



OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

JUL 06 2005

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

DPAP(DAR)

In reply refer to
DAR Tracking Number: 2005-O0004

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY ASSISTANT SECRETARY OF THE ARMY,
(POLICY AND PROCUREMENT), ASA(ALT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(ACQUISITION MANAGEMENT), ASN(RDA)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY
EXECUTIVE DIRECTOR, ACQUISITION, TECHNOLOGY AND
SUPPLY DIRECTORATE (DLA)

SUBJECT: Class Deviation—Exemption from Limitations on Procurement of Foreign
Information Technology that is a Commercial Item, FY 2005

When using fiscal year 2005 funds to acquire information technology that is a commercial item, do not use any of the following Defense Federal Acquisition Regulation Supplement (DFARS) provisions and clauses as prescribed at DFARS 225.1101(1), (2), (9), and (10) or the associated FAR clauses which they otherwise replace:

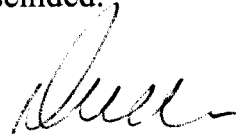
- 252.225-7000, Buy American Act—Balance of Payments Program Certificate.
- 252.225-7001, Buy American Act and Balance of Payments Program.
- 252.225-7035, Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate.
- 252.225-7036, Buy American Act—Free Trade Agreements—Balance of Payments Program.

The Buy American Act does not apply to these acquisitions of foreign information technology because Section 517 of Division H Title II of the Consolidated Appropriations Act, 2005 (Pub. L. 108-447) provides exemption (Atch 1).



When applicable, continue to use the Trade Agreements provision and clause at 252.225-7020 and 252.225-7021, as prescribed at 225.1101(5) and (6).

This class deviation is effective upon signature, and remains in effect until incorporated in the DFARS or until otherwise rescinded.

A handwritten signature in black ink, appearing to read "Deidre A. Lee". The signature is fluid and cursive, with a long horizontal stroke at the end.

Deidre A. Lee
Director, Defense Procurement
and Acquisition Policy

Attachment:
As stated

cc:
DSMC, Ft. Belvoir

Pub. L. 108-447
Enacted 12/8/2004

H.R.4818

*One Hundred Eighth Congress
of the
United States of America
AT THE SECOND SESSION*

Begun and held at the City of Washington on Tuesday,
the twentieth day of January, two thousand and four

An Act

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Consolidated Appropriations Act, 2005'.

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**DIVISION H--TRANSPORTATION, TREASURY, INDEPENDENT
AGENCIES, AND GENERAL GOVERNMENT APPROPRIATIONS
ACT, 2005**

* * * * *

TITLE II

DEPARTMENT OF THE TREASURY

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SEC. 517. In order to promote Government access to commercial information technology, the restriction on purchasing nondomestic articles, materials, and supplies set forth in the Buy American Act (41 U.S.C. 10a et seq.), shall not apply to the acquisition by the Federal Government of information technology (as defined in section 11101 of title 40, United States Code, that is a commercial item (as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))).