

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(Revised January 13, 2004)

225.000 Scope of part.

This part also provides policy and procedures for—

- (1) Purchasing foreign defense supplies, services, and construction materials with special procedures for--
 - (i) Contracting with Canadian and other qualifying country sources; and
 - (ii) Cooperative projects;
- (2) Implementing statutory and policy restrictions on foreign acquisition;
- (3) Reporting contract performance outside the United States;
- (4) Foreign military sales acquisitions; and
- (5) Antiterrorism/force protection for defense contractors outside the United States.

225.001 General.

When evaluating offers of foreign end products, consider the following:

- (1) *Statutory or policy restrictions.*
 - (i) Determine whether the product is restricted by—
 - (A) Statute (see Subpart 225.70); or
 - (B) DoD policy (see Subpart 225.71 and FAR 6.302-3).
 - (ii) If an exception to or waiver of a restriction in Subpart 225.70 or 225.71 would result in award of a foreign end product, apply the policies and procedures of the Buy American Act or the Balance of Payments Program, and, if applicable, the trade agreements.
- (2) *Memoranda of understanding or other international agreements.* Determine whether the offered product is the product of one of the qualifying countries listed in 225.872-1.
- (3) *Trade agreements.* If the product is not an eligible product, a qualifying country end product, or a U.S.-made end product, purchase of the foreign end product may be prohibited (see FAR 25.403(c) and 225.403(c)).

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(4) *Other trade sanctions and prohibited sources.*

(i) Determine whether the offeror complies with the secondary Arab boycott of Israel. Award to such offerors may be prohibited (see 225.670).

(ii) Determine whether the offeror is a prohibited source (see Subpart 225.7).

(5) *Buy American Act and Balance of Payments Program.* See the evaluation procedures in Subpart 225.5.

225.003 Definitions.

As used in this part--

(1) "Caribbean Basin country end product" includes petroleum or any product derived from petroleum.

(2) "Defense equipment" means any equipment, item of supply, component, or end product purchased by DoD.

(3) "Domestic concern" means--

(i) A concern incorporated in the United States (including a subsidiary that is incorporated in the United States, even if the parent corporation is a foreign concern); or

(ii) An unincorporated concern having its principal place of business in the United States.

(4) "Domestic end product" has the meaning given in the clauses at 252.225-7001, Buy American Act and Balance of Payments Program; and 252.225-7036, Buy American Act--Free Trade Agreements--Balance of Payments Program, instead of the meaning in FAR 25.003.

(5) "Eligible product" means, instead of the definition in FAR 25.003--

(i) A foreign end product that--

(A) Is in a category listed in 225.401-70; and

(B) Is not subject to discriminatory treatment, due to the applicability of a trade agreement to a particular acquisition; or

(ii) A foreign service that is not subject to discriminatory treatment, due to the applicability of a trade agreement to a particular acquisition.

(6) "Foreign concern" means any concern other than a domestic concern.

(7) "Nonqualifying country" means a country other than the United States or a qualifying country.

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(8) "Nonqualifying country component" means a component mined, produced, or manufactured in a nonqualifying country.

(9) "Qualifying country" means a country with a memorandum of understanding or international agreement with the United States. Qualifying countries are listed in 225.872-1.

(10) "Qualifying country component" and "qualifying country end product" are defined in the clauses at 252.225-7001, Buy American Act and Balance of Payments Program; and 252.225-7036, Buy American Act--Free Trade Agreements--Balance of Payments Program. "Qualifying country end product" is also defined in the clause at 252.225-7021, Trade Agreements.

(11) "Qualifying country offer" means an offer of a qualifying country end product, including the price of transportation to destination.

(12) "Source," when restricted by words such as foreign, domestic, or qualifying country, means the actual manufacturer or producer of the end product or component.