

**SUBPART 234.70—ACQUISITION OF MAJOR WEAPON SYSTEMS AS  
COMMERCIAL ITEMS**

*(Added October 4, 2006)*

**234.7000 Scope of subpart.**

This subpart—

(a) Implements 10 U.S.C. 2379; and

(b) Requires a determination by the Secretary of Defense and a notification to Congress before acquiring a major weapon system as a commercial item.

**234.7001 Definition.**

“Major weapon system,” as used in this subpart, means a weapon system acquired pursuant to a major defense acquisition program, as defined in 10 U.S.C. 2430 to be a program that—

(1) Is not a highly sensitive classified program, as determined by the Secretary of Defense; and

(2)(i) Is designated by the Secretary of Defense as a major defense acquisition program; or

(ii) Is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than \$300,000,000 (based on fiscal year 1990 constant dollars) or an eventual total expenditures for procurement of more than \$1,800,000,000 (based on fiscal year 1990 constant dollars).

**234.7002 Policy.**

(a) A DoD major weapon system may be treated as a commercial item, or acquired under procedures established for the acquisition of commercial items, only if—

(1) The Secretary of Defense determines that—

(i) The major weapon system is a commercial item as defined in FAR 2.101;  
and

(ii) Such treatment is necessary to meet national security objectives; and

(2) The congressional defense committees are notified at least 30 days before such treatment or acquisition occurs. Follow the procedures at PGI 234.7002.

(b) A subsystem or component of a major weapon system that meets the definition of a commercial item—

(1) Shall be acquired under the procedures established for the acquisition of commercial items (see FAR Part 12); and

(2) Is not subject to the requirements of paragraph (a) of this section.

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(c) The authority of the Secretary of Defense to make a determination under paragraph (a)(1) of this section may not be delegated below the level of Deputy Secretary of Defense.