PROHIBITION ON AWARD TO COMPANIES OWNED BY THE PEOPLE'S REPUBLIC OF CHINA (FEB 2000)

(a) *Definition.* ''People's Republic of China,'' as used in this provision, means the government of the People's Republic of China, including its political subdivisions, agencies, and instrumentalities.

(b) *Prohibition on award.* Section 8120 of the Department of Defense Appropriations Act for fiscal year 1999 (Pub. L. 105–262), as amended by Section 144 of Title I, Division C, of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L. 105–277), prohibits the award of a contract under this solicitation to any company in which the Director of Defense Procurement (Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics)) has determined that the People's Republic of China or the People's Liberation Army of the People's Republic of China owns more than 50 percent interest.

(c) *Representation.* By submission of an offer, the offeror represents that the People's Republic of China or the People's Liberation Army of the People's Republic of China does not own more than 50 percent interest in the offeror.

(End of provision)

[65 FR 6554, Feb. 10, 2000]

252.225–7018 Notice of prohibition of certain contracts with foreign entities for the conduct of Ballistic Missile Defense RDT&E.

As prescribed in 225.7011–5, use the following provision:

NOTICE OF PROHIBITION OF CERTAIN CONTRACTS WITH FOREIGN ENTITIES FOR THE CONDUCT OF BALLISTIC MISSILE DEFENSE RDT&E (JAN 1997)

(a) Definitions.

(1) *Competent* means the ability of an offeror to satisfy the requirements of the solicitation. This determination is based on a comprehensive assessment of each offeror's proposal including consideration of the specific areas of evaluation criteria in the relative order of importance described in the solicitation.

(2) *Foreign firm* means a business entity owned or controlled by one or more foreign nationals or a business entity in which more than 50 percent of the stock is owned or controlled by one or more foreign nationals.

(3) *U.S. firm* means a business entity other than a foreign firm.

(b) This provision implements section 222 of the Defense Authorization Act for FYs 1988 and 1989 (Pub. L. 100–180) prohibiting the award of certain contracts, for the conduct of Ballistic Missile Defense (BMD) Program research, development, test, or evaluation (RDT&E), to foreign governments or firms.

(c) Except as provided in paragraph (d) of this provision, any funds appropriated to, or for the use of, the DoD, may not be used to enter into or carry out any contract, including any contract awarded as a result of a broad agency announcement (BAA), with a foreign government or firm if the contract provides for the conduct of RDT&E in connection with the BMD. Foreign governments and firms, however, are encouraged to submit offers since this provision is not intended to restrict BMD access to unique foreign expertise when contract performance requires a level of competency unavailable in the United States.

(d) The prohibition does not apply to a foreign government or firm if—

(1) The contract will be performed within the United States;

(2) The contract is exclusively for RDT&E in connection with antitactical ballistic missile systems;

(3) The foreign government or firm agrees to share a substantial portion of the total contract cost. The foreign share is considered substantial where it is equitable with respect to the relative benefits to be derived from the contract by the United States and the foreign parties. For example, if the contract is more beneficial to the foreign party, its share of the costs should be correspondingly higher; or

(4) The U.S. Government determines that the contract cannot be competently performed by a U.S. firm at a price equal to or less than the price at which the RDT&E can be performed by a foreign government or firm.

(e) The offeror (_______) is (_______) is not a U.S. firm.

(End of provision)

[56 FR 36479, July 31, 1991, as amended at 59 FR 27675, May 27, 1994; 62 FR 2614, Jan. 17, 1997]

252.225–7019 Restriction on acquisition of foreign anchor and mooring chain.

As prescribed in 225.7012–3, use the following clause:

RESTRICTION ON ACQUISITION OF FOREIGN ANCHOR AND MOORING CHAIN (DEC 1991)

(a) Welded shipboard anchor and mooring chain, four inches in diameter and under, delivered under this contract—

(1) Shall be manufactured in the United States, including cutting, heat treating, quality control, testing, and welding (both forging and shot blasting process); and

(2) The cost of the components manufactured in the United States shall exceed 50 percent of the total cost of components.

(b) The Contractor may request a waiver of this restriction if adequate domestic supplies meeting the above requirements are not available to meet the contract delivery schedule.

(c) The Contractor shall include this clause, including this paragraph (c), in all subcontracts, unless the items acquired contain none of the restricted welded shipboard anchor and mooring chain.

(End of clause)

[56 FR 36479, July 31, 1991, as amended at 61 FR 13108, Mar. 26, 1996]

252.225–7020 Trade agreements certificate.

As prescribed in 225.1101(10), use the following provision:

TRADE AGREEMENTS CERTIFICATE (MAR 1998)

(a) *Definitions. Caribbean Basin country end product, designated country end product, NAFTA country end product, nondesignated country end product, qualifying country end product*, and *U.S. made end product* have the meanings given in the Trade Agreements clause of this solicitation.

(b) *Evaluation.* Offers will be evaluated in accordance with the policies and procedures of part 225 of the Defense Federal Acquisition Regulation Supplement. Offers of foreign end products that are not U.S. made, qualifying country, designated country, Caribbean Basin country, or NAFTA country end products will not be considered for award, unless the Contracting Officer determines that there are not offers of such end products; or the offers of such end products are insufficient to fulfill the requirements; or a national interest exception to the Trade Agreements Act is granted.

(c) *Certifications.* (1) The offeror certifies that each end product to be delivered under this contract, except those listed in paragraph (c)(2) of this provision, is a U.S. made, qualifying country, designated country, Caribbean Basin country, or NAFTA country end product.

(2) The following supplies are other nondesignated country end products:

(insert line item number)

(insert country of origin)

(End of provision)

[63 FR 11545, Mar. 9, 1998, as amended at 65 FR 19858, Apr. 13, 2000]

252.225–7021 Trade agreements.

As prescribed in 225.1101(11), use the following clause:

TRADE AGREEMENTS (SEP 2001)

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

(1) *Caribbean Basin country* means—

Antigua and Barbuda
Aruba
Bahamas
Barbados
Belize
British Virgin Islands
Costa Rica
Dominica
El Salvador
Grenada
Guatemala
Guyana
Haiti
Jamaica
Montserrat
Netherlands Antilles
Nicaragua
St. Kitts-Nevis
St. Lucia
St. Vincent and the Grenadines
Trinidad and Tobago

(2) *Caribbean Basin country end product*—

(i) Means an article that—

(A) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(B) In the case of an article that consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself; and

(ii) Excludes products, other than petroleum and any product derived from petroleum, that are not granted duty-free treatment under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)). These exclusions presently consist of—

(A) Textiles, apparel articles, footwear, handbags, luggage, flat goods, work gloves, leather wearing apparel, and handloomed, handmade, or folklore articles that are not granted duty-free status in the Harmonized Tariff Schedule of the United States (HTSUS);

(B) Tuna, prepared or preserved in any manner in airtight containers; and

(C) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical,