

Department of Defense

225.7302

225.7202 Distribution of reports.

The contracting officer shall forward a copy of reports submitted by successful offerors as required by the clause at 252.225-7026, Reporting of Contract Performance Outside the United States, to the Deputy Director of Defense Procurement (Foreign Contracting), OUSD(AT&L)DP(FC), Washington, DC 20301-3060. This is necessary to satisfy the requirement of 10 U.S.C. 2410g that the notifications (or copies) be maintained in compiled form for five years after the date of submission.

[58 FR 28469, May 13, 1993, as amended at 60 FR 29499, June 5, 1995; 65 FR 39705, June 27, 2000]

225.7203 Contract clause.

Except for acquisitions in 225.7201, use the clause at 252.225-7026, Reporting of Contract Performance Outside the United States, in all solicitations and contracts with an estimated or actual value exceeding \$500,000, including those modified to exceed \$500,000.

Subpart 225.73—Acquisitions for Foreign Military Sales

225.7300 Scope of subpart.

(a) This subpart contains policies and procedures for acquisitions for foreign military sales (FMS) under the Arms Export Control Act (22 U.S.C. Chapter 39). Section 22 of the Arms Export Control Act (22 U.S.C. 2762) authorizes DoD to enter into contracts for resale to foreign countries or international organizations.

(b) This subpart does not apply to—

- (1) FMS made from inventories or stocks;
- (2) Acquisitions for replenishment of inventories or stocks; or
- (3) Acquisitions made under DoD cooperative logistic supply support arrangements.

[63 FR 43889, Aug. 17, 1998]

225.7301 General.

(a) The U.S. Government sells defense articles and services to foreign governments or international organizations through FMS agreements. The agreement is documented in a Letter of Offer and Acceptance (LOA) (see DoD

5105.38-M, Security Assistance Management Manual). The LOA—

- (1) Lists the items and services, estimated costs, and terms and conditions of the sale;
 - (2) Is presented to the foreign customer; and
 - (3) Provides for signature of the foreign customer to indicate acceptance.
- (b) Acquisitions for FMS are conducted under the same acquisition and contract management procedures as other defense acquisitions.
- (c) Solicitations shall separately identify known FMS requirements and the FMS customer.

(d) Contracts for known FMS requirements shall clearly be marked “FMS requirement” on the face of the contract along with the FMS customer and the case identifier code.

[56 FR 36367, July 31, 1991, as amended at 63 FR 43889, Aug. 17, 1998]

225.7302 Procedures.

On FMS programs that will require an acquisition, the contracting officer assists the departmental/agency activity responsible for preparing the LOA by—

- (a) Working with prospective contractors to—
 - (1) Identify, in advance of the LOA, any unusual provisions or deviations.
 - (2) Advise the contractor if the departmental/agency activity expands, modifies, or does not accept any requirements proposed by the contractor;
 - (3) Identify any logistics support necessary to perform the contract; and
 - (4) For acquisitions over \$10,000 that are to be awarded noncompetitively, asking the prospective contractor(s) for information on price, delivery, and other relevant factors. The request for information must identify the fact that the information is for a potential foreign military sale and must identify the foreign customer.

(b) Working with the departmental/agency activity responsible for preparing the LOA to—

- (1) Assist, as necessary, in preparation of the LOA;
- (2) Identify and explain all unusual contractual requirements or requests for deviations; and