

Headquarters
United States Forces Korea
Unit #15237
APO AP 96205-5237



United States Force Korea
Regulation 715-3

8 February 2008

Procurement

BALANCE OF PAYMENTS (BOP) PROGRAM

***This regulation supersedes USFK Regulation 715-3, 24 April 1995**

For the Commanding General:

DAVID P. VALCOURT
Lieutenant General, USA
Chief of Staff

Official:



ANDREA WILLIAMS
Captain, AG
Chief of Publications and
Records Management

Summary. This regulation prescribes policies and procedures for the BOP program for acquisition of the following items, which exceed the simplified acquisition threshold in total foreign cost from local sources.

Summary of Change. This regulation has been substantially changed a full review of its contents is required.

Applicability. This regulation applies to all United States Forces, Korea (USFK) staff elements, USFK components, USFK other activities, and Eighth United States Army (Eighth Army) assigned units.

Supplementation. Issue of further supplements to this regulation by subordinate commands is prohibited unless prior approval is obtained from United States Army Contracting Command, Korea (USACCK), FKAQ, Unit #15289, APO AP 96205-5289.

Forms. USFK forms are available at www.usfk.mil.

Records Management. Records created as a result of processes prescribed by this regulation must be identified, maintained, and disposed of according to AR 25-400-2. Record titles and descriptions are available on the Army Records Information System website at:
<https://www.arims.army.mil>.

Suggested Improvements. The proponent of this regulation is USACCK, (FKAQ). Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to the USACCK, (FKAQ), Unit #15289, APO AP 96205-5289.

Distribution. Electronic Media Only (EMO).

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**Section I
GENERAL**

1. PURPOSE. This regulation prescribes policies and procedures for the BOP program for acquisition of the following items, which exceed the simplified acquisition threshold (\$100K) in total foreign cost from local sources.

- a. End product (equipment, materials, supplies, or perishable subsistence items)
- b. Construction, repair, and maintenance of real property.
- c. Incidental services which primarily involve the acquisition of supplies (the cost of the supplies is more than 50 percent of total cost of the requirements)
- d. Foreign military sales.

2. REFERENCES. Required and related publications are listed in appendix A.

3. EXPLANATION OF ABBREVIATIONS. Abbreviations used in this regulation are explained in the glossary.

4. RESPONSIBILITIES.

a. All USFK staff elements, USFK other activities, Eighth Army, and Eighth Army assigned units (other than United States (U.S.) Air Forces, Korea (USAFK), U.S. Naval Forces, Korea (USNFK), and U.S. Marine Forces, Korea (USMARFORK))--

(1) Requiring Activities (RAs) must prepare two (2) copies of a BOP request for foreign purchase of the items listed in subparagraphs 1a, 1c, and 1d. Documents and data required for the BOP request are listed in paragraph 8. A BOP request must be submitted to the following address for a BOP review and determination:

USACCK
(FKAQ)
Unit #15289
APO AP 96205-5289

(2) For U.S. Army requirements a BOP request for items listed in subparagraph 1b must be submitted to through the Area Commander to the Public Works Division, IMA KORO for a BOP review and determination.

b. The USAFK. The RAs must prepare two (2) copies of a BOP request for foreign purchase of the items listed in subparagraphs 1a through 1d. Documents and data required for the BOP request are listed in paragraph 8. A BOP request must be submitted to the installation commander or the approving authority redelegated by the commander for a BOP review and determination.

c. The USNFK. The RAs must prepare two (2) copies of a BOP request for foreign purchase of the items listed in subparagraphs 1a through 1d. Documents and data required for the BOP request is listed in paragraph 8. A BOP request must be submitted to the Assistant Chief of Staff (ACofS), Logistics, USNFK, or the approving authority redelegated by the ACofS, Logistics, USNFK, for a BOP review and determination.

d. The USMARFORK. The RAs must prepare two (2) copies of a BOP request for foreign purchase of the items listed in subparagraphs 1a through 1d. Documents and data required for the BOP request are listed in paragraph 8. A BOP request must be submitted to the ACofS, Logistics, USMARFORK, or the approving authority redelegated by the ACofS, Logistics, USMARFORK, for a BOP review and determination.

e. The ACofS, Acquisition Management. Based on USFK Reg 715-3, Federal Acquisition Regulation (FAR), Defense Federal Acquisition Regulation Supplement (DFARS), and other references, the office of the ACofS, Acquisition Management, will review the BOP requests for foreign purchase of end products, equipment, or incidental services which are listed in subparagraphs 1a, 1c, and 1d. When the requests have been reviewed, BOP determinations will be made by the approving authority and forwarded to the U.S. Army Contracting Command, Korea (USACCK), Unit #15289, APO AP 96205-5289, along with the BOP requests, for contractual actions.

**Section II
POLICIES AND PROCEDURES**

5. POLICY.

a. The BOP program is a measure imposed to alleviate the impact of Government expenditures on the nation's balance of international payments. The BOP program differs from the Buy American Act in that the Buy American Act applies only to acquisitions for use inside the U.S., while the BOP program applies to acquisitions for use outside the U.S.

b. The Department of Defense (DOD) BOP program is based on the provisions of the DFARS subpart 225.75 and AFARS Subpart 5125.3. The local BOP Program is based on USFK Reg 715-3.

6. CRITERIA OF BOP REQUESTS. The RAs must submit their BOP requests when their foreign purchase requirements meet one of the five (5) criteria listed below.

a. There is an urgent or critical need for end products and equipment or incidental services to support U.S. Forces in Korea which preclude going to U.S. sources. The phrase "urgent or critical need" is defined as follows: Requirements that are urgently and critically needed to perform RA's missions and functions (e.g., air-conditioned systems in central computer rooms in the summertime).

b. End products are not available from the U.S.

c. Unreasonable cost. A cost differential between U.S. total cost and foreign (local) total cost must be greater than 50 percent of the foreign cost. The cost differential must be supported by a cost comparison developed by RAs. Unless the cost differential is greater than 50 percent, the foreign purchase may not be made under this criterion. For example, when a U.S. purchase total (to include shipping costs) is \$170,000, while a foreign purchase total is \$110,000, the differential of the two totals is 54.4 percent of the foreign (local) cost. Because this is greater than 50 percent, the RAs may be authorized to purchase the end products locally. See subparagraphs 8c(10) and 8c(11) for detailed explanations and guidelines on cost comparison when prepared by RAs.

d. Perishable subsistence items for which delivery of the items from U.S. sources would significantly impair their quality at the point of consumption.

e. Projects for construction, maintenance, and repair of U.S. Government real property facilities.

7. DOCUMENTS AND DATA REQUIRED FOR BOP REQUESTS.

a. When RAs' foreign purchase requirements meet the criteria listed in subparagraph 7a (urgent and critical need), RAs must submit a complete BOP request which contains the following data:

(1) Full item description to include size, model number, and any other item identifying data as necessary.

(2) Quantity, unit of issue, and unit price.

(3) Submit a purchase request, funding document, through Acquiline (PRWeb). When access to PRWeb is not available, the appropriate funding form (e.g., DA Form 3953, AF Form 9, NAVCOMP Form 2276) may be submitted.

(4) Required delivery date (RDD).

(5) Purpose for which the item is intended.

- (6) Full justification supporting foreign purchase, to include the following:
 - (a) A statement concerning the efforts made to obtain items from U.S. sources.
 - (b) A mission impact statement concerning the necessity for the item.
 - (c) An average order ship time from the normal supply channels based on the past supply historical data.
 - (d) A statement as to why U.S. items cannot be substituted.
- (7) A copy of the U.S. and Korean catalogs/drawings showing the items requested, if available.
- (8) Independent Government cost estimate.
- (9) A name and telephone number of the point of contact (POC).

b. When RAs' foreign purchase requirements meet the criteria listed in subparagraph 7b, RAs must submit a complete BOP request which contains the following data to USACCK, (FKAQ), Unit #15289, APO AP 96205-5289:

- (1) Full item description to include size, model number, and any other item identifying data, as necessary.
- (2) Quantity, unit of issue, and unit price.
- (3) Submit a purchase request, funding document, through Acquiline (PRWeb). When access to PRWeb is not available, the appropriate funding form (e.g., DA Form 3953, AF Form 9, NAVCOMP Form 2276) may be submitted.
- (4) RDD.
- (5) Purpose for which the item is intended.
- (6) Full justification supporting foreign purchase, to include the following:
 - (a) A statement as to why U.S. items cannot be substituted.
 - (b) A mission impact statement concerning the necessity for the item.
- (7) Independent Government cost estimate.
- (8) A name and telephone number of the POC.

c. When RAs' foreign purchase requirements meet the criteria listed in subparagraph 7c, RAs must submit a complete BOP request which contains the following data to USACCK, (FKAQ), Unit #15289, APO AP 96205-5289:

- (1) Full item description to include size, model number, and any other item identifying data as necessary.
- (2) Quantity, unit of issue, and unit price.

(3) Submit a purchase request, funding document, through Acquiline (PRWeb). When access to PRWeb is not available, the appropriate funding form (e.g., DA Form 3953, AF Form 9, NAVCOMP Form 2276) may be submitted.

(4) RDD.

(5) Purpose for which the item is intended.

(6) Full justification supporting foreign purchase, to include the following:

(a) A statement as to the efforts made to obtain items from U.S. sources.

(b) A mission impact statement concerning the necessity for the item.

(7) A cost comparison sheet (comparison between U.S. total cost and foreign total cost). See subparagraphs 8c(10) and 8c(11) for detailed guidelines. Unless the difference between U.S. total costs and foreign total costs exceeds 50 percent of the foreign total cost, a foreign purchase may not be made under the criteria of "Unreasonable Cost".

(8) A copy of the U.S. and Korean catalog showing the item unit prices and item dimensions (length, width, and height) and the catalog cover page. These catalogs will be used in the cost comparison for determining U.S. item total cost and U.S. shipping cost.

(9) A name and telephone number of the POC.

(10) The cost comparison will be prepared by RAs when a local purchase request of end products exceed the simplified acquisition threshold in total foreign cost under the provisions of DFARS 225.105 "Determining Reasonableness of Cost." The cost comparison, along with the RA's Purchase Request, is submitted to an appropriate approving authority for a BOP review and the determination to approve local purchase.

(11) The following guidelines are provided to assist in preparation of the cost comparison developed by RAs:

(a) Methodology used to get an estimated U.S. total cost is as follows: U.S. Total Cost = U.S. Item Cost + U.S. Port Handling Charges + Ocean Shipping Charges + Busan Port Handling Charges + Inland Transportation Charges (from the Busan port to the RA's unit location) + Item Installation Charges (if required).

(b) U.S. item cost. For National Stock Number items, use the most current Army Master Data File for unit price. For nonstandard and nonstocked items from the normal supply channels, use current U.S. catalogs/price lists that may show net prices, negotiated prices, or discounted price. Use current price data obtained from sources of supply in the continental United States (CONUS) (e.g., TACOM/MICOM/CECOM), if necessary. Contact USACCK for item price data from historical information, if required. For U.S. modular office furniture, use current General Services Administration (GSA) Authorized Federal Supply Schedule Price List. Using this price list, RAs must comply with the following instructions:

Use **NET PRICE** (negotiated), not **LIST PRICE** in the GSA Price List. Use **CORRECT DISCOUNTED PERCENTAGE** when no Government negotiated prices are available. Explanation of this discounted percentage is normally shown under "Terms and Conditions" in the catalogs. Contact USACCK for GSA Item Catalogs or GSA Price Lists. Provide a copy of the pages of the catalog used for net/negotiated/ discounted prices of the items, to include a cover page.

(c) U.S. port handling charges, ocean shipping charges, Pusan port handling charges, and inland transportation charges.

(d) Installation charges. These charges will be made only when U.S. products are required to be installed by U.S. vendors.

(12) Under the provisions of FAR 3.101, it is prohibited for RAs to have direct contact with any potential U.S. or Korean contractors/vendors to get cost estimates of the items to be purchased, or to get other contracting information. Therefore, in case the RAs need contract information from U.S. or Korean contractors/vendors, e.g., cost estimates, layout of office furniture, or quantities desired, RAs must coordinate with USACCK for assistance.

d. When RA's foreign purchase requirements meet the criteria listed in subparagraph 7d (Perishable Subsistence Items), RAs must submit a complete BOP request to USACCK, (FKAQ), Unit #15289, APO AP 96205-5289, which contains the following data:

(1) Full item description.

(2) Quantity, unit of issue, and unit price.

(3) Factual data indicating that delivery from the U.S. would destroy or significantly impair the quality of the items at the point of consumption, or other data that CONUS shipment of the items could not be made on time, based on past supply experience.

(4) Factual data to include storage life, spoilage rate based on past demand experience, and order ship time, as appropriate.

(5) Current DOD Food Supply Directives, guidance/news for overseas shipment restrictions, and supply bulletins or master menu, if available.

(6) RDD.

(7) A name and telephone number of the POC.

e. When RAs' foreign purchase requirements are for construction or maintenance and repair of real property facilities, the following actions will be taken:

(1) The RAs in USFK staff elements, Eighth Army and assigned units, and other activities, must prepare a complete BOP request with the data required by the FAR, DFARS, and this regulation, and submit it to through the Area Commander to the Public Works Division, Installation Management Command, Korea (IMCOM-K) for approval of BOP determinations.

(2) The RAs in USAFK, USNFK, and USMARFORK, must prepare a complete BOP request in accordance with their regulations and guidance, and submit it to their approving authority.

(3) If the foreign material costs are greater than \$1,000,000 in foreign cost, the BOP requests must be approved by the Head of the Contracting Activity (HCA), Army Contracting Agency (ACA) or immediate deputy for acquisitions (see DFARS Subpart 225.103, paragraph (B)(2)). Submit BOP requests, in which the foreign material costs exceeds \$1,000,000, complete with all documentation required by the FAR, DFARS, AFARS, and USFK Reg 715-3 through the Public Works Division, IMCOM-K to USACCK, ATTN: FKAQ, Unit 15289, APO AP 96205-5289, for approval of the BOP determination to the aforementioned authorities.

8. PURCHASES UNDER THE TRADE AGREEMENTS ACT COVERED BY THE WORLD AND FREE TRADE ORGANIZATION GOVERNMENT PROCUREMENT AGREEMENT (WTO GPA) AND FREE TRADE AGREEMENTS (FTA)

a. The dollar threshold of foreign items critical to the support of U.S. Forces stationed overseas under Trade Agreements Act covered by The World Trade Organization Government Procurement Agreement (WTO GPA) and each Free Trade Agreements (FTA), is \$193,000 or more for supply and service contracts and \$7,407,000 for construction contracts (see FAR 25.402a(1)).

b. The WTO GPA and each FTA applies to the acquisition of items by lease, rental, or lease-purchase contract (including lease- to-ownership, or lease-with-option-to purchase).

c. When a requirement for foreign purchase of items exists under The WTO GPA and each FTA, RAs must submit a complete document with supporting rationale for a Waiver Request to the appropriate approving authority for review and approval. The complete document must contain the data shown in paragraph 9.

d. The Head of the Contracting activity of the Army Contracting Agency (ACA) may approve a Trade Agreements Act Waiver Request submitted by RAs on a case-by-case basis.

9. DOCUMENTS AND DATA REQUIRED FOR PURCHASES UNDER THE TRADE AGREEMENTS ACT COVERED BY THE WORLD TRADE ORGANIZATION GOVERNMENT PROCUREMENT AGREEMENT (WTO GPA) AND FREE TRADE AGREEMENTS (FTA)

a. Full description to include size, model number, and any other item identifying data as necessary.

b. Quantity, unit of issue, and unit price.

c. Submit a purchase request, funding document, through Acquiline (PRWeb). When access to PRWeb is not available, the appropriate funding form (e.g., DA Form 3953, AF Form 9, NAVCOMP Form 2276) may be submitted.

d. RDD.

e. Purpose for which the item is intended.

f. A waiver request justifying why the requirement is so critical and indispensable for national security or national defense purposes for the support of U.S. Forces in Korea.

g. A copy of the page of U.S. and Korean catalog/drawings for the item requested.

h. A name and telephone number of the POC.

10. FEDERAL SUPPLY GROUP (FSG) AND SUPPLY CATEGORY/DESCRIPTION SUBJECT TO THE TRADE AGREEMENTS ACT FEDERAL SUPPLY GROUP (FSG) AND SUPPLY CATEGORY/DESCRIPTION. FSG and Supply Category Description subject to the Trade Agreements Act is contained in Department of the Army Supply Bulletin SB 708-21 and is available at www.dlis.dla.mil, under forms and publications.

11. EXCEPTIONS TO THE BALANCE OF PAYMENTS RESTRICTIONS. Local purchase for the following end products or services is exempt from BOP restrictions. Therefore, RAs are not required to submit BOP requests (see DFARS 225.7500).

- a. Foreign end products which are less than simplified acquisition threshold (\$100K) in total foreign cost.
- b. Subsistence items which are required specifically for resale in overseas commissary stores.
- c. Petroleum, crude oil, unfinished oils, and finished products to include asphalt, fuel oil, gasoline, jet fuel, liquefied gases, lubricating oil, naphtha, and natural gas products.
- d. Services which do not involve acquisition of supplies (One hundred (100) percent service).
- e. Incidental services that involve the acquisition of both supplies and services, and when the cost of the service is more than 51 percent against a total requirement cost.
- f. Industrial gases.
- g. Brand drugs specified by the Defense Medical Materiel Board.
- h. Services for maintenance and repair of, and acquisition of spare parts for foreign manufactured vehicles, equipment, machinery, and systems; provided, in the case of spare parts, the acquisition is restricted to the original manufacturer or its supplier.
- i. Bulk construction materials; sand, gravel, and other soil materials, stone, concrete masonry units, and fired brick.
- j. Services for overhaul and repair of vessels, aircraft, and vehicles which are homeported/ stationed/deployed overseas; and cannot practically return to the U.S. or to U.S. operated repair facilities.
- k. Ready-mixed asphalt and Portland cement concrete, provided that foreign cost is estimated at not more than simplified acquisition threshold.
- l. Ice.
- m. Books.

12. ANNUAL (FY) BLANKET BOP REVIEW.

- a. RAs may submit an annual (FY) blanket BOP review in place of individual BOP actions for each project. Other RAs such as the Air Force must submit a separate Annual Blanket BOP review and updates as applicable. There is no requirement for RAs to prepare an annual blanket BOP review but those who do not, shall, as applicable, prepare, staff for approval and provide an individual BOP determination for each individual project.
- b. The implementation part of this process is very important. The RA is required to screen each project's local (non-US) material list against that included in the annual blanket BOP review and update the list as required. RAs shall include a statement on the memorandum accompanying procurement package "The list of foreign materials for this project has been compared to the Annual Blanket BOP Review list and any necessary updates have been prepared and included." The annual blanket BOP review and all subsequent updates to the list shall be maintained in a file by the RA and the Chief, Construction Branch, USACCK, for audit purposes.
- c. The annual blanket BOP review shall be prepared and approved in accordance with DFARS 225.75 and all other applicable laws and regulations. The use of the annual blanket BOP review is not a waiver of the requirement to submit a BOP determination. All blanket BOP reviews shall be submitted annually, by 30 September, to USACCK, (FKAQ), Unit 15289, APO AP 96205-5289.

APPENDIX A

REFERENCES

Section I. Required Publications

DFARS Subpart 225.75 (Balance of Payments Program). Cited in subparagraph 6b.

FAR 3.101 (Standard of Conduct). Cited in subparagraph 8c(12).

FAR Subpart 25.204 (Evaluation Offers of Foreign Construction Material). Cited in 8c(10).

FAR Subpart 25.4 (Trade Agreements). Cited in paragraph 10.

Section II. Related Publications

AFARS Subpart 5125.3, (Hazardous Material Identification and Material Safety Data).

DA PAM 415-15 (Army Military Construction Program Development and Execution).

USFK Reg 715-2 (Contracting for Supplies, Services and Construction).

GLOSSARY

ABBREVIATIONS

ACofS	Assistant Chief of Staff
AFARS	Army Federal Acquisition Supplement
BOP	Balance of Payments
CECOM	Communications-Electronics Command
CONUS	Continental United States
DFARS	Defense Federal Acquisition Regulation Supplement
DOD	Department of Defense
Eighth Army	Eighth United States Army
FAR	Federal Acquisition Regulation
FSG	Federal Supply Group
FTA	Free Trade Agreement
FY	Fiscal Year
GSA	General Services Administration
IMCOM-K	Installation Management Command- Korea
RA	Requiring Activity
RDD	Required Delivery Date
RP	Request for Purchase
MICOM	Missile Command
POC	Point of Contact
TAACOM	Tank Automotive and Armament Command
U.S.	United States (of America)
USACCK	United States Army Contracting Command, Korea
USAFK	United States Air Forces, Korea
USFK	United States Forces, Korea
USMARFORK	United States Marine Corps Forces
USNFK	United States Naval Forces, Korea

WTO/GPA

World and Free Trade Organization Government Procurement
Agreement