

Defense Federal Acquisition Regulation Supplement

Part 204—Administrative Matters

TABLE OF CONTENTS (Revised February 23, 2006)

SUBPART 204.1—CONTRACT EXECUTION

204.101 Contracting officer's signature.

SUBPART 204.2—CONTRACT DISTRIBUTION

204.201 Procedures.

204.203 Taxpayer identification information.

SUBPART 204.4—SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

204.402 General.

204.404 Contract clause.

204.404-70 Additional contract clauses.

SUBPART 204.6—CONTRACT REPORTING

204.600 Scope of subpart.

204.601 Record requirements.

204.602 Federal Procurement Data System.

204.670 Defense contract action data system (DCADS).

204.670-1 Definitions.

204.670-2 Reportable contracting actions.

204.670-3 Contracting office responsibilities.

204.670-4 Contract administration office responsibilities.

204.670-5 Departmental data collection point responsibilities.

204.670-6 Types of DD Form 350 reports.

204.670-7 Report formats.

204.670-8 Security classification.

SUBPART 204.8—CONTRACT FILES

204.802 Contract files.

204.804 Closeout of contract files.

204.804-1 Closeout by the office administering the contract.

204.804-2 Closeout of the contracting office files if another office administers the contract.

204.805 Disposal of contract files.

SUBPART 204.9—TAXPAYER IDENTIFICATION NUMBER INFORMATION

204.902 General.

SUBPART 204.11—CENTRAL CONTRACTOR REGISTRATION

204.1103 Procedures.

204.1104 Solicitation provision and contract clauses.

SUBPART 204.70—UNIFORM PROCUREMENT INSTRUMENT IDENTIFICATION NUMBERS

204.7000 Scope.

204.7001 Policy.

204.7002 Procedures.

204.7003 Basic PII number.

Defense Federal Acquisition Regulation Supplement

Part 204—Administrative Matters

- 204.7004 Supplementary PII numbers.
- 204.7005 Assignment of order codes.

SUBPART 204.71—UNIFORM CONTRACT LINE ITEM NUMBERING SYSTEM

- 204.7100 Scope.
- 204.7101 Definitions.
- 204.7102 Policy.
- 204.7103 Contract line items.
- 204.7103-1 Criteria for establishing.
- 204.7103-2 Numbering procedures.
- 204.7104 Contract subline items.
- 204.7104-1 Criteria for establishing.
- 204.7104-2 Numbering procedures.
- 204.7105 Contract exhibits and attachments.
- 204.7106 Contract modifications.
- 204.7107 Contract accounting classification reference number (ACRN).
- 204.7108 Payment instructions.
- 204.7109 Contract clause.

SUBPART 204.72—CONTRACTOR IDENTIFICATION

- 204.7200 Scope of subpart.
- 204.7201 Definitions.
- 204.7202 General.
- 204.7202-1 CAGE codes.
- 204.7202-2 DUNS numbers.
- 204.7202-3 TINs.
- 204.7203 Responsibilities of contracting officers.
- 204.7204 Maintenance of the CAGE file.
- 204.7205 Novation agreements, mergers and sales of assets.
- 204.7206 Using CAGE codes to identify agents and brokers.
- 204.7207 Solicitation provision.

Defense Federal Acquisition Regulation Supplement

Part 204—Administrative Matters

SUBPART 204.1—CONTRACT EXECUTION *(Revised February 23, 2006)*

204.101 Contracting officer's signature.

Follow the procedures at PGI 204.101 for signature of contract documents.

**SUBPART 204.4—SAFEGUARDING CLASSIFIED INFORMATION WITHIN
INDUSTRY**

(Revised February 23, 2006)

204.402 General.

DoD employees or members of the Armed Forces who are assigned to or visiting a contractor facility and are engaged in oversight of an acquisition program will retain control of their work products, both classified and unclassified.

204.404 Contract clause.

204.404-70 Additional contract clauses.

(a) Use the clause at 252.204-7000, Disclosure of Information, in solicitations and contracts when the contractor will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public.

(b) Use the clause at 252.204-7003, Control of Government Personnel Work Product, in all solicitations and contracts.

(c) Use the clause at 252.204-7005, Oral Attestation of Security Responsibilities, in solicitations and contracts that include the clause at FAR 52.204-2, Security Requirements.

Defense Federal Acquisition Regulation Supplement

Part 204—Administrative Matters

SUBPART 204.9—TAXPAYER IDENTIFICATION NUMBER INFORMATION *(Revised February 23, 2006)*

204.902 General.

(b) DoD uses DD Form 350, Individual Contracting Action Report, to meet these reporting requirements.

SUBPART 204.71—UNIFORM CONTRACT LINE ITEM NUMBERING SYSTEM

(Revised February 23, 2006)

204.7100 Scope.

This subpart prescribes policies and procedures for assigning contract line item numbers.

204.7101 Definitions.

“Accounting classification reference number (ACRN)” means any combination of a two position alpha/numeric code used as a method of relating the accounting classification citation to detailed line item information contained in the schedule.

“Attachment” means any documentation, appended to a contract or incorporated by reference, which does not establish a requirement for deliverables.

“Definitized item,” as used in this subpart, means an item for which a firm price has been established in the basic contract or by modification.

“Exhibit” means a document, referred to in a contract, which is attached and establishes requirements for deliverables. The term shall not be used to refer to any other kind of attachment to a contract. The DD Form 1423, Contract Data Requirements List, is always an exhibit, rather than an attachment.

“Nonseverable deliverable,” as used in this subpart, means a deliverable item that is a single end product or undertaking, entire in nature, that cannot be feasibly subdivided into discrete elements or phases without losing its identity.

“Undefinitized item,” as used in this subpart, means an item for which a price has not been established in the basic contract or by modification.

204.7102 Policy.

- (a) The numbering procedures of this subpart shall apply to all—
- (1) Solicitations;
 - (2) Solicitation line and subline item numbers;
 - (3) Contracts as defined in FAR Subpart 2.1;
 - (4) Contract line and subline item numbers;
 - (5) Exhibits;
 - (6) Exhibit line and subline items; and
 - (7) Any other document expected to become part of the contract.

(b) The numbering procedures are mandatory for all contracts where separate contract line item numbers are assigned, unless—

(1) The contract is an indefinite-delivery type for petroleum products against which posts, camps, and stations issue delivery orders for products to be consumed by them; or

(2) The contract is a communications service authorization issued by the Defense Information Systems Agency's Defense Information Technology Contracting Organization.

204.7103 Contract line items.

204.7103-1 Criteria for establishing.

Contracts shall identify the items or services to be acquired as separate contract line items unless it is not feasible to do so.

(a) Contract line items shall have all four of the following characteristics; however, there are exceptions within the characteristics, which may make establishing a separate contract line item appropriate even though one of the characteristics appears to be missing—

(1) *Single unit price.* The item shall have a single unit price or a single total price, except—

(i) If the item is not separately priced (NSP) but the price is included in the unit price of another contract line item, enter NSP instead of the unit price;

(ii) When there are associated subline items, established for other than informational reasons, and those subline items are priced in accordance with 204.7104;

(iii) When the items or services are being acquired on a cost-reimbursement contract;

(iv) When the contract is for maintenance and repair services (e.g., a labor hour contract) and firm prices have been established for elements of the total price of an item but the actual number and quantity of the elements are not known until performance. The contracting officer may structure these contracts to reflect a firm or estimated total amount for each line item;

(v) When the contract line item is established to refer to an exhibit or an attachment (if management needs dictate that a unit price be entered, the price shall be set forth in the item description block and enclosed in parentheses); or

(vi) When the contract is an indefinite delivery type contract and provides that the price of an item shall be determined at the time a delivery order is placed and the price is influenced by such factors as the quantity ordered (e.g., 10-99 @ \$1.00, 100-249 @ \$.98, 250+ @ \$.95), the destination, the FOB point, or the type of packaging required.

(2) *Separately identifiable.* A contract line item must be identified separately from any other items or services on the contract.

Defense Federal Acquisition Regulation Supplement

Part 204—Administrative Matters

- (i) Supplies are separately identifiable if they have no more than one—
 - (A) National stock number (NSN);
 - (B) Item description; or
 - (C) Manufacturer's part number.
- (ii) Services are separately identifiable if they have no more than one—
 - (A) Scope of work; or
 - (B) Description of services.

(iii) This requirement does not apply if there are associated subline items, established for other than informational reasons, and those subline items include the actual detailed identification in accordance with 204.7104. Where this exception applies, use a general narrative description instead of the contract item description.

(3) *Separate delivery schedule.* Each contract line item or service shall have its own delivery schedule, period of performance, or completion date expressly stated (“as required” constitutes an expressly stated delivery term).

(i) The fact that there is more than one delivery date, destination, performance date, or performance point may be a determining factor in the decision as to whether to establish more than one contract line item.

(ii) If a contract line item has more than one destination or delivery date, the contracting officer may create individual contract line items for the different destinations or delivery dates, or may specify the different delivery dates for the units by destination in the delivery schedule.

(4) *Single accounting classification citation.*

(i) Each contract line item shall reference a single accounting classification citation except as provided in paragraph (a)(4)(ii) of this subsection.

(ii) The use of multiple accounting classification citations for a contract line item is authorized in the following situations:

(A) A single, nonseverable deliverable to be paid for with R&D or other funds properly incrementally obligated over several fiscal years in accordance with DoD policy;

(B) A single, nonseverable deliverable to be paid for with different authorizations or appropriations, such as in the acquisition of a satellite or the modification of production tooling used to produce items being acquired by several activities; or

Defense Federal Acquisition Regulation Supplement

Part 204—Administrative Matters

(C) A modification to an existing contract line item for a nonseverable deliverable that results in the delivery of a modified item(s) where the item(s) and modification are to be paid for with different accounting classification citations.

(iii) When the use of multiple accounting classification citations is authorized for a single contract line item, establish informational subline items for each accounting classification citation in accordance with 204.7104-1(a).

(b) All subline items and exhibit line items under one contract line item shall be the same contract type as the contract line item.

(c) For a contract that contains a combination of fixed-price line items, time-and-materials/labor-hour line items, and/or cost-reimbursement line items, identify the contract type for each contract line item in Section B, Supplies or Services and Prices/Costs, to facilitate appropriate payment.

(d) Exhibits may be used as an alternative to putting a long list of contract line items in the schedule. If exhibits are used, create a contract line item citing the exhibit's identifier. See 204.7105(a).

(e) If the contract involves a test model or a first article which must be approved, establish a separate contract line item or subline item for each item of supply or service which must be approved. If the test model or first article consists of a lot composed of a mixture of items, a single line item or subline item may be used for the lot.

(f) If a supply or service involves ancillary functions, like packaging and handling, transportation, payment of state or local taxes, or use of reusable containers, and these functions are normally performed by the contractor and the contractor is normally entitled to reimbursement for performing these functions, do not establish a separate contract line item solely to account for these functions. However, do identify the functions in the contract schedule. If the offeror separately prices these functions, contracting officers may establish separate contract line items for the functions; however, the separate line items must conform to the requirements of paragraph (a) of this subsection.

204.7103-2 Numbering procedures.

Follow the procedures at PGI 204.7103-2 for numbering contract line items.

204.7104 Contract subline items.

204.7104-1 Criteria for establishing.

Contract subline items provide flexibility to further identify elements within a contract line item for tracking performance or simplifying administration. There are only two kinds of subline items: those which are informational in nature and those which consist of more than one item that requires separate identification.

(a) Informational subline items.

(1) This type of subline item identifies information that relates directly to the contract line item and is an integral part of it (e.g., parts of an assembly or parts of a kit). These subline items shall not be scheduled separately for delivery, identified separately for shipment or performance, or priced separately for payment purposes.

Defense Federal Acquisition Regulation Supplement

Part 204—Administrative Matters

(2) The informational subline item may include quantities, prices, or amounts, if necessary to satisfy management requirements. However, these elements shall be included within the item description in the supplies/services column and enclosed in parentheses to prevent confusing them with quantities, prices, or amounts that have contractual significance. Do not enter these elements in the quantity and price columns.

(3) Informational subline items shall be used to identify each accounting classification citation assigned to a single contract line item number when use of multiple citations is authorized (see 204.7103-1(a)(4)(ii)).

(b) *Separately identified subline items.*

(1) Subline items will be used instead of contract line items to facilitate payment, delivery tracking, contract funds accounting, or other management purposes. Such subline items shall be used when items bought under one contract line item number—

(i) Are to be paid for from more than one accounting classification. A subline item shall be established for the quantity associated with the single accounting classification citation. Establish a line item rather than a subline item if it is likely that a subline item may be assigned additional accounting classification citations at a later date. Identify the funding as described in 204.7104-1(a)(3);

(ii) Are to be packaged in different sizes, each represented by its own NSN;

(iii) Have collateral costs, such as packaging costs, but those costs are not a part of the unit price of the contract line item;

(iv) Have different delivery dates or destinations or requisitions, or a combination of the three; or

(v) Identify parts of an assembly or kit which—

(A) Have to be separately identified at the time of shipment or performance; and

(B) Are separately priced.

(2) Each separately identified contract subline item shall have its own—

(i) Delivery schedule, period of performance, or completion date;

(ii) Unit price or single total price or amount (not separately priced (NSP) is acceptable as an entry for price or amount if the price is included in another subline item or a different contract line item). This requirement does not apply—

(A) If the subline item was created to refer to an exhibit or an attachment. If management needs dictate that a unit price be entered, the price shall be set forth in the item description block of the schedule and enclosed in parentheses; or

Defense Federal Acquisition Regulation Supplement

Part 204—Administrative Matters

(B) In the case of indefinite delivery contracts described at 204.7103-1(a)(1)(vi).

(iii) Identification (e.g., NSN, item description, manufacturer's part number, scope of work, description of services).

(3) Unit prices and extended amounts.

(i) The unit price and total amount for all subline items may be entered at the contract line item number level if the unit price for the subline items is identical. If there is any variation, the subline item unit prices shall be entered at the subline item level only.

(ii) The unit price and extended amounts may be entered at the subline items level.

(iii) The two methods in paragraphs (b)(3)(i) and (ii) of this subsection shall not be combined in a contract line item.

(iv) When the price for items not separately priced is included in the price of another subline item or contract line item, it may be necessary to withhold payment on the priced subline item until all the related subline items that are not separately priced have been delivered. In those cases, use the clause at 252.204-7002, Payment for Subline Items Not Separately Priced.

204.7104-2 Numbering procedures.

Follow the procedures at PGI 204.7104-2 for numbering contract subline items.

204.7105 Contract exhibits and attachments.

Follow the procedures at PGI 204.7105 for use and numbering of contract exhibits and attachments.

204.7106 Contract modifications.

(a) If new items are added, assign new contract line or subline item numbers or exhibit line item numbers, in accordance with the procedures established at 204.7103, 204.7104, and 204.7105.

(b) *Modifications to existing contract line items or exhibit line items.*

(1) If the modification relates to existing contract line items or exhibit line items, the modification shall refer to those item numbers.

(2) If the contracting officer decides to assign new identifications to existing contract or exhibit line items, the following rules apply—

(i) *Definitized and undefinitized items.*

(A) The original line item or subline item number may be used if the modification applies to the total quantity of the original line item or subline.

Defense Federal Acquisition Regulation Supplement

Part 204—Administrative Matters

(B) The original line item or subline item number may be used if the modification makes only minor changes in the specifications of some of the items ordered on the original line item or subline item and the resulting changes in unit price can be averaged to provide a new single unit price for the total quantity. If the changes in the specifications make the item significantly distinguishable from the original item or the resulting changes in unit price cannot be averaged, create a new line item.

(C) If the modification affects only a partial quantity of an existing contract or exhibit line item or subline item and the change does not involve either the delivery date or the ship-to/mark-for data, the original contract or exhibit line item or subline item number shall remain with the unchanged quantity. Assign the changed quantity the next available number.

(ii) *Undefinitized items*. In addition to the rules in paragraph (b)(2)(i), the following additional rules apply to undefinitized items—

(A) If the modification is undefinitized and increases the quantity of an existing definitized item, assign the undefinitized quantity the next available number.

(B) If the modification increases the quantity of an existing undefinitized item, the original contract or exhibit line item or subline item may be used if the unit price for the new quantity is expected to be the same as the price for the original quantity. If the unit prices of the two quantities will be different, assign the new quantity the next available number.

(C) If the modification both affects only a partial quantity of the existing contract or exhibit line or subline item and definitizes the price for the affected portion, the definitized portion shall retain the original item number. If there is any undefinitized portion of the item, assign it the next available number. However, if the modification definitizes the price for the whole quantity of the line item, and price impact of the changed work can be apportioned equally over the whole to arrive at a new unit price, the quantity with the changes can be added into the quantity of the existing item.

(D) If the modification affects only a partial quantity of an existing contract or exhibit line or subline item but does not change the delivery schedule or definitize price, the unchanged portion shall retain the original contract or exhibit line or subline item number. Assign the changed portion the next available number.

(3) If the modification will decrease the amount obligated—

(i) There shall be coordination between the administrative and procuring contracting offices before issuance of the modification; and

(ii) The contracting officer shall not issue the modification unless sufficient unliquidated obligation exists or the purpose is to recover monies owed to the Government.

204.7107 Contract accounting classification reference number (ACRN).

Follow the procedures at PGI 204.7107 for assigning ACRNs.

204.7108 Payment instructions.

Defense Federal Acquisition Regulation Supplement

Part 204—Administrative Matters

Follow the procedures at PGI 204.7108 for inclusion of payment instructions in contracts.

204.7109 Contract clause.

Use the clause at 252.204-7006, Billing Instructions, in solicitations and contracts if Section G includes—

- (a) Any of the standard payment instructions at PGI 204.7108(d)(1) through (6); or
- (b) Other payment instructions, in accordance with PGI 204.7108(d)(12), that require contractor identification of the contract line item(s) on the payment request.

**SUBPART 212.3—SOLICITATION PROVISIONS AND CONTRACT CLAUSES
FOR THE ACQUISITION OF COMMERCIAL ITEMS**

(Revised February 23, 2006)

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f)(i) Use one of the following provisions as prescribed in Part 225:

(A) 252.225-7000, Buy American Act--Balance of Payments Program Certificate.

(B) 252.225-7020, Trade Agreements Certificate.

(C) 252.225-7035, Buy American Act--Free Trade Agreements--Balance of Payments Program Certificate.

(ii) Use the provision at 252.212-7000, Offeror Representations and Certifications--Commercial Items, in all solicitations for commercial items exceeding the simplified acquisition threshold. If an exception to 10 U.S.C. 2410i applies to a solicitation exceeding the simplified acquisition threshold (see 225.670-3), indicate on an addendum that “The certification in paragraph (b) of the provision at 252.212-7000 does not apply to this solicitation.”

(iii) Use the clause at 252.212-7001, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items, in all solicitations and contracts for commercial items, completing paragraphs (a) and (b), as appropriate.

(iv) Use the provision at 252.209-7001, Disclosure of Ownership or Control by the Government of a Terrorist Country, as prescribed in 209.104-70(a).

(v) Use the clause at 252.232-7009, Mandatory Payment by Governmentwide Commercial Purchase Card, as prescribed in 232.1110.

(vi) Use the clause at 252.211-7003, Item Identification and Valuation, as prescribed in 211.274-4.

(vii) Use the clause at 252.225-7040, Contractor Personnel Supporting a Force Deployed Outside the United States, as prescribed in 225.7402-4.

(viii) Use the clause at 252.225-7043, Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States, in solicitations and contracts that include the clause at 252.225-7040.

(ix) Use the clause at 252.211-7006, Radio Frequency Identification, as prescribed in 211.275-3.

212.302 Tailoring of provisions and clauses for the acquisition of commercial items.

Defense Federal Acquisition Regulation Supplement

Part 212—Acquisition of Commercial Items

(c) *Tailoring inconsistent with customary commercial practice.* The head of the contracting activity is the approval authority within the DoD for waivers under FAR 12.302(c).

SUBPART 225.11—SOLICITATION PROVISIONS AND CONTRACT CLAUSES
(Revised February 23, 2006)

225.1100 Scope of subpart.

This subpart prescribes the clauses that implement Subparts 225.1 through 225.10. The clauses that implement Subparts 225.70 through 225.75 are prescribed within those subparts.

225.1101 Acquisition of supplies.

(1) Use the provision at 252.225-7000, Buy American Act--Balance of Payments Program Certificate, instead of the provision at FAR 52.225-2, Buy American Act Certificate. Use the provision in any solicitation that includes the clause at 252.225-7001, Buy American Act and Balance of Payments Program.

(2) Use the clause at 252.225-7001, Buy American Act and Balance of Payments Program, instead of the clause at FAR 52.225-1, Buy American Act--Supplies, in solicitations and contracts unless--

(i) All line items will be acquired from a particular source or sources under the authority of FAR 6.302-3;

(ii) All line items must be domestic or qualifying country end products in accordance with Subpart 225.70. (However, the clause may still be required if Subpart 225.70 requires manufacture of the end product in the United States or in the United States or Canada, without a corresponding requirement for use of domestic components);

(iii) An exception to the Buy American Act or Balance of Payments Program applies; or

(iv) One or both of the following clauses will apply to all line items in the contract:

(A) 252.225-7021, Trade Agreements.

(B) 252.225-7036, Buy American Act--Free Trade Agreements--Balance of Payments Program.

(3) Use the clause at 252.225-7002, Qualifying Country Sources as Subcontractors, in solicitations and contracts that include one of the following clauses:

(i) 252.225-7001, Buy American Act and Balance of Payments Program.

(ii) 252.225-7021, Trade Agreements.

(iii) 252.225-7036, Buy American Act--Free Trade Agreements--Balance of Payments Program.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(4) Use the clause at 252.225-7013, Duty-Free Entry, instead of the clause at FAR 52.225-8. Do not use the clause for acquisitions of supplies that will not enter the customs territory of the United States.

(5) Use the provision at 252.225-7020, Trade Agreements Certificate, instead of the provision at FAR 52.225-6, Trade Agreements Certificate, in solicitations that include the clause at 252.225-7021, Trade Agreements.

(6)(i) Use the clause at 252.225-7021, Trade Agreements, instead of the clause at FAR 52.225-5, Trade Agreements, if the Trade Agreements Act applies.

(ii) Do not use the clause if purchase from foreign sources is restricted, unless the contracting officer anticipates a waiver of the restriction.

(iii) The acquisition of eligible and noneligible products under the same contract may result in the application of trade agreements to only some of the items acquired. In such case, indicate in the Schedule those items covered by the Trade Agreements clause.

(7) Use the provision at 252.225-7032, Waiver of United Kingdom Levies—Evaluation of Offers, in solicitations if a U.K. firm is expected to--

(i) Submit an offer; or

(ii) Receive a subcontract exceeding \$1 million.

(8) Use the clause at 252.225-7033, Waiver of United Kingdom Levies, in solicitations and contracts if a U.K. firm is expected to--

(i) Submit an offer; or

(ii) Receive a subcontract exceeding \$1 million.

(9) Use the provision at 252.225-7035, Buy American Act--Free Trade Agreements--Balance of Payments Program Certificate, instead of the provision at FAR 52.225-4, Buy American Act--Free Trade Agreements--Israeli Trade Act Certificate, in solicitations that include the clause at 252.225-7036, Buy American Act--Free Trade Agreements--Balance of Payments Program. Use the provision with its Alternate I when the clause at 252.225-7036 is used with its Alternate I.

(10)(i) Use the clause at 252.225-7036, Buy American Act--Free Trade Agreements--Balance of Payments Program, instead of the clause at FAR 52.225-3, Buy American Act--Free Trade Agreements--Israeli Trade Act, in solicitations and contracts for the items listed at 225.401-70, when the estimated value equals or exceeds \$25,000, but is less than \$193,000, and a Free Trade Agreement applies to the acquisition.

(A) Use the basic clause when the estimated value equals or exceeds \$64,786.

(B) Use the clause with its Alternate I when the estimated value equals or exceeds \$25,000 but is less than \$64,786.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(ii) Do not use the clause if purchase from foreign sources is restricted (see 225.401(a)(2)), unless the contracting officer anticipates a waiver of the restriction.

(iii) The acquisition of eligible and noneligible products under the same contract may result in the application of a Free Trade Agreement to only some of the items acquired. In such case, indicate in the Schedule those items covered by the Buy American Act--Free Trade Agreements--Balance of Payments Program clause.

225.1103 Other provisions and clauses.

(1) Unless the contracting officer knows that the prospective contractor is not a domestic concern, use the clause at 252.225-7005, Identification of Expenditures in the United States, in solicitations and contracts that--

(i) Exceed the simplified acquisition threshold; and

(ii) Are for the acquisition of--

(A) Supplies for use outside the United States;

(B) Construction to be performed outside the United States; or

(C) Services to be performed primarily outside the United States.

(2) Unless an exception applies or a waiver has been granted in accordance with Subpart 225.6, use the provision at 252.225-7031, Secondary Arab Boycott of Israel, in all solicitations.

(3) Use the clause at 252.225-7041, Correspondence in English, in solicitations and contracts when contract performance will be wholly or in part in a foreign country.

(4) Use the provision at 252.225-7042, Authorization to Perform, in solicitations when contract performance will be wholly or in part in a foreign country.

SUBPART 225.4—TRADE AGREEMENTS

(Revised February 23, 2006)

225.401 Exceptions.

(a)(2) If a department or agency considers an individual acquisition of a product to be indispensable for national security or national defense purposes and appropriate for exclusion from the provisions of FAR Subpart 25.4, it may submit a request with supporting rationale to the Director of Defense Procurement and Acquisition Policy (OUSD(AT&L)DPAP). Approval by OUSD(AT&L)DPAP is not required if--

- (A) Purchase from foreign sources is restricted by statute (see Subpart 225.70);
- (B) Another exception in FAR 25.401 applies to the acquisition; or
- (C) Competition from foreign sources is restricted under Subpart 225.71.

225.401-70 End products subject to trade agreements.

Acquisitions of end products in the following Federal supply groups (FSG) are covered by trade agreements if the value of the acquisition is at or above the applicable trade agreement threshold and no exception applies. If an end product is not in one of the listed groups, the trade agreements do not apply. The definition of Caribbean Basin country end products in FAR 25.003 excludes those end products that are not eligible for duty-free treatment under 19 U.S.C. 2703(b). Therefore certain watches, watch parts, and luggage from certain Caribbean Basin countries are not eligible products. However, 225.003 expands the definition of Caribbean Basin country end products to include petroleum and any product derived from petroleum, in accordance with Section 8094 of Pub. L. 103-139.

<u>FSG</u>	<u>Category/Description</u>
22	Railway equipment
23	Motor vehicles, trailers, and cycles (except 2350 and buses under 2310)
24	Tractors
25	Vehicular equipment components
26	Tires and tubes
29	Engine accessories
30	Mechanical power transmission equipment
32	Woodworking machinery and equipment
34	Metalworking machinery
35	Service and trade equipment
36	Special industry machinery (except 3690)
37	Agricultural machinery and equipment
38	Construction, mining, excavating, and highway maintenance equipment
39	Materials handling equipment
40	Rope, cable, chain and fittings
41	Refrigeration and air conditioning equipment
42	Fire fighting, rescue and safety equipment
43	Pumps and compressors
44	Furnace, steam plant and drying equipment (except 4470)

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

- 45 Plumbing, heating, and sanitation equipment
- 46 Water purification and sewage treatment equipment
- 47 Piping, tubing, hose, and fitting
- 48 Valves
- 49 Maintenance and repair shop equipment (except 4920-4927, 4931-4935, 4960)
- 53 Hardware and abrasives
- 54 Prefabricated structures and scaffolding
- 55 Lumber, millwork, plywood, and veneer
- 56 Construction and building materials
- 61 Electric wire, and power and distribution equipment
- 62 Lighting fixtures and lamps
- 63 Alarm and signal systems
- 65 Medical, dental, and veterinary equipment and supplies
- 66 Instruments and laboratory equipment (except aircraft clocks under 6645) -
See FAR 25.003 exclusion of certain watches and watch parts for certain
Caribbean Basin countries
- 67 Photographic equipment
- 68 Chemicals and chemical products
- 69 Training aids and devices
- 70 General purpose ADPE, software, supplies, and support equipment
- 71 Furniture
- 72 Household and commercial furnishings and appliances
- 73 Food preparation and serving equipment
- 74 Office machines, visible record equipment and ADP equipment
- 75 Office supplies and devices
- 76 Books, maps, and other publications
- 77 Musical instruments, phonographs, and home type radios
- 78 Recreational and athletic equipment
- 79 Cleaning equipment and supplies
- 80 Brushes, paints, sealers, and adhesives
- 81 Containers, packaging and packing supplies (except 8140)
- 83 Pins, needles, and sewing kits (only part of 8315) and flag staffs, flagpoles,
and flagstaff trucks (only part of 8345)
- 84 Luggage (only 8460) - See FAR 25.003 for exclusion of luggage for
Caribbean Basin countries
- 85 Toiletries
- 87 Agricultural supplies
- 88 Live animals
- 89 Tobacco products (only 8975)
- 91 Fuels, oils, and waxes
- 93 Nonmetallic fabricated materials
- 94 Nonmetallic crude materials
- 96 Ores, minerals, and their primary products
- 99 Miscellaneous

225.402 General.

To estimate the value of the acquisition, use the total estimated value of end products covered by trade agreements (see 225.401-70).

225.403 World Trade Organization Government Procurement Agreement and Free Trade Agreements.

(c) For acquisitions of supplies covered by the World Trade Organization Government Procurement Agreement, acquire only U.S.-made, qualifying country, or designated country end products unless—

(i) The contracting officer determines that offers of U.S.-made, qualifying country, or designated country end products from responsive, responsible offerors are either—

(A) Not received; or

(B) Insufficient to fill the Government's requirements. In this case, accept all responsive, responsible offers of U.S.-made, qualifying country, and eligible products before accepting any other offers; or

(ii) A national interest waiver under 19 U.S.C. 2512(b)(2) is granted on a case-by-case basis. Except as delegated in paragraphs (c)(i)(A) and (B) of this section, submit any request for a national interest waiver to the Director of Defense Procurement and Acquisition Policy in accordance with department or agency procedures. Include supporting rationale with the request.

(A) The head of the contracting activity may approve a national interest waiver for a purchase by an overseas purchasing activity, if the waiver is supported by a written statement from the requiring activity that the products being acquired are critical for the support of U.S. forces stationed abroad.

(B) The Commander or Director, Defense Energy Support Center, may approve national interest waivers for purchases of fuel for use by U.S. forces overseas.

225.408 Procedures.

(a)(4) The requirements of FAR 25.408(a)(4), on submission of offers in U.S. dollars, do not apply to overseas acquisitions or to Defense Energy Support Center post, camp, or station overseas requirements.

SUBPART 225.75—BALANCE OF PAYMENTS PROGRAM

(Revised February 23, 2006)

225.7500 Scope of subpart.

This subpart provides policies and procedures implementing the Balance of Payments Program. It applies to contracts for the acquisition of--

- (a) Supplies for use outside the United States; and
- (b) Construction to be performed outside the United States.

225.7501 Policy.

Acquire only domestic end products for use outside the United States, and use only domestic construction material for construction to be performed outside the United States, including end products and construction material for foreign military sales, unless--

- (a) Before issuing the solicitation--
 - (1) The estimated cost of the acquisition or the value of a particular construction material is at or below the simplified acquisition threshold;
 - (2) The end product or particular construction material is--
 - (i) Listed in FAR 25.104 or 225.104(a)(iii);
 - (ii) A petroleum product;
 - (iii) A spare part for foreign-manufactured vehicles, equipment, machinery, or systems, provided the acquisition is restricted to the original manufacturer or its supplier;
 - (iv) An industrial gas; or
 - (v) A brand drug specified by the Defense Medical Materiel Board;
 - (3) The acquisition is covered by the World Trade Organization Government Procurement Agreement;
 - (4) The acquisition of foreign end products or construction material is required by a treaty or executive agreement between governments;
 - (5) The end product is acquired for commissary resale; or
 - (6) The contracting officer determines that a requirement can best be filled by a foreign end product or construction material, including determinations that--
 - (i) A subsistence product is perishable and delivery from the United States would significantly impair the quality at the point of consumption;

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(ii) An end product or construction material, by its nature or as a practical matter, can best be acquired in the geographic area concerned, e.g., ice or books; or bulk material, such as sand, gravel, or other soil material, stone, concrete masonry units, or fired brick;

(iii) A particular domestic construction material is not available;

(iv) The cost of domestic construction material would exceed the cost of foreign construction material by more than 50 percent, calculated on the basis of--

(A) A particular construction material; or

(B) The comparative cost of application of the Balance of Payments Program to the total acquisition; or

(v) Use of a particular domestic construction material is impracticable;

(b) After receipt of offers--

(1) The evaluated low offer (see Subpart 225.5) is an offer of an end product that--

(i) Is a qualifying country end product;

(ii) Is an eligible product; or

(iii) Is a nonqualifying country end product, but application of the Balance of Payments Program evaluation factor would not result in award on a domestic offer; or

(2) The construction material is an eligible product; or

(c) At any time during the acquisition process, the head of the agency determines that it is not in the public interest to apply the restrictions of the Balance of Payments Program to the end product or construction material.

225.7502 Procedures.

(a) *Solicitation of offers.* Identify, in the solicitation, supplies and construction material known in advance to be exempt from the Balance of Payments Program.

(b) *Evaluation of offers.* (1) *Supplies.* Unless the entire acquisition is exempt from the Balance of Payments Program, evaluate offers for supplies that are subject to the Balance of Payments Program using the evaluation procedures in Subpart 225.5. However, treatment of duty may differ when delivery is overseas.

(i) Duty may not be applicable to nonqualifying country offers.

(ii) The U.S. Government cannot guarantee the exemption of duty for components or end products imported into foreign countries.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(iii) Foreign governments may impose duties. Evaluate offers including such duties as offered.

(2) *Construction.* Because the contracting officer evaluates the estimated cost of foreign and domestic construction material in accordance with 225.7501(a)(5)(iv) before issuing the solicitation, no special procedures are required for evaluation of construction offers.

(c) *Postaward.* For construction contracts, the procedures at FAR 25.206, for noncompliance under the Buy American Act, also apply to noncompliance under the Balance of Payments Program.

225.7503 Contract clauses.

Unless the entire acquisition is exempt from the Balance of Payments Program--

(a) Use the clause at 252.225-7044, Balance of Payments Program--Construction Material, in solicitations and contracts for construction to be performed outside the United States with a value greater than the simplified acquisition threshold but less than \$7,407,000.

(b) Use the clause at 252.225-7045, Balance of Payments Program--Construction Material Under Trade Agreements, in solicitations and contracts for construction to be performed outside the United States with a value of \$7,407,000 or more. For acquisitions with a value of \$7,407,000 or more, but less than \$8,422,165, use the clause with its Alternate I.

Defense Federal Acquisition Regulation Supplement

Part 236—Construction and Architect-Engineer Contracts

TABLE OF CONTENTS (Revised February 23, 2006)

SUBPART 236.1—GENERAL

236.102 Definitions.

SUBPART 236.2—SPECIAL ASPECTS OF CONTRACTING FOR CONSTRUCTION

236.201 Evaluation of contractor performance.
236.203 Government estimate of construction costs.
236.204 Disclosure of the magnitude of construction projects.
236.206 Liquidated damages.
236.213 Special procedures for sealed bidding in construction contracting.
236.270 Expediting construction contracts.
236.271 Cost-plus-fixed-fee contracts.
236.272 Prequalification of sources.
236.273 Construction in foreign countries.

SUBPART 236.5—CONTRACT CLAUSES

236.570 Additional provisions and clauses.

SUBPART 236.6—ARCHITECT-ENGINEER SERVICES

236.601 Policy.
236.602 Selection of firms for architect-engineer contracts.
236.602-1 Selection criteria.
236.602-70 Restriction on award of overseas architect-engineer contracts to foreign firms.
236.604 Performance evaluation.
236.606 Negotiations.
236.606-70 Statutory fee limitation.
236.609 Contract clauses.
236.609-70 Additional provision and clause.

SUBPART 236.7—STANDARD AND OPTIONAL FORMS FOR CONTRACTING FOR CONSTRUCTION, ARCHITECT-ENGINEER SERVICES, AND DISMANTLING, DEMOLITION, OR REMOVAL OF IMPROVEMENTS

236.701 Standard and optional forms for use in contracting for construction or dismantling, demolition, or removal of improvements.

SUBPART 236.1—GENERAL
(Revised February 23, 2006)

236.102 Definitions.

- (1) “A-E” means architect-engineer.
- (2) “Construction activity” means an activity at any organizational level of the DoD that—
 - (i) Is responsible for the architectural, engineering, and other related technical aspects of the planning, design, and construction of facilities; and
 - (ii) Receives its technical guidance from the Army Office of the Chief of Engineers, Naval Facilities Engineering Command, or Air Force Directorate of Civil Engineering.
- (3) “Marshallese firm” is defined in the provision at 252.236-7012, Military Construction on Kwajalein Atoll--Evaluation Preference.
- (4) “United States firm” is defined in the provisions at 252.236-7010, Overseas Military Construction--Preference for United States Firms, and 252.236-7011, Overseas Architect-Engineer Services--Restriction to United States Firms.

**SUBPART 236.2—SPECIAL ASPECTS OF CONTRACTING FOR
CONSTRUCTION**

(Revised February 23, 2006)

236.201 Evaluation of contractor performance.

(a) *Preparation of performance evaluation reports.* Use DD Form 2626, Performance Evaluation (Construction), instead of SF 1420.

(c) Follow the procedures at PGI 236.201(c) for distribution and use of performance reports.

236.203 Government estimate of construction costs.

Follow the procedures at PGI 236.203 for handling the Government estimate of construction costs.

236.204 Disclosure of the magnitude of construction projects.

Additional price ranges are—

- (i) Between \$10,000,000 and \$25,000,000;
- (ii) Between \$25,000,000 and \$100,000,000;
- (iii) Between \$100,000,000 and \$250,000,000;
- (iv) Between \$250,000,000 and \$500,000,000; and
- (v) Over \$500,000,000.

236.206 Liquidated damages.

See 211.503 for instructions on use of liquidated damages.

236.213 Special procedures for sealed bidding in construction contracting.

If it appears that sufficient funds may not be available for all the desired construction features, consider using a bid schedule with additive or deductive items in accordance with PGI 236.213.

236.270 Expediting construction contracts.

(a) 10 U.S.C. 2858 requires agency head approval to expedite the completion date of a contract funded by a Military Construction Appropriations Act, if additional costs are involved. This approval authority may not be redelegated. The approval authority must—

(1) Certify that the additional expenditures are necessary to protect the National interest; and

(2) Establish a reasonable completion date for the project.

(b) The contracting officer may approve an expedited completion date if no additional costs are involved.

236.271 Cost-plus-fixed-fee contracts.

Annual military construction appropriations acts restrict the use of cost-plus-fixed-fee contracts (see 216.306(c)).

236.272 Prequalification of sources.

(a) Prequalification procedures may be used when necessary to ensure timely and efficient performance of critical construction projects. Prequalification—

(1) Results in a list of sources determined to be qualified to perform a specific construction contract; and

(2) Limits offerors to those with proven competence to perform in the required manner.

(b) The head of the contracting activity must—

(1) Authorize the use of prequalification by determining, in writing, that a construction project is of an urgency or complexity that requires prequalification; and

(2) Approve the prequalification procedures.

(c) For small businesses, the prequalification procedures must require the qualifying authority to—

(1) Request a preliminary recommendation from the appropriate Small Business Administration regional office, if the qualifying authority believes a small business is not responsible;

(2) Permit the small business to submit a bid or proposal if the preliminary recommendation is that the small business is responsible; and

(3) Follow the procedures in FAR 19.6, if the small business is in line for award and is found nonresponsible.

236.273 Construction in foreign countries.

(a) In accordance with Section 112 of Pub. L. 105-45 and similar sections in subsequent military construction appropriations acts, military construction contracts funded with military construction appropriations, that are estimated to exceed \$1,000,000 and are to be performed in the United States outlying areas in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Gulf, shall be awarded only to United States firms, unless—

(1) The lowest responsive and responsible offer of a United States firm exceeds the lowest responsive and responsible offer of a foreign firm by more than 20 percent; or

(2) The contract is for military construction on Kwajalein Atoll and the lowest responsive and responsible offer is submitted by a Marshallese firm.

Defense Federal Acquisition Regulation Supplement

Part 236—Construction and Architect-Engineer Contracts

(b) See PGI 236.273(b) for guidance on technical working agreements with foreign governments.

Defense Federal Acquisition Regulation Supplement

Part 242—Contract Administration and Audit Services

TABLE OF CONTENTS (Revised February 23, 2006)

242.002 Interagency agreements.

SUBPART 242.2—CONTRACT ADMINISTRATION SERVICES

242.200-70 Scope of subpart.

242.202 Assignment of contract administration.

SUBPART 242.3—CONTRACT ADMINISTRATION OFFICE FUNCTIONS

242.301 General.

242.302 Contract administration functions.

SUBPART 242.5—POSTAWARD ORIENTATION

242.503 Postaward conferences.

242.503-2 Postaward conference procedure.

SUBPART 242.6—CORPORATE ADMINISTRATIVE CONTRACTING OFFICER

242.602 Assignment and location.

SUBPART 242.7—INDIRECT COST RATES

242.705 Final indirect cost rates.

242.705-1 Contracting officer determination procedure.

242.705-2 Auditor determination procedure.

242.770 Reserved.

242.771 Independent research and development and bid and proposal costs.

242.771-1 Scope.

242.771-2 Policy.

242.771-3 Responsibilities.

SUBPART 242.8—DISALLOWANCE OF COSTS

242.803 Disallowing costs after incurrence.

SUBPART 242.11—PRODUCTION SURVEILLANCE AND REPORTING

242.1104 Surveillance requirements.

242.1105 Assignment of criticality designator.

242.1106 Reporting requirements.

242.1107 Contract clause.

242.1107-70 Solicitation provisions and contract clauses.

SUBPART 242.12—NOVATION AND CHANGE-OF-NAME AGREEMENTS

242.1203 Processing agreements.

242.1204 Agreement to recognize a successor in interest (novation agreement).

SUBPART 242.14—TRAFFIC AND TRANSPORTATION MANAGEMENT

242.1402 Volume movements within the contiguous United States.

242.1403 Shipping documents covering f.o.b. origin shipments.

242.1404 Shipments by parcel post or other classes of mail.

242.1404-1 Parcel post eligible shipments.

242.1404-2 Contract clauses.

242.1404-2-70 Additional clause.

Defense Federal Acquisition Regulation Supplement

Part 242—Contract Administration and Audit Services

- 242.1405 Discrepancies incident to shipment of supplies.
- 242.1470 Demurrage and detention charges.

SUBPART 242.70—RESERVED

SUBPART 242.71—VOLUNTARY REFUNDS

- 242.7100 General.

SUBPART 242.72—CONTRACTOR MATERIAL MANAGEMENT AND ACCOUNTING SYSTEM

- 242.7200 Scope of subpart.
- 242.7201 Definitions.
- 242.7202 Policy.
- 242.7203 Review procedures.
- 242.7204 Contract clause.

SUBPART 242.73—CONTRACTOR INSURANCE/PENSION REVIEW

- 242.7301 General.
- 242.7302 Requirements.
- 242.7303 Responsibilities.

SUBPART 242.74—TECHNICAL REPRESENTATION AT CONTRACTOR FACILITIES

- 242.7400 General.
- 242.7401 Procedures.

SUBPART 242.75—CONTRACTOR ACCOUNTING SYSTEMS AND RELATED CONTROLS

- 242.7501 Policy.
- 242.7502 Procedures.

SUBPART 242.73—CONTRACTOR INSURANCE/PENSION REVIEW

(Revised February 23, 2006)

242.7301 General.

(a) The administrative contracting officer (ACO) is responsible for determining the allowability of insurance/pension costs in Government contracts and for determining the need for a Contractor/Insurance Pension Review (CIPR). Defense Contract Management Agency (DCMA) insurance/pension specialists and Defense Contract Audit Agency (DCAA) auditors assist ACOs in making these determinations, conduct CIPRs when needed, and perform other routine audits as authorized under FAR 42.705 and 52.215-2. A CIPR is a DCMA/DCAA joint review that—

(1) Provides an in-depth evaluation of a contractor's—

(i) Insurance programs;

(ii) Pension plans;

(iii) Other deferred compensation plans; and

(iv) Related policies, procedures, practices, and costs; or

(2) Concentrates on specific areas of the contractor's insurance programs, pension plans, or other deferred compensation plans.

(b) DCMA is the DoD Executive Agency for the performance of all CIPRs.

(c) DCAA is the DoD agency designated for the performance of contract audit responsibilities related to Cost Accounting Standards administration as described in FAR Subparts 30.2 and 30.6 as they relate to a contractor's insurance programs, pension plans, and other deferred compensation plans.

242.7302 Requirements.

Follow the procedures at PGI 242.7302 to determine if a CIPR is needed.

242.7303 Responsibilities.

Follow the procedures at PGI 242.7303 when conducting a CIPR.

Defense Federal Acquisition Regulation Supplement

Part 252--Solicitation Provisions and Contract Clauses

(Revised February 23, 2006)

252.212-7000 Offeror Representations and Certifications--Commercial Items.

As prescribed in 212.301(f)(ii), use the following provision:

OFFEROR REPRESENTATIONS AND CERTIFICATIONS--COMMERCIAL ITEMS (JUN 2005)

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

(1) “Foreign person” means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec. 2415).

(2) “United States” means the 50 States, the District of Columbia, outlying areas, and the outer Continental Shelf as defined in 43 U.S.C. 1331.

(3) “United States person” is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) *Certification.* By submitting this offer, the Offeror, if a foreign person, company or entity, certifies that it—

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec. 2407(a) prohibits a United States person from taking.

(c) *Representation of Extent of Transportation by Sea.* (This representation does not apply to solicitations for the direct purchase of ocean transportation services).

(1) The Offeror shall indicate by checking the appropriate blank in paragraph (c)(2) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term “supplies” is defined in the Transportation of Supplies by Sea clause of this solicitation.

(2) Representation. The Offeror represents that it—

_____ Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

_____ Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

Defense Federal Acquisition Regulation Supplement

Part 252--Solicitation Provisions and Contract Clauses

(3) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense Federal Acquisition Regulation Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

(End of provision)

252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.

As prescribed in 212.301(f)(iii), use the following clause:

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (FEB 2006)

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause which, if checked, is included in this contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

_____ 52.203-3 Gratuities (APR 1984) (10 U.S.C. 2207)

(b) The Contractor agrees to comply with any clause that is checked on the following list of Defense FAR Supplement clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components.

_____	252.205-7000	Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).
_____	252.219-7003	Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (APR 1996) (15 U.S.C. 637).
_____	252.219-7004	Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Test Program) (JUN 1997) (15 U.S.C. 637 note).
_____	252.225-7001	Buy American Act and Balance of Payments Program (JUN 2005) (41 U.S.C. 10a-10d, E.O. 10582).
_____	252.225-7012	Preference for Certain Domestic Commodities (JUN 2004) (10 U.S.C. 2533a).
_____	252.225-7014	Preference for Domestic Specialty Metals (JUN 2005) (10 U.S.C. 2533a).
_____	252.225-7015	Restriction on Acquisition of Hand or Measuring Tools (JUN 2005) (10 U.S.C. 2533a).
_____	252.225-7016	Restriction on Acquisition of Ball and Roller Bearings (JUN 2005) (___ Alternate I) (APR 2003) (10 U.S.C. 2534 and Section 8099 of Pub. L. 104-61 and similar sections in subsequent DoD appropriations acts).
_____	252.225-7021	Trade Agreements (FEB 2006) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).
_____	252.225-7027	Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).

Defense Federal Acquisition Regulation Supplement

Part 252--Solicitation Provisions and Contract Clauses

_____	252.225-7028	Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).
_____	252.225-7036	Buy American Act--Free Trade Agreements--Balance of Payments Program (JUN 2005) (___ Alternate I) (JAN 2005) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).
_____	252.225-7038	Restriction on Acquisition of Air Circuit Breakers (JUN 2005) (10 U.S.C. 2534(a)(3)).
_____	252.226-7001	Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Pub. L. 107-248 and similar sections in subsequent DoD appropriations acts).
_____	252.227-7015	Technical Data--Commercial Items (NOV 1995) (10 U.S.C. 2320).
_____	252.227-7037	Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).
_____	252.232-7003	Electronic Submission of Payment Requests (JAN 2004) (10 U.S.C. 2227).
_____	252.237-7019	Training for Contractor Personnel Interacting with Detainees (SEP 2005) (Section 1092 of Pub. L. 108-375).
_____	252.243-7002	Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
_____	252.247-7023	Transportation of Supplies by Sea (MAY 2002) (___ Alternate I) (MAR 2000) (___ Alternate II) (MAR 2000) (___ Alternate III) (MAY 2002) (10 U.S.C. 2631).
_____	252.247-7024	Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

252.225-7014	Preference for Domestic Specialty Metals, Alternate I (APR 2003) (10 U.S.C. 2533a).
252.237-7019	Training for Contractor Personnel Interacting with Detainees (SEP 2005) (Section 1092 of Pub. L. 108-375).
252.247-7023	Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
252.247-7024	Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(End of clause)

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(Revised February 23, 2006)

252.225-7000 Buy American Act—Balance of Payments Program Certificate.

As prescribed in 225.1101(1), use the following provision:

**BUY AMERICAN ACT--BALANCE OF PAYMENTS PROGRAM CERTIFICATE
(JUN 2005)**

(a) *Definitions.* “Domestic end product,” “foreign end product,” “qualifying country,” “qualifying country end product,” and “United States” have the meanings given in the Buy American Act and Balance of Payments Program clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will evaluate offers of qualifying country end products without regard to the restrictions of the Buy American Act or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American Act and Balance of Payments Program clause of this solicitation, the offeror certifies that—

(i) Each end product, except those listed in paragraphs (c)(2) or (3) of this provision, is a domestic end product; and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror certifies that the following end products are qualifying country end products:

Line Item Number

Country of Origin

(3) The following end products are other foreign end products:

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

Line Item Number

Country of Origin (If known)

(End of provision)

252.225-7001 Buy American Act and Balance of Payments Program.

As prescribed in 225.1101(2), use the following clause:

BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM (JUN 2005)

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

(1) “Component” means an article, material, or supply incorporated directly into an end product.

(2) “Domestic end product” means—

(i) An unmanufactured end product that has been mined or produced in the United States; or

(ii) An end product manufactured in the United States if the cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that—

(A) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(B) It is inconsistent with the public interest to apply the restrictions of the Buy American Act.

(3) “End product” means those articles, materials, and supplies to be acquired under this contract for public use.

(4) “Foreign end product” means an end product other than a domestic end product.

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(5) “Qualifying country” means any country set forth in subsection 225.872-1 of the Defense Federal Acquisition Regulation Supplement (DFARS).

(6) “Qualifying country component” means a component mined, produced, or manufactured in a qualifying country.

(7) “Qualifying country end product” means—

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if the cost of the following types of components exceeds 50 percent of the cost of all its components:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States.

(8) “United States” means the 50 States, the District of Columbia, and outlying areas.

(b) This clause implements the Buy American Act (41 U.S.C. Section 10a-d). Unless otherwise specified, this clause applies to all line items in the contract.

(c) The Contractor shall deliver only domestic end products unless, in its offer, it specified delivery of other end products in the Buy American Act—Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product, the Contractor shall deliver a qualifying country end product or, at the Contractor’s option, a domestic end product.

(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.

(End of clause)

252.225-7002 Qualifying Country Sources as Subcontractors.

As prescribed in 225.1101(3), use the following clause:

QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS (APR 2003)

(a) *Definition.* “Qualifying country,” as used in this clause, means any country set forth in subsection 225.872-1 of the Defense Federal Acquisition Regulation (FAR) Supplement.

(b) Subject to the restrictions in section 225.872 of the Defense FAR Supplement, the Contractor shall not preclude qualifying country sources or U.S. sources from competing for subcontracts under this contract.

(End of clause)

252.225-7003 Report of Intended Performance Outside the United States and Canada—Submission with Offer.

As prescribed in 225.7204(a), use the following provision:

REPORT OF INTENDED PERFORMANCE OUTSIDE THE UNITED STATES AND
CANADA—SUBMISSION WITH OFFER (JUN 2005)

(a) *Definition.* “United States,” as used in this provision, means the 50 States, the District of Columbia, and outlying areas.

(b) The offeror shall submit, with its offer, a report of intended performance outside the United States and Canada if—

(1) The offer exceeds \$10 million in value; and

(2) The offeror is aware that the offeror or a first-tier subcontractor intends to perform any part of the contract outside the United States and Canada that—

(i) Exceeds \$500,000 in value; and

(ii) Could be performed inside the United States or Canada.

(c) Information to be reported includes that for—

(1) Subcontracts;

(2) Purchases; and

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(3) Intracompany transfers when transfers originate in a foreign location.

(d) The offeror shall submit the report using—

(1) DD Form 2139, Report of Contract Performance Outside the United States;

or

(2) A computer-generated report that contains all information required by DD Form 2139.

(e) The offeror may obtain a copy of DD Form 2139 from the Contracting Officer or via the Internet at

<http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.

(End of provision)

252.225-7004 Report of Intended Performance Outside the United States and Canada—Submission after Award.

As prescribed in 225.7204(b), use the following clause:

REPORT OF INTENDED PERFORMANCE OUTSIDE THE UNITED STATES AND CANADA—SUBMISSION AFTER AWARD (JUN 2005)

(a) *Definition.* “United States,” as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) *Reporting requirement.* The Contractor shall submit a report in accordance with this clause, if the Contractor or a first-tier subcontractor will perform any part of this contract outside the United States and Canada that—

(1) Exceeds \$500,000 in value; and

(2) Could be performed inside the United States or Canada.

(c) *Submission of reports.* The Contractor—

(1) Shall submit a report as soon as practical after the information is known;

(2) To the maximum extent practicable, shall submit a report regarding a first-tier subcontractor at least 30 days before award of the subcontract;

(3) Need not resubmit information submitted with its offer, unless the information changes;

(4) Shall submit all reports to the Contracting Officer; and

(5) Shall submit a copy of each report to: Deputy Director of Defense Procurement and Acquisition Policy (Program Acquisition and International

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

Contracting), OUSD(AT&L)DPAP(PAIC), Washington, DC 20301-3060.

(d) *Report format.* The Contractor—

(1) Shall submit reports using—

(i) DD Form 2139, Report of Contract Performance Outside the United States; or

(ii) A computer-generated report that contains all information required by DD Form 2139; and

(2) May obtain copies of DD Form 2139 from the Contracting Officer or via the Internet at

<http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.

(End of clause)

252.225-7005 Identification of Expenditures in the United States.

As prescribed in 225.1103(1), use the following clause:

IDENTIFICATION OF EXPENDITURES IN THE UNITED STATES (JUN 2005)

(a) *Definition.* “United States,” as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) This clause applies only if the Contractor is--

(1) A concern incorporated in the United States (including a subsidiary that is incorporated in the United States, even if the parent corporation is not incorporated in the United States); or

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

(c) On each invoice, voucher, or other request for payment under this contract, the Contractor shall identify that part of the requested payment that represents estimated expenditures in the United States. The identification—

(1) May be expressed either as dollar amounts or as percentages of the total amount of the request for payment;

(2) Should be based on reasonable estimates; and

(3) Shall state the full amount of the payment requested, subdivided into the following categories:

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(i) U.S. products--expenditures for material and equipment manufactured or produced in the United States, including end products, components, or construction material, but excluding transportation;

(ii) U.S. services--expenditures for services performed in the United States, including all charges for overhead, other indirect costs, and profit under construction or service contracts;

(iii) Transportation on U.S. carriers--expenditures for transportation furnished by U.S. flag, ocean, surface, and air carriers; and

(iv) Expenditures not identified under paragraphs (c)(3)(i) through (iii) of this clause.

(d) Nothing in this clause requires the establishment or maintenance of detailed accounting records or gives the U.S. Government any right to audit the Contractor's books or records.

(End of clause)

252.225-7006 Quarterly Reporting of Actual Contract Performance Outside the United States.

As prescribed in 225.7204(c), use the following clause:

QUARTERLY REPORTING OF ACTUAL CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES (JUN 2005)

(a) *Definition.* "United States," as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) *Reporting requirement.* Except as provided in paragraph (c) of this clause, within 10 days after the end of each quarter of the Government's fiscal year, the Contractor shall report any subcontract, purchase, or intracompany transfer that—

(1) Will be or has been performed outside the United States;

(2) Exceeds the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation; and

(3) Has not been identified in a report for a previous quarter.

(c) *Exception.* Reporting under this clause is not required if—

(1) A foreign place of performance is the principal place of performance of the contract; and

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(2) The Contractor specified the foreign place of performance in its offer.

(d) *Submission of reports.* The Contractor shall submit the reports required by this clause to: Deputy Director of Defense Procurement and Acquisition Policy (Program Acquisition and International Contracting), OUSD(AT&L)DPAP(PAIC), Washington, DC 20301-3060.

(e) *Report format.* The Contractor—

(1) Shall submit reports using—

(i) DD Form 2139, Report of Contract Performance Outside the United States; or

(ii) A computer-generated report that contains all information required by DD Form 2139; and

(2) May obtain copies of DD Form 2139 from the Contracting Officer or via the Internet at <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.

(f) *Subcontracts.* The Contractor—

(1) Shall include the substance of this clause in all first-tier subcontracts exceeding \$500,000, except those for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence;

(2) Shall provide the number of this contract to its subcontractors required to submit reports under this clause; and

(3) Shall require the subcontractor, with respect to performance of its subcontract, to comply with the requirements directed to the Contractor in paragraphs (b) through (e) of this clause.

(End of clause)

252.225-7007 Reserved.

252.225-7008 Reserved.

252.225-7009 Reserved.

252.225-7010 Reserved.

252.225-7011 Restriction on Acquisition of Supercomputers.

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

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

RESTRICTION ON ACQUISITION OF SUPERCOMPUTERS (JUN 2005)

Supercomputers delivered under this contract shall be manufactured in the United States or its outlying areas.

(End of clause)

252.225-7012 Preference for Certain Domestic Commodities.

As prescribed in 225.7002-3(a), use the following clause:

PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (JUN 2004)

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

(1) “Component” means any item supplied to the Government as part of an end product or of another component.

(2) “End product” means supplies delivered under a line item of this contract.

(3) “United States” means the 50 States, the District of Columbia, and outlying areas.

(4) “U.S.-flag vessel” means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b) The Contractor shall deliver under this contract only such of the following items, either as end products or components, that have been grown, reprocessed, reused, or produced in the United States:

(1) Food.

(2) Clothing.

(3) Tents, tarpaulins, or covers.

(4) Cotton and other natural fiber products.

(5) Woven silk or woven silk blends.

(6) Spun silk yarn for cartridge cloth.

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(7) Synthetic fabric, and coated synthetic fabric, including all textile fibers and yarns that are for use in such fabrics.

(8) Canvas products.

(9) Wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles).

(10) Any item of individual equipment (Federal Supply Class 8465) manufactured from or containing fibers, yarns, fabrics, or materials listed in this paragraph (b).

(c) This clause does not apply—

(1) To items listed in section 25.104(a) of the Federal Acquisition Regulation (FAR), or other items for which the Government has determined that a satisfactory quality and sufficient quantity cannot be acquired as and when needed at U.S. market prices;

(2) To end products incidentally incorporating cotton, other natural fibers, or wool, for which the estimated value of the cotton, other natural fibers, or wool--

(i) Is not more than 10 percent of the total price of the end product; and

(ii) Does not exceed the simplified acquisition threshold in FAR Part 2;

(3) To waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives;

(4) To foods, other than fish, shellfish, or seafood, that have been manufactured or processed in the United States, regardless of where the foods (and any component if applicable) were grown or produced. Fish, shellfish, or seafood manufactured or processed in the United States and fish, shellfish, or seafood contained in foods manufactured or processed in the United States shall be provided in accordance with paragraph (d) of this clause;

(5) To chemical warfare protective clothing produced in the countries listed in subsection 225.872-1 of the Defense FAR Supplement; or

(6) To fibers and yarns that are for use in synthetic fabric or coated synthetic fabric (but does apply to the synthetic or coated synthetic fabric itself), if—

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(i) The fabric is to be used as a component of an end product that is not a textile product. Examples of textile products, made in whole or in part of fabric, include—

(A) Draperies, floor coverings, furnishings, and bedding (Federal Supply Group 72, Household and Commercial Furnishings and Appliances);

(B) Items made in whole or in part of fabric in Federal Supply Group 83, Textile/leather/furs/apparel/findings/tents/flags, or Federal Supply Group 84, Clothing, Individual Equipment and Insignia;

(C) Upholstered seats (whether for household, office, or other use); and

(D) Parachutes (Federal Supply Class 1670); or

(ii) The fibers and yarns are para-aramid fibers and yarns manufactured in the Netherlands.

(d)(1) Fish, shellfish, and seafood delivered under this contract, or contained in foods delivered under this contract—

(i) Shall be taken from the sea by U.S.-flag vessels; or

(ii) If not taken from the sea, shall be obtained from fishing within the United States; and

(2) Any processing or manufacturing of the fish, shellfish, or seafood shall be performed on a U.S.-flag vessel or in the United States.

(End of clause)

252.225-7013 Duty-Free Entry.

As prescribed in 225.1101(4), use the following clause:

DUTY-FREE ENTRY (JUN 2005)

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

(1) “Customs territory of the United States” means the 50 States, the District of Columbia, and Puerto Rico.

(2) “Eligible product” means—

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(i) “Designated country end product” as defined in the Trade Agreements clause of this contract;

(ii) “Free Trade Agreement country end product” as defined in the Trade Agreements clause of this contract;

(iii) “End product of Australia, Canada, Chile, Mexico, or Singapore” as defined in the Buy American Act—Free Trade Agreements—Balance of Payments Program clause of this contract; or

(iv) “Canadian end product” as defined in Alternate I of the Buy American Act—Free Trade Agreements—Balance of Payments Program clause of this contract.

(3) “Qualifying country” and “qualifying country end product” have the meanings given in the Trade Agreements clause, the Buy American Act and Balance of Payments Program clause, or the Buy American Act--Free Trade Agreements--Balance of Payments Program clause of this contract.

(b) Except as provided in paragraph (i) of this clause, or unless supplies were imported into the customs territory of the United States before the date of this contract or the applicable subcontract, the price of this contract shall not include any amount for duty on—

(1) End items that are eligible products or qualifying country end products;

(2) Components (including, without limitation, raw materials and intermediate assemblies) produced or made in qualifying countries, that are to be incorporated in U.S.- made end products to be delivered under this contract; or

(3) Other supplies for which the Contractor estimates that duty will exceed \$200 per shipment into the customs territory of the United States.

(c) The Contractor shall--

(1) Claim duty-free entry only for supplies that the Contractor intends to deliver to the Government under this contract, either as end items or components of end items; and

(2) Pay duty on supplies, or any portion thereof, that are diverted to nongovernmental use, other than—

(i) Scrap or salvage; or

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(ii) Competitive sale made, directed, or authorized by the Contracting Officer.

(d) Except as the Contractor may otherwise agree, the Government will execute duty-free entry certificates and will afford such assistance as appropriate to obtain the duty-free entry of supplies—

(1) For which no duty is included in the contract price in accordance with paragraph (b) of this clause; and

(2) For which shipping documents bear the notation specified in paragraph (e) of this clause.

(e) For foreign supplies for which the Government will issue duty-free entry certificates in accordance with this clause, shipping documents submitted to Customs shall—

(1) Consign the shipments to the appropriate—

(i) Military department in care of the Contractor, including the Contractor's delivery address; or

(ii) Military installation; and

(2) Include the following information:

(i) Prime contract number and, if applicable, delivery order number.

(ii) Number of the subcontract for foreign supplies, if applicable.

(iii) Identification of the carrier.

(iv)(A) For direct shipments to a U.S. military installation, the notation: “UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE Duty-Free Entry to be claimed pursuant to Section XXII, Chapter 98, Subchapter VIII, Item 9808.00.30 of the Harmonized Tariff Schedule of the United States. Upon arrival of shipment at the appropriate port of entry, District Director of Customs, please release shipment under 19 CFR Part 142 and notify Commander, Defense Contract Management Agency (DCMA) New York, ATTN: Customs Team, DCMAE-GNTF, 207 New York Avenue, Staten Island, New York, 10305-5013, for execution of Customs Form 7501, 7501A, or 7506 and any required duty-free entry certificates.”

(B) If the shipment will be consigned to other than a military

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

installation, e.g., a domestic contractor's plant, the shipping document notation shall be altered to include the name and address of the contractor, agent, or broker who will notify Commander, DCMA New York, for execution of the duty-free entry certificate. (If the shipment will be consigned to a contractor's plant and no duty-free entry certificate is required due to a trade agreement, the Contractor shall claim duty-free entry under the applicable trade agreement and shall comply with the U.S. Customs Service requirements. No notification to Commander, DCMA New York, is required.)

(v) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight).

(vi) Estimated value in U.S. dollars.

(vii) Activity address number of the contract administration office administering the prime contract, e.g., for DCMA Dayton, S3605A.

(f) *Preparation of customs forms.*

(1)(i) Except for shipments consigned to a military installation, the Contractor shall—

(A) Prepare any customs forms required for the entry of foreign supplies into the customs territory of the United States in connection with this contract; and

(B) Submit the completed customs forms to the District Director of Customs, with a copy to DCMA NY for execution of any required duty-free entry certificates.

(ii) Shipments consigned directly to a military installation will be released in accordance with sections 10.101 and 10.102 of the U.S. Customs regulations.

(2) For shipments containing both supplies that are to be accorded duty-free entry and supplies that are not, the Contractor shall identify on the customs forms those items that are eligible for duty-free entry.

(g) The Contractor shall—

(1) Prepare (if the Contractor is a foreign supplier), or shall instruct the foreign supplier to prepare, a sufficient number of copies of the bill of lading (or other shipping document) so that at least two of the copies accompanying the shipment will be available for use by the District Director of Customs at the port of entry;

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(2) Consign the shipment as specified in paragraph (e) of this clause; and

(3) Mark on the exterior of all packages--

(i) “UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE”;
and

(ii) The activity address number of the contract administration office administering the prime contract.

(h) The Contractor shall notify the Administrative Contracting Officer (ACO) in writing of any purchase of eligible products or qualifying country supplies to be accorded duty-free entry, that are to be imported into the customs territory of the United States for delivery to the Government or for incorporation in end items to be delivered to the Government. The Contractor shall furnish the notice to the ACO immediately upon award to the supplier and shall include in the notice—

(1) The Contractor’s name, address, and Commercial and Government Entity (CAGE) code;

(2) Prime contract number and, if applicable, delivery order number;

(3) Total dollar value of the prime contract or delivery order;

(4) Date of the last scheduled delivery under the prime contract or delivery order;

(5) Foreign supplier's name and address;

(6) Number of the subcontract for foreign supplies;

(7) Total dollar value of the subcontract for foreign supplies;

(8) Date of the last scheduled delivery under the subcontract for foreign supplies;

(9) List of items purchased;

(10) An agreement that the Contractor will pay duty on supplies, or any portion thereof, that are diverted to nongovernmental use other than—

(i) Scrap or salvage; or

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(ii) Competitive sale made, directed, or authorized by the Contracting Officer;

(11) Country of origin; and

(12) Scheduled delivery date(s).

(i) This clause does not apply to purchases of eligible products or qualifying country supplies in connection with this contract if—

(1) The supplies are identical in nature to supplies purchased by the Contractor or any subcontractor in connection with its commercial business; and

(2) It is not economical or feasible to account for such supplies so as to ensure that the amount of the supplies for which duty-free entry is claimed does not exceed the amount purchased in connection with this contract.

(j) The Contractor shall—

(1) Insert the substance of this clause, including this paragraph (j), in all subcontracts for—

(i) Qualifying country components; or

(ii) Nonqualifying country components for which the Contractor estimates that duty will exceed \$200 per unit;

(2) Require subcontractors to include the number of this contract on all shipping documents submitted to Customs for supplies for which duty-free entry is claimed pursuant to this clause; and

(3) Include in applicable subcontracts—

(i) The name and address of the ACO for this contract;

(ii) The name, address, and activity address number of the contract administration office specified in this contract; and

(iii) The information required by paragraphs (h)(1), (2), and (3) of this clause.

(End of clause)

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

252.225-7014 Preference for Domestic Specialty Metals.

As prescribed in 225.7002-3(b)(1), use the following clause:

PREFERENCE FOR DOMESTIC SPECIALTY METALS (JUN 2005)

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

(1) “Qualifying country” means any country listed in subsection 225.872-1 of the Defense Federal Acquisition Regulation Supplement.

(2) “Specialty metals” means—

(i) Steel—

(A) With a maximum alloy content exceeding one or more of the following limits: manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent; or

(B) Containing more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium;

(ii) Metal alloys consisting of nickel, iron-nickel, and cobalt base alloys containing a total of other alloying metals (except iron) in excess of 10 percent;

(iii) Titanium and titanium alloys; or

(iv) Zirconium and zirconium base alloys.

(b) Any specialty metals incorporated in articles delivered under this contract shall be melted in the United States or its outlying areas.

(c) This clause does not apply to specialty metals—

(1) Melted in a qualifying country or incorporated in an article manufactured in a qualifying country; or

(2) Purchased by a subcontractor at any tier.

(End of clause)

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

ALTERNATE I (APR 2003)

As prescribed in 225.7002-3(b)(2), substitute the following paragraph (c) for paragraph (c) of the basic clause, and add the following paragraph (d) to the basic clause:

(c) This clause does not apply to specialty metals melted in a qualifying country or incorporated in an article manufactured in a qualifying country.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts for items containing specialty metals.

252.225-7015 Restriction on Acquisition of Hand or Measuring Tools.

As prescribed in 225.7002-3(c), use the following clause:

RESTRICTION ON ACQUISITION OF HAND OR MEASURING TOOLS (JUN 2005)

Hand or measuring tools delivered under this contract shall be produced in the United States or its outlying areas.

(End of clause)

252.225-7016 Restriction on Acquisition of Ball and Roller Bearings.

As prescribed in 225.7009-4(a), use the following clause:

RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (JUN 2005)

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

(1) “Bearing components” means the bearing element, retainer, inner race, or outer race.

(2) “Miniature and instrument ball bearings” means all rolling contact ball bearings with a basic outside diameter (exclusive of flange diameters) of 30 millimeters or less, regardless of material, tolerance, performance, or quality characteristics.

(b) Except as provided in paragraph (c) of this clause, all ball and roller bearings and ball and roller bearing components (including miniature and instrument ball bearings) delivered under this contract, either as end items or components of end items, shall be wholly manufactured in the United States, its outlying areas, or Canada. Unless otherwise specified, raw materials, such as preformed bar, tube, or rod stock and lubricants, need not be mined or produced in the United States, its outlying areas, or Canada.

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(c)(1) The restriction in paragraph (b) of this clause does not apply to ball or roller bearings that are acquired as components if--

(i) The end items or components containing ball or roller bearings are commercial items; or

(ii) The ball or roller bearings are commercial components manufactured in the United Kingdom.

(2) The commercial item exception in paragraph (c)(1) of this clause does not include items designed or developed under a Government contract if the end item is bearings or bearing components.

(d) The restriction in paragraph (b) of this clause may be waived upon request from the Contractor in accordance with subsection 225.7009-3 of the Defense Federal Acquisition Regulation Supplement. If the restriction is waived for miniature and instrument ball bearings, the Contractor shall acquire a like quantity and type of domestic manufacture for nongovernmental use.

(e) The Contractor shall retain records showing compliance with the restriction in paragraph (b) of this clause until 3 years after final payment and shall make the records available upon request of the Contracting Officer.

(f) The Contractor shall insert the substance of this clause, including this paragraph (f), in all subcontracts, except those for—

(1) Commercial items other than ball or roller bearings; or

(2) Items that do not contain ball or roller bearings.

(End of clause)

ALTERNATE I (APR 2003)

As prescribed in 225.7009-4(b), substitute the following paragraph (c)(1)(ii) for paragraph (c)(1)(ii) of the basic clause:

(c)(1)(ii) The ball or roller bearings are commercial components.

252.225-7017 Reserved.

252.225-7018 Notice of Prohibition of Certain Contracts with Foreign Entities for the Conduct of Ballistic Missile Defense Research, Development, Test, and Evaluation.

As prescribed in 225.7017-4, use the following provision:

NOTICE OF PROHIBITION OF CERTAIN CONTRACTS WITH FOREIGN ENTITIES FOR THE CONDUCT OF BALLISTIC MISSILE DEFENSE RESEARCH, DEVELOPMENT, TEST, AND EVALUATION
(JUN 2005)

(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) Except as provided in paragraph (c) of this provision, the Department of Defense will not enter into or carry out any contract, including any contract awarded as a result of a broad agency announcement, with a foreign government or firm if the contract provides for the conduct of research, development, test, or evaluation in connection with the Ballistic Missile Defense Program. However, foreign governments and firms are encouraged to submit offers, since this provision is not intended to restrict access to unique foreign expertise if the contract will require a level of competency unavailable in the United States or its outlying areas.

(c) This prohibition does not apply to a foreign government or firm if—

(1) The contract will be performed within the United States or its outlying areas;

(2) The contract is exclusively for research, development, test, or evaluation 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 if it is equitable with respect to the relative benefits that the United States and the foreign parties will derive

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

from the contract. 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 a U.S. firm cannot competently perform the contract at a price equal to or less than the price at which a foreign government or firm can perform the contract.

(d) The offeror (____) is (____) is not a U.S. firm.

(End of provision)

252.225-7019 Restriction on Acquisition of Anchor and Mooring Chain.

As prescribed in 225.7007-3, use the following clause:

RESTRICTION ON ACQUISITION OF ANCHOR AND MOORING CHAIN (JUN 2005)

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

(1) Shall be manufactured in the United States or its outlying areas, 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 or its outlying areas 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 requirements in paragraph (a) of this clause are not available to meet the contract delivery schedule.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts for items containing welded shipboard anchor and mooring chain, four inches or less in diameter.

(End of clause)

252.225-7020 Trade Agreements Certificate.

As prescribed in 225.1101(5), use the following provision:

TRADE AGREEMENTS CERTIFICATE (JAN 2005)

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(a) *Definitions.* “Designated 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.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will consider only offers of end products that are U.S.-made, qualifying country, or designated country end products unless—

(i) There are no offers of such end products;

(ii) The offers of such end products are insufficient to fulfill the Government’s requirements; or

(iii) A national interest waiver has been granted.

(c) *Certification and identification of country of origin.*

(1) For all line items subject to the Trade Agreements clause of this solicitation, 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, or designated country end product.

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

(Line Item Number)

(Country of Origin)

(End of provision)

252.225-7021 Trade Agreements.

As prescribed in 225.1101(6), use the following clause:

TRADE AGREEMENTS (FEB 2006)

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

(1) “Caribbean Basin country end product”—

(i) Means an article that—

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(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 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, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the HTSUS column 2 rates of duty (HTSUS General Note 3(b)) apply.

(2) “Component” means an article, material, or supply incorporated directly into an end product.

(3) “Designated country” means—

(i) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Aruba, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or the United Kingdom);

(ii) A Free Trade Agreement country (Australia, Canada, Chile, Mexico, Morocco, or Singapore);

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(iii) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(iv) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).

(4) “Designated country end product” means a WTO GPA country end product, a Free Trade Agreement country end product, a least developed country end product, or a Caribbean Basin country end product.

(5) “End product” means those articles, materials, and supplies to be acquired under this contract for public use.

(6) “Free Trade Agreement country end product” means an article that—

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) 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 Free Trade Agreement 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 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.

(7) “Least developed country end product” means an article that—

(i) Is wholly the growth, product, or manufacture of a least developed country; or

(ii) 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 least

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

developed 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 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.

(8) “Nondesignated country end product” means any end product that is not a U.S.-made end product or a designated country end product.

(9) “Qualifying country” means any country set forth in subsection 225.872-1 of the Defense Federal Acquisition Regulation Supplement.

(10) “Qualifying country end product” means—

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if the cost of the following types of components exceeds 50 percent of the cost of all its components:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States.

(11) “United States” means the 50 States, the District of Columbia, and outlying areas.

(12) “U.S.-made end product” means an article that—

(i) Is mined, produced, or manufactured in the United States; or

(ii) Is substantially transformed in the United States 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 transformed.

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(b) Unless otherwise specified, this clause applies to all items in the Schedule.

(c) The Contractor shall deliver under this contract only U.S.-made, qualifying country, or designated country end products unless—

(1) In its offer, the Contractor specified delivery of other nondesignated country end products in the Trade Agreements Certificate provision of the solicitation; and

(2)(i) Offers of U.S.-made end products or qualifying, designated, Caribbean Basin, or Free Trade Agreement country end products from responsive, responsible offerors are either not received or are insufficient to fill the Government's requirements; or

(ii) A national interest waiver has been granted.

(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.

(e) The HTSUS is available on the Internet at <http://www.customs.ustreas.gov/impoexpo/impoexpo.htm>. The following sections of the HTSUS provide information regarding duty-free status of articles specified in paragraph (a)(2)(ii)(A) of this clause:

(1) General Note 3(c), Products Eligible for Special Tariff Treatment.

(2) General Note 17, Products of Countries Designated as Beneficiary Countries Under the United States--Caribbean Basin Trade Partnership Act of 2000.

(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).

(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits Under the United States--Caribbean Basin Trade Partnership Act.

(End of clause)

252.225-7022 Restriction on Acquisition of Polyacrylonitrile (PAN) Carbon Fiber.

As prescribed in 252.7103-3, use the following clause:

RESTRICTION ON ACQUISITION OF POLYACRYLONITRILE (PAN)
CARBON FIBER (JUN 2005)

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(a) This clause applies if the end product furnished under this contract contains polyacrylonitrile carbon fibers (alternatively referred to as PAN-based carbon fibers or PAN-based graphite fibers).

(b) PAN carbon fibers contained in the end product shall be manufactured in the United States, its outlying areas, or Canada using PAN precursor produced in the United States, its outlying areas, or Canada.

(c) The Contracting Officer may waive the requirement in paragraph (b) of this clause in whole or in part. The Contractor may request a waiver from the Contracting Officer by identifying the circumstances and including a plan to qualify U.S. or Canadian sources expeditiously.

(End of clause)

252.225-7023 Restriction on Acquisition of Vessel Propellers.

As prescribed in 225.7010-4, use the following clause:

RESTRICTION ON ACQUISITION OF VESSEL PROPELLERS (JUN 2005)

(a) Except as provided in paragraph (b) of this clause, the Contractor shall deliver under this contract, whether as end items or components of end items, vessel propellers--

(1) Manufactured in the United States, its outlying areas, or Canada; and

(2) For which all component castings were poured and finished in the United States, its outlying areas, or Canada.

(b) The restriction in paragraph (a) of this clause--

(1) Does not apply to vessel propellers that are commercial items; and

(2) For other than commercial items, may be waived upon request from the Contractor in accordance with subsection 225.7020-3 of the Defense Federal Acquisition Regulation Supplement.

(End of clause)

252.225-7024 Reserved.

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

252.225-7025 Restriction on Acquisition of Forgings.

As prescribed in 225.7102-4, use the following clause:

RESTRICTION ON ACQUISITION OF FORGINGS (JUN 2005)

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

(1) “Domestic manufacture” means manufactured in the United States, its outlying areas, or Canada if the Canadian firm—

(i) Normally produces similar items or is currently producing the item in support of DoD contracts (as a contractor or a subcontractor); and

(ii) Agrees to become (upon receiving a contract/order) a planned producer under DoD's Industrial Preparedness Production Planning Program, if it is not already a planned producer for the item.

(2) “Forging items” means—

ITEMS	CATEGORIES
Ship propulsion shafts	Excludes service and landing craft shafts
Periscope tubes	All
Ring forgings for bull gears	All greater than 120 inches in diameter

(b) End items and their components delivered under this contract shall contain forging items that are of domestic manufacture only.

(c) The restriction in paragraph (b) of this clause may be waived upon request from the Contractor in accordance with subsection 225.7102-3 of the Defense Federal Acquisition Regulation Supplement.

(d) The Contractor shall retain records showing compliance with the restriction in paragraph (b) of this clause until 3 years after final payment and shall make the records available upon request of the Contracting Officer.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e), in subcontracts for forging items or for other items that contain forging items.

(End of clause)

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

252.225-7026 Reserved.

252.225-7027 Restriction on Contingent Fees for Foreign Military Sales.

As prescribed in 225.7307(a), use the following clause.

**RESTRICTION ON CONTINGENT FEES FOR FOREIGN MILITARY SALES
(APR 2003)**

(a) Except as provided in paragraph (b) of this clause, contingent fees, as defined in the Covenant Against Contingent Fees clause of this contract, are generally an allowable cost, provided the fees are paid to—

(1) A bona fide employee of the Contractor; or

(2) A bona fide established commercial or selling agency maintained by the Contractor for the purpose of securing business.

(b) For foreign military sales, unless the contingent fees have been identified and payment approved in writing by the foreign customer before contract award, the following contingent fees are unallowable under this contract:

(1) For sales to the Government(s) of _____, contingent fees in any amount.

(2) For sales to Governments not listed in paragraph (b)(1) of this clause, contingent fees exceeding \$50,000 per foreign military sale case.

(End of clause)

252.225-7028 Exclusionary Policies and Practices of Foreign Governments.

As prescribed in 225.7307(b), use the following clause:

**EXCLUSIONARY POLICIES AND PRACTICES OF FOREIGN GOVERNMENTS
(APR 2003)**

The Contractor and its subcontractors shall not take into account the exclusionary policies or practices of any foreign government in employing or assigning personnel, if—

(a) The personnel will perform functions required by this contract, either in the United States or abroad; and

(b) The exclusionary policies or practices of the foreign government are based on race, religion, national origin, or sex.

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(End of clause)

252.225-7029 Reserved.

252.225-7030 Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate.

As prescribed in 225.7011-3, use the following clause:

**RESTRICTION ON ACQUISITION OF CARBON, ALLOY, AND ARMOR
STEEL PLATE (APR 2003)**

Carbon, alloy, and armor steel plate shall be melted and rolled in the United States or Canada if the carbon, alloy, or armor steel plate—

(a) Is in Federal Supply Class 9515 or is described by specifications of the American Society for Testing Materials or the American Iron and Steel Institute; and

(b) Will be delivered to the Government or will be purchased by the Contractor as a raw material for use in a Government-owned facility or a facility under the control of the Department of Defense.

(End of clause)

252.225-7031 Secondary Arab Boycott of Israel.

As prescribed in 225.1103(2), use the following provision:

SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 2005)

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

(1) “Foreign person” means any person (including any individual, partnership, corporation, or other form of association) other than a United States person.

(2) “United States” means the 50 States, the District of Columbia, outlying areas, and the outer Continental Shelf as defined in 43 U.S.C. 1331.

(3) “United States person” is defined in 50 U.S.C. App. 2415(2) and means—

(i) Any United States resident or national (other than an individual resident outside the United States who is employed by other than a United States person);

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(ii) Any domestic concern (including any permanent domestic establishment of any foreign concern); and

(iii) Any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern.

(b) *Certification.* If the offeror is a foreign person, the offeror certifies, by submission of an offer, that it—

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. 2407(a) prohibits a United States person from taking.

(End of provision)

252.225-7032 Waiver of United Kingdom Levies—Evaluation of Offers.

As prescribed in 225.1101(7), use the following provision:

WAIVER OF UNITED KINGDOM LEVIES – EVALUATION OF OFFERS (APR 2003)

(a) Offered prices for contracts or subcontracts with United Kingdom (U.K.) firms may contain commercial exploitation levies assessed by the Government of the U.K. The offeror shall identify to the Contracting Officer all levies included in the offered price by describing—

(1) The name of the U.K. firm;

(2) The item to which the levy applies and the item quantity; and

(3) The amount of levy plus any associated indirect costs and profit or fee.

(b) In the event of difficulty in identifying levies included in a price from a prospective subcontractor, the offeror may seek advice through the Director of Procurement, United Kingdom Defence Procurement Office, British Embassy, 3100 Massachusetts Avenue NW, Washington, DC 20006.

(c) The U.S. Government may attempt to obtain a waiver of levies pursuant to the U.S./U.K. reciprocal waiver agreement of July 1987.

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(1) If the U.K. waives levies before award of a contract, the Contracting Officer will evaluate the offer without the levy.

(2) If levies are identified but not waived before award of a contract, the Contracting Officer will evaluate the offer inclusive of the levies.

(3) If the U.K. grants a waiver of levies after award of a contract, the U.S. Government reserves the right to reduce the contract price by the amount of the levy waived plus associated indirect costs and profit or fee.

(End of provision)

252.225-7033 Waiver of United Kingdom Levies.

As prescribed in 225.1101(8), use the following clause:

WAIVER OF UNITED KINGDOM LEVIES (APR 2003)

(a) The U.S. Government may attempt to obtain a waiver of any commercial exploitation levies included in the price of this contract, pursuant to the U.S./United Kingdom (U.K.) reciprocal waiver agreement of July 1987. If the U.K. grants a waiver of levies included in the price of this contract, the U.S. Government reserves the right to reduce the contract price by the amount of the levy waived plus associated indirect costs and profit or fee.

(b) If the Contractor contemplates award of a subcontract exceeding \$1 million to a U.K. firm, the Contractor shall provide the following information to the Contracting Officer before award of the subcontract:

- (1) Name of the U.K. firm.
- (2) Prime contract number.
- (3) Description of item to which the levy applies.
- (4) Quantity being acquired.
- (5) Amount of levy plus any associated indirect costs and profit or fee.

(c) In the event of difficulty in identifying levies included in a price from a prospective subcontractor, the Contractor may seek advice through the Director of Procurement, United Kingdom Defence Procurement Office, British Embassy, 3100 Massachusetts Avenue NW, Washington, DC 20006.

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in any subcontract for supplies where a lower-tier subcontract exceeding \$1 million with a U.K. firm is anticipated.

(End of clause)

252.225-7034 Reserved.

252.225-7035 Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate.

As prescribed in 225.1101(9), use the following provision:

BUY AMERICAN ACT--FREE TRADE AGREEMENTS--BALANCE OF PAYMENTS PROGRAM CERTIFICATE (JAN 2005)

(a) *Definitions.* “Domestic end product,” “end product of Australia, Canada, Chile, Mexico, or Singapore,” “foreign end product,” “qualifying country end product,” and “United States” have the meanings given in the Buy American Act--Free Trade Agreements--Balance of Payments Program clause of this solicitation.

(b) *Evaluation.* The Government—

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) For line items subject to Free Trade Agreements, will evaluate offers of qualifying country end products or end products of Australia, Canada, Chile, Mexico, or Singapore without regard to the restrictions of the Buy American Act or the Balance of Payments Program.

(c) *Certifications and identification of country of origin.*

(1) For all line items subject to the Buy American Act—Free Trade Agreements—Balance of Payments Program clause of this solicitation, the offeror certifies that—

(i) Each end product, except the end products listed in paragraph (c)(2) of this provision, is a domestic end product; and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror shall identify all end products that are not domestic end

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

products.

(i) The offeror certifies that the following supplies are qualifying country (except Australian or Canadian) end products:

(Line Item Number) (Country of Origin)

(ii) The offeror certifies that the following supplies are end products of Australia, Canada, Chile, Mexico, or Singapore:

(Line Item Number) (Country of Origin)

(iii) The following supplies are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products.

(Line Item Number) (Country of Origin (If known))

(End of provision)

ALTERNATE I (JAN 2005)

As prescribed in 225.1101(9), substitute the phrase “Canadian end product” for the phrase “end product of Australia, Canada, Chile, Mexico, or Singapore” in paragraph (a) of the basic provision; and substitute the phrase “Canadian end products” for the phrase “end products of Australia, Canada, Chile, Mexico, or Singapore” in paragraphs (b) and (c)(2)(ii) of the basic provision.

252.225-7036 Buy American Act—Free Trade Agreements—Balance of Payments Program.

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

BUY AMERICAN ACT--FREE TRADE AGREEMENTS--BALANCE OF PAYMENTS PROGRAM (JUN 2005)

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

(1) “Component” means an article, material, or supply incorporated directly into an end product.

(2) “Domestic end product” means—

(i) An unmanufactured end product that has been mined or produced in the

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

United States; or

(ii) An end product manufactured in the United States if the cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that—

(A) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(B) It is inconsistent with the public interest to apply the restrictions of the Buy American Act.

(3) “End product” means those articles, materials, and supplies to be acquired under this contract for public use.

(4) “End product of Australia, Canada, Chile, Mexico, or Singapore” means an article that—

(i) Is wholly the growth, product, or manufacture of Australia, Canada, Chile, Mexico, or Singapore; or

(ii) 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 Australia, Canada, Chile, Mexico, or Singapore 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 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.

(5) “Foreign end product” means an end product other than a domestic end product.

(6) “Qualifying country” means any country set forth in subsection 225.872-1 of the Defense Federal Acquisition Regulation Supplement.

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(7) “Qualifying country component” means a component mined, produced, or manufactured in a qualifying country.

(8) “Qualifying country end product” means—

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if the cost of the following types of components exceeds 50 percent of the cost of all its components:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States.

(9) “United States” means the 50 States, the District of Columbia, and outlying areas.

(b) Unless otherwise specified, this clause applies to all items in the Schedule.

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, end products of Australia, Canada, Chile, Mexico, or Singapore, or other foreign end products in the Buy American Act--Free Trade Agreements--Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or an end product of Australia, Canada, Chile, Mexico, or Singapore, the Contractor shall deliver a qualifying country end product, an end product of Australia, Canada, Chile, Mexico, or Singapore, or, at the Contractor’s option, a domestic end product.

(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.

(End of clause)

ALTERNATE I (JAN 2005)

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

As prescribed in 225.1101(10)(i)(B), substitute the following paragraphs (a)(4) and (c) for paragraphs (a)(4) and (c) of the basic clause:

(a)(4) “Canadian end product,” means an article that—

(i) Is wholly the growth, product, or manufacture of Canada; or

(ii) 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 Canada 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 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.

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country, Canadian, or other foreign end products in the Buy American Act--Free Trade Agreements--Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or a Canadian end product, the Contractor shall deliver a qualifying country end product, a Canadian end product, or, at the Contractor’s option, a domestic end product.

252.225-7037 Evaluation of Offers for Air Circuit Breakers.

As prescribed in 225.7006-4(a), use the following provision:

EVALUATION OF OFFERS FOR AIR CIRCUIT BREAKERS (JUN 2005)

(a) The offeror shall specify, in its offer, any intent to furnish air circuit breakers that are not manufactured in the United States or its outlying areas, Canada, or the United Kingdom.

(b) The Contracting Officer will evaluate offers by adding a factor of 50 percent to the offered price of air circuit breakers that are not manufactured in the United States or its outlying areas, Canada, or the United Kingdom.

(End of provision)

252.225-7038 Restriction on Acquisition of Air Circuit Breakers.

As prescribed in 225.7006-4(b), use the following clause:

RESTRICTION ON ACQUISITION OF AIR CIRCUIT BREAKERS (JUN 2005)

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

Unless otherwise specified in its offer, the Contractor shall deliver under this contract air circuit breakers manufactured in the United States or its outlying areas, Canada, or the United Kingdom.

(End of clause)

252.225-7039 Reserved.

252.225-7040 Contractor Personnel Supporting a Force Deployed Outside the United States.

As prescribed in 252.7402-4(a), use the following clause:

CONTRACTOR PERSONNEL SUPPORTING A FORCE DEPLOYED OUTSIDE THE UNITED STATES (JUN 2005)

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

“Combatant Commander” means the commander of a unified or specified combatant command established in accordance with 10 U.S.C. 161.

“Theater of operations” means an area defined by the combatant commander for the conduct or support of specified operations.

(b) *General.*

(1) This clause applies when contractor personnel deploy with or otherwise provide support in the theater of operations to U.S. military forces deployed outside the United States in—

(i) Contingency operations;

(ii) Humanitarian or peacekeeping operations; or

(iii) Other military operations or exercises designated by the Combatant Commander.

(2) Contract performance in support of U.S. military forces may require work in dangerous or austere conditions. The Contractor accepts the risks associated with required contract performance in such operations.

(3) Contractor personnel are not combatants and shall not undertake any role that would jeopardize their status. Contractor personnel shall not use force or otherwise directly participate in acts likely to cause actual harm to enemy armed forces.

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(c) *Support.*

(1) The Combatant Commander will develop a security plan to provide protection, through military means, of Contractor personnel engaged in the theater of operations unless the terms of this contract place the responsibility with another party.

(2)(i) All Contractor personnel engaged in the theater of operations are authorized resuscitative care, stabilization, hospitalization at level III military treatment facilities, and assistance with patient movement in emergencies where loss of life, limb, or eyesight could occur. Hospitalization will be limited to stabilization and short-term medical treatment with an emphasis on return to duty or placement in the patient movement system.

(ii) When the Government provides medical treatment or transportation of Contractor personnel to a selected civilian facility, the Contractor shall ensure that the Government is reimbursed for any costs associated with such treatment or transportation.

(iii) Medical or dental care beyond this standard is not authorized unless specified elsewhere in this contract.

(3) Unless specified elsewhere in this contract, the Contractor is responsible for all other support required for its personnel engaged in the theater of operations under this contract.

(d) *Compliance with laws and regulations.* The Contractor shall comply with, and shall ensure that its personnel supporting a force deployed outside the United States as specified in paragraph (b)(1) of this clause are familiar with and comply with, all applicable—

(1) United States, host country, and third country national laws;

(2) Treaties and international agreements;

(3) United States regulations, directives, instructions, policies, and procedures;
and

(4) Orders, directives, and instructions issued by the Combatant Commander relating to force protection, security, health, safety, or relations and interaction with local nationals.

(e) *Pre-deployment requirements.* The Contractor shall ensure that the following

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

requirements are met prior to deploying personnel in support of U.S. military forces. Specific requirements for each category may be specified in the statement of work or elsewhere in the contract.

(1) All required security and background checks are complete and acceptable.

(2) All deploying personnel meet the minimum medical screening requirements and have received all required immunizations as specified in the contract. The Government will provide, at no cost to the Contractor, any theater-specific immunizations and/or medications not available to the general public.

(3) Deploying personnel have all necessary passports, visas, and other documents required to enter and exit a theater of operations and have a Geneva Conventions identification card from the deployment center.

(4) Country and theater clearance is obtained for personnel. Clearance requirements are in DoD Directive 4500.54, Official Temporary Duty Abroad, and DoD 4500.54-G, DoD Foreign Clearance Guide. Contractor personnel are considered non-DoD personnel traveling under DoD sponsorship.

(f) *Processing and departure points.* Deployed contractor personnel shall—

(1) Process through the deployment center designated in the contract, or as otherwise directed by the Contracting Officer, prior to deploying. The deployment center will conduct deployment processing to ensure visibility and accountability of contractor personnel and to ensure that all deployment requirements are met;

(2) Use the point of departure and transportation mode directed by the Contracting Officer; and

(3) Process through a Joint Reception Center (JRC) upon arrival at the deployed location. The JRC will validate personnel accountability, ensure that specific theater of operations entrance requirements are met, and brief contractor personnel on theater-specific policies and procedures.

(g) *Personnel data list.*

(1) The Contractor shall establish and maintain with the designated Government official a current list of all contractor personnel that deploy with or otherwise provide support in the theater of operations to U.S. military forces as specified in paragraph (b)(1) of this clause. The Contracting Officer will inform the Contractor of the Government official designated to receive this data and the appropriate automated system(s) to use for this effort.

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(2) The Contractor shall ensure that all employees on the list have a current DD Form 93, Record of Emergency Data Card, on file with both the Contractor and the designated Government official.

(h) *Contractor personnel.*

(1) The Contracting Officer may direct the Contractor, at its own expense, to remove and replace any contractor personnel who jeopardize or interfere with mission accomplishment or who fail to comply with or violate applicable requirements of this clause. Such action may be taken at the Government's discretion without prejudice to its rights under any other provision of this contract, including the Termination for Default clause.

(2) The Contractor shall have a plan on file showing how the Contractor would replace employees who are unavailable for deployment or who need to be replaced during deployment. The Contractor shall keep this plan current and shall provide a copy to the Contracting Officer upon request. The plan shall—

(i) Identify all personnel who are subject to military mobilization;

(ii) Detail how the position would be filled if the individual were mobilized;
and

(iii) Identify all personnel who occupy a position that the Contracting Officer has designated as mission essential.

(i) *Military clothing and protective equipment.*

(1) Contractor personnel supporting a force deployed outside the United States as specified in paragraph (b)(1) of this clause are prohibited from wearing military clothing unless specifically authorized in writing by the Combatant Commander. If authorized to wear military clothing, contractor personnel must wear distinctive patches, arm bands, nametags, or headgear, in order to be distinguishable from military personnel, consistent with force protection measures and the Geneva Conventions.

(2) Contractor personnel may wear military-unique organizational clothing and individual equipment (OCIE) required for safety and security, such as ballistic, nuclear, biological, or chemical protective clothing.

(3) The deployment center, or the Combatant Commander, shall issue OCIE and shall provide training, if necessary, to ensure the safety and security of contractor

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

personnel.

(4) The Contractor shall ensure that all issued OCIE is returned to the point of issue, unless otherwise directed by the Contracting Officer.

(j) *Weapons.*

(1) If the Contractor requests that its personnel performing in the theater of operations be authorized to carry weapons, the request shall be made through the Contracting Officer to the Combatant Commander. The Combatant Commander will determine whether to authorize in-theater contractor personnel to carry weapons and what weapons will be allowed.

(2) The Contractor shall ensure that its personnel who are authorized to carry weapons—

(i) Are adequately trained;

(ii) Are not barred from possession of a firearm by 18 U.S.C. 922; and

(iii) Adhere to all guidance and orders issued by the Combatant Commander regarding possession, use, safety, and accountability of weapons and ammunition.

(3) Upon redeployment or revocation by the Combatant Commander of the Contractor's authorization to issue firearms, the Contractor shall ensure that all Government-issued weapons and unexpended ammunition are returned as directed by the Contracting Officer.

(k) *Vehicle or equipment licenses.* Contractor personnel shall possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the theater of operations.

(l) *Purchase of scarce goods and services.* If the Combatant Commander has established an organization for the theater of operations whose function is to determine that certain items are scarce goods or services, the Contractor shall coordinate with that organization local purchases of goods and services designated as scarce, in accordance with instructions provided by the Contracting Officer.

(m) *Evacuation.*

(1) If the Combatant Commander orders a mandatory evacuation of some or all personnel, the Government will provide assistance, to the extent available, to United

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

States and third country national contractor personnel.

(2) In the event of a non-mandatory evacuation order, unless authorized in writing by the Contracting Officer, the Contractor shall maintain personnel on location sufficient to meet obligations under this contract.

(n) *Next of kin notification and personnel recovery.*

(1) The Contractor shall be responsible for notification of the employee-designated next of kin in the event an employee dies, requires evacuation due to an injury, or is missing, captured, or abducted.

(2) In the case of missing, captured, or abducted contractor personnel, the Government will assist in personnel recovery actions in accordance with DoD Directive 2310.2, Personnel Recovery.

(o) *Mortuary affairs.* Mortuary affairs for contractor personnel who die while providing support in the theater of operations to U.S. military forces will be handled in accordance with DoD Directive 1300.22, Mortuary Affairs Policy.

(p) *Changes.* In addition to the changes otherwise authorized by the Changes clause of this contract, the Contracting Officer may, at any time, by written order identified as a change order, make changes in Government-furnished facilities, equipment, material, services, or site. Any change order issued in accordance with this paragraph (p) shall be subject to the provisions of the Changes clause of this contract.

(q) *Subcontracts.* The Contractor shall incorporate the substance of this clause, including this paragraph (q), in all subcontracts that require subcontractor personnel to be available to deploy with or otherwise provide support in the theater of operations to U.S. military forces deployed outside the United States in—

(1) Contingency operations;

(2) Humanitarian or peacekeeping operations; or

(3) Other military operations or exercises designated by the Combatant Commander.

(End of clause)

252.225-7041 Correspondence in English.

As prescribed in 225.1103(3), use the following clause:

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

CORRESPONDENCE IN ENGLISH (JUN 1997)

The Contractor shall ensure that all contract correspondence that is addressed to the United States Government is submitted in English or with an English translation.

(End of clause)

252.225-7042 Authorization to Perform.

As prescribed in 225.1103(4), use the following provision:

AUTHORIZATION TO PERFORM (APR 2003)

The offeror represents that it has been duly authorized to operate and to do business in the country or countries in which the contract is to be performed.

(End of provision)

252.225-7043 Antiterrorism/Force Protection for Defense Contractors Outside the United States

As prescribed in 225.7403-2, use the following clause:

ANTITERRORISM/FORCE PROTECTION POLICY FOR DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES (JUN 2005)

(a) *Definition.* “United States,” as used in this clause, means, the 50 States, the District of Columbia, and outlying areas.

(b) Except as provided in paragraph (c) of this clause, the Contractor and its subcontractors, if performing or traveling outside the United States under this contract, shall—

(1) Affiliate with the Overseas Security Advisory Council, if the Contractor or subcontractor is a U.S. entity;

(2) Ensure that Contractor and subcontractor personnel who are U.S. nationals and are in-country on a non-transitory basis, register with the U.S. Embassy, and that Contractor and subcontractor personnel who are third country nationals comply with any security related requirements of the Embassy of their nationality;

(3) Provide, to Contractor and subcontractor personnel, antiterrorism/force protection awareness information commensurate with that which the Department of Defense (DoD) provides to its military and civilian personnel and their families, to the

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

extent such information can be made available prior to travel outside the United States; and

(4) Obtain and comply with the most current antiterrorism/force protection guidance for Contractor and subcontractor personnel.

(c) The requirements of this clause do not apply to any subcontractor that is—

- (1) A foreign government;
- (2) A representative of a foreign government; or
- (3) A foreign corporation wholly owned by a foreign government.

(d) Information and guidance pertaining to DoD antiterrorism/force protection can be obtained from (Contracting Officer to insert applicable information cited in 225.7401).

(End of clause)

252.225-7044 Balance of Payments Program—Construction Material.

As prescribed in 225.7503(a), use the following clause:

BALANCE OF PAYMENTS PROGRAM--CONSTRUCTION MATERIAL (JUN 2005)

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

“Component” means any article, material, or supply incorporated directly into construction material.

“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

“Cost of components” means--

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

“Domestic construction material” means--

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

“United States” means the 50 States, the District of Columbia, and outlying areas.

(b) *Domestic preference.* This clause implements the Balance of Payments Program by providing a preference for domestic construction material. The Contractor shall use only domestic construction material in performing this contract, except for--

(1) Construction material valued at or below the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation; or

(2) The construction material or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate “none”]

(End of clause)

252.225-7045 Balance of Payments Program—Construction Material Under Trade Agreements.

As prescribed in 225.7503(b), use the following clause:

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

BALANCE OF PAYMENTS PROGRAM--CONSTRUCTION MATERIAL UNDER TRADE AGREEMENTS (FEB 2006)

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

“Caribbean Basin country construction material” means a construction material that—

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

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

“Component” means any article, material, or supply incorporated directly into construction material.

“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

“Cost of components” means--

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

“Designated country” means—

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Aruba, Austria, Belgium, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, or the United Kingdom);

(2) A Free Trade Agreement country (Australia, Canada, Chile, Mexico, Morocco, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).

“Designated country construction material” means a construction material that is a WTO GPA country construction material, a Free Trade Agreement country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

“Domestic construction material” means--

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.

“Free Trade Agreement country construction material” means a construction material that--

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different construction material distinct from the material from which it was transformed.

“Least developed country construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“WTO GPA country construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements apply to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for designated country construction materials.

(c) The Contractor shall use only domestic or designated country construction material in performing this contract, except for--

(1) Construction material valued at or below the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation; or

(2) The construction material or components listed by the Government as follows:

Defense Federal Acquisition Regulation Supplement

Part 252—Solicitation Provisions and Contract Clauses

[Contracting Officer to list applicable excepted materials or indicate “none”]

(End of clause)

ALTERNATE I (FEB 2006). As prescribed in 225.7503(b), delete the definitions of “designated country” and “designated country construction material” from the definitions in paragraph (a) of the basic clause, add the following definition of “Australian, Chilean, or Moroccan construction material” to paragraph (a) of the basic clause, and substitute the following paragraphs (b) and (c) for paragraphs (b) and (c) of the basic clause:

“Australian, Chilean, or Moroccan construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of Australia, Chile, or Morocco; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Australia, Chile, or Morocco into a new and different construction material distinct from the materials from which it was transformed.

(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and all Free Trade Agreements except NAFTA apply to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for WTO GPA country, Australian, Chilean, or Moroccan, least developed country, or Caribbean Basin country construction material.

(c) The Contractor shall use only domestic, WTO GPA country, Australian, Chilean, or Moroccan, least developed country, or Caribbean Basin country construction material in performing this contract, except for--

(1) Construction material valued at or below the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation; or

(2) The construction material or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate “none”]