bearings.

(b) The restriction in 225.7019-1(b) does not apply to contracts or subcontracts for acquisition of commercial items, except for commercial ball and roller bearings acquired as end items.

[61 FR 50453, Sept. 26, 1996, as amended at 65 FR 52952, Aug. 31, 2000; 65 FR 58607, Sept. 29, 2000; 65 FR 77828, Dec. 13, 2000]

225.7019-3 Waiver.

(a) The head of the contracting activity may waive the restriction in 225.7019-1(a)—

(1) Upon execution of a determination and findings that—

(i) No domestic (U.S. or Canadian) bearing manufacturer meets the requirement;

(ii) It is not in the best interests of the United States to qualify a domestic bearing to replace a qualified non-domestic bearing. This determination must be based on a finding that the qualification of a domestically manufactured bearing would cause unreasonable costs or delay. A finding that a cost is unreasonable should take into consideration DoD policy to assist the domestic industrial mobilization base.

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Contracts should be awarded to domestic bearing manufacturers to increase their capability to reinvest and become more competitive;

(iii) Application of the restriction would result in the existence of only one source for the item in the United States or Canada;

(iv) Application of the restriction is not in the national security interests of the United States; or

(v) Application of the restriction would adversely affect a U.S. company.

(2) If the acquisition is for an amount less than the simplified acquisition threshold and simplified acquisition procedures are being used.

(3) For multiyear contracts or contracts exceeding 12 months, except those for miniature and instrument ball bearings, only if—

(i) The head of the contracting activity executes a determination and findings in accordance with paragraph (a) of this subsection;

(ii) The contractor submits a written plan for transitioning from the use of nondomestic to domestically manufactured bearings;

(iii) The plan—

(A) States whether a domestically manufactured bearing can be qualified, at a reasonable cost, for use during the course of the contract period;

(B) Identifies any bearings that are not domestically manufactured, their application, and source of supply; and

(C) Describes, including cost and timetable, the transition to a domestically manufactured bearing. (The timetable for the transition should normally take no longer than 24 months from the date the waiver is granted); and

(iv) The contracting officer accepts the plan and incorporates it in the contract.

(4) For miniature and instrument ball bearings, only if the contractor agrees to acquire a like quantity and type of domestic manufacture for non-governmental use.

(b)(1) The Under Secretary of Defense (Acquisition, Technology, and Logistics), without power of delegation, may waive the restriction in 225.7019-1(a) for a particular foreign country upon determination that—

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(i) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country; or

(ii) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, or would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items under 225.872, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(2) A notice of the determination to exercise the waiver authority must be published in the FEDERAL REGISTER and submitted to the congressional defense committees at least 15 days before the effective date of the waiver.

(3) Such waiver shall be in effect for a period not greater than 1 year.

(4) For contracts entered into prior to the effective date of a waiver, provided adequate consideration is received to modify the contract, such waiver shall be applied as directed or authorized in the waiver to—

(i) Subcontracts entered into on or after the effective date of the waiver; and

(ii) Options for the procurement of items that are exercised after the effective date of the waiver, if the option prices are adjusted for any reason other than the application of the waiver.

(5) In accordance with the provisions of paragraphs (b)(1) through (b)(3) of this subsection, the Under Secretary of Defense (Acquisition, Technology, and Logistics) has waived the restrictions of 10 U.S.C. 2534(a)(5) for ball and roller bearings manufactured in the United Kingdom. This waiver applies to—

(i) Procurements under solicitations issued on or after August 4, 1998; and

(ii) Subcontracts and options under contracts entered into prior to August

4, 1998, under the conditions described in paragraph (b)(4) of this subsection.

(c) The Secretary of the department responsible for the acquisition may waive the restriction in 225.7019-1(b) on a case-by-case basis, by certifying to the House and Senate Committees on Appropriations that—

(1) Adequate domestic supplies are not available to meet DoD requirements on a timely basis; and

(2) The acquisition must be made in order to acquire capability for national security purposes.

[61 FR 10900, Mar. 18, 1996, as amended at 61 FR 50453, Sept. 26, 1996; 62 FR 34124, June 24, 1997; 63 FR 5746, Feb. 4, 1998; 63 FR 28285, May 22, 1998; 63 FR 43888, Aug. 17, 1998; 65 FR 39705, June 27, 2000]

225.7019-4 Contract clause.

(a) Use the clause at 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings, in solicitations and contracts, unless—

(1) The restrictions in 225.7019-1 do not apply or a waiver has been granted; or

(2) The contracting officer knows that the items being acquired do not contain ball or roller bearings.

(b) In solicitations and contracts that use simplified acquisition procedures, use the clause with its Alternate I.

[65 FR 77828, Dec. 13, 2000]

225.7020 Restriction on vessel propellers.

225.7020-1 Restriction.

In accordance with Section 8064 of the National Defense Appropriations Act for Fiscal Year 2001 (Public Law 106-259), do not use fiscal year 2000 or 2001 funds to acquire vessel propellers other than those produced by a domestic source of domestic origin, *i.e.*, vessel propellers—

(a) Manufactured in the United States or Canada; and

(b) For which all component castings were poured and finished in the United States or Canada.

[65 FR 77828, Dec. 13, 2000]