

(b) Upon verification of the information, the Director of Defense Procurement will ask the General Services Administration to list the company as ineligible on the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

[65 FR 6554, Feb. 10, 2000]

**225.771-5 Solicitation provision.**

Use the provision at 252.225-7017, Prohibition on Award to Companies Owned by the People's Republic of China, in solicitations for contracts that will use fiscal year 1999 funds made available by Title III or IV of Pub. L. 105-262.

[65 FR 6554, Feb. 10, 2000]

**Subpart 225.8—Other International Agreements and Coordination**

**225.801 General.**

(1) Treaties and agreements between the U.S. and foreign governments affect both—

(i) The way offers from foreign contractors are evaluated in DoD acquisitions; and

(ii) Performance of DoD contracts in foreign countries.

(2) This subpart covers acquisition policy and procedures based on treaties and international agreements.

(3) Information on specific agreements is available as follows—

(i) Memoranda of understanding (MOU) and other international agreements between the United States and the countries listed in 225.872-1 are maintained in the Office of the Deputy Assistant Secretary of Defense (Procurement) (Foreign Contracting) (703) 697-9351, DSN 227-9351).

(ii) Military Assistance Advisory Groups, Naval Missions, and Joint U.S. Military Aid Groups normally have copies of the agreements applicable to the countries concerned.

(iii) Copies of international agreements covering existing agreements in the United Kingdom of Great Britain and Northern Ireland, Western European countries, North Africa, and in the Middle East are filed with the U.S. European Command (EUCOM).

(iv) Agreements with countries in the Pacific and Far East are filed with the U.S. Pacific Command (CINCPAC).

**225.802 Procedures.**

**225.802-70 Contracts for performance outside the United States and Canada.**

(a) When a purchasing activity anticipates placement of a contract for performance outside the United States or Canada and the contracting activity is not under the command jurisdiction of a unified or specified command for the country involved, the purchasing activity shall maintain liaison with the cognizant contract administration office (CAO) during preaward negotiations and postaward administration. The CAO will provide pertinent information for contract negotiations, effect appropriate coordination, and obtain required approvals for the performance of the contract.

(b) Where the acquisition requires the performance of work in the foreign country by U.S. personnel or a third country contractor, or where the acquisition will require logistics support for contract employees, source inspection, or additional Government employees—

(1) The contracting activity must coordinate with the cognizant contract administration office before contract award.

(2) The contracting officer shall request the following information from the contract administration office—

(i) The applicability of any international agreements to the acquisition;

(ii) Security requirements applicable to the area;

(iii) The standards of conduct required to be observed by the prospective contractor and its employees, and any action that may be taken in the event required standards are not maintained;

(iv) Requirements for use of foreign currencies, including applicability of U.S. holdings of excess foreign currencies;

(v) Availability of logistics support for contractor employees; and

(vi) Information on taxes and duties from which the Government may be exempt.

(3) The contracting officer shall furnish the following information to the contract administration office—

## Department of Defense

## 225.870-1

(i) A synopsis of the work to be performed and, if practical, a copy of the solicitation;

(ii) Any contractor logistical support desired in support of U.S. or foreign military sale requirements;

(iii) Contract performance period and estimated contract value;

(iv) Number and nationality of contractor employees and date of planned arrival of contractor personnel;

(v) Contract security requirements; and

(vi) Other pertinent information to effect complete coordination and cooperation.

[56 FR 36367, July 31, 1991, as amended at 65 FR 52952, Aug. 31, 2000]

### 225.802-71 End user certificates.

Contracting officers considering the purchase of an item from a foreign source may encounter a request for the signing of a certificate to the effect that the Armed Forces of the United States is the end user of the equipment, and that it will not be transferred to third parties without authorization from the Government of the country selling the item. When encountering this situation, refer to DoD Directive 2040.3, End User Certificates, for guidance.

[57 FR 42630, Sept. 15, 1992]

### 225.870 Contracting with Canadian contractors.

#### 225.870-1 General.

(a) The Canadian Government guarantees to the U.S. Government all commitments, obligations, and covenants of the Canadian Commercial Corporation under any contract or order issued to the Corporation by any contracting activity of the U.S. Government. The Canadian Government has waived notice of any change or modification which may be made, from time to time, in these commitments, obligations, or covenants.

(b) For production planning purposes, Canada is considered to be part of the defense industrial base (see 225.870-2(b)).

(c) Contracts with contractors located in Canada should be awarded to and administered by the Canadian Commercial Corporation, except for—

(1) Negotiated purchases for experimental, developmental, or research work unless the contract is for a project under the Defense Development Sharing Program;

(2) Purchases of unusual or compelling urgency;

(3) Small purchases; or

(4) Purchases made by DoD activities located in Canada.

(d) The Canadian Commercial Corporation, in placing contracts with Canadian or U.S. concerns, uses provisions in the contracts that give DoD the same production rights, data, and information that DoD would obtain in contracts with U.S. concerns.

(e) When contracts are placed with the Canadian Commercial Corporation, the government of Canada will provide the following services, without charge to DoD departments and agencies—

(1) *Contract administration services*, including—

(i) Cost and pricing analysis;

(ii) Industrial security;

(iii) Accountability and disposal of Government property;

(iv) Production expediting;

(v) Compliance with Canadian labor laws;

(vi) Processing termination claims and disposing of termination inventory;

(vii) Customs documentation;

(viii) Processing of disputes and appeals; and

(ix) Such other related contract administration functions as may be required with respect to the Canadian Commercial Corporation contract with the Canadian supplier; and

(2) *Audits*. When required, audits are performed by the Audit Service Group, Supply and Services Canada. Requests for audit on non-Canadian Commercial Corporation contracts should be routed through the cognizant contract management office of the Defense Contract Management Agency.

(3) *Inspection*. The Department of National Defence (Canada) provides inspection personnel, services, and facilities, at no charge to DoD departments and agencies (see 225.870-7).

[56 FR 36367, July 31, 1991, as amended at 65 FR 52952, Aug. 31, 2000]