

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(Revised July 3, 2013)

PGI 225.74—DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES

PGI 225.7401 Contracts requiring performance or delivery in a foreign country.

(a) If the acquisition requires the performance of services or delivery of supplies in an area outside the United States, the contracting officer shall—

(i) Ensure that the solicitation and contract include any applicable host country and designated operational area performance considerations. Failure to provide such information—

(A) May result in a contract that does not reflect the respective support relationships between the contractor and the Government, ultimately affecting the ability of the contractor to fulfill the contract terms and conditions;

(B) May result in unplanned support burdens being placed on the Government in a theater of operations;

(C) May result in contractor personnel conflicting with theater operations or performing in violation of a theater commander's directives or host country laws; or

(D) May cause contractor personnel to be wrongly subjected to host country laws.

(ii) Comply with any theater business clearance/contract administration delegation requirements set forth in memorandum ([click here](#)) entitled Theater Business Clearance/Contract Administration Delegation Update—Integration of TBC with the Joint Contingency Contracting System Platform (which must be consistent with the combat support agency's established functions and responsibilities) and set forth by the geographic combatant commander during declared contingency operations for all solicitations and contracts that relate to the delivery of supplies and services to the designated area(s) of operation.

(A) Theater business clearance ensures—

(1) Contracted effort to be accomplished in designated area(s) of operations, along with any associated contractor personnel, is visible to the combatant commander;

(2) Contracted effort is in consonance with in-country commanders' plans;

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(3) Solicitations and contracts contain appropriate terms and conditions;

(4) Contracted effort will be properly overseen in designated area(s) of operation;

(5) Any Government-furnished support requirements associated with contractor personnel are properly addressed in the contract terms and conditions.

(B) Contract administration delegation—

(1) Allows the combatant commander to exercise control over the assignment of contract administration (which must be consistent with the combat support agency's established functions and responsibilities) for that portion of contracted effort that relates to performance in, or delivery to, designated area(s) of operation.

(2) Allows the combatant commander to exercise oversight to ensure the contractor's compliance with combatant commander and subordinate task force commander policies, directives, and terms and conditions.

(iii) Refer to the website at <http://www.acq.osd.mil/dpap/pacc/cc/index.html>, which contains required procedures and applicable guidance and information;

(iv) Follow specific guidance for the combatant command in whose area the contractor will be performing services or delivering supplies. This guidance is contained on the respective combatant commander's operational contract support webpage which is linked to the procedures at http://www.acq.osd.mil/dpap/pacc/cc/areas_of_responsibility.html, at the weblink for the combatant command for the area in which the contractor will be performing services or delivering items. These pages list prevailing regulations, policies, requirements, host nation laws, orders/fragmentary orders, combatant commander's directives, unique clauses, and other considerations necessary for soliciting and awarding a contract for performance in, or delivery of items to, that combatant commander's area of responsibility;

(v) To determine the appropriate point(s) of contact for contracting matters in/within the combatant commander's area of responsibility, contact the overseas contracting office by accessing the link for the combatant command in whose area of responsibility the contractor will be performing services or delivering items. From the combatant command website, link to the

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contracting office supporting the combatant command to identify the appropriate point of contact; and

(vi) Use the following checklist as a guide to document consideration of each listed issue, as applicable, and retain a copy of the completed checklist in the contract file.

CHECKLIST

The contracting officer shall verify that the requiring activity has considered the following when building its requirements package, as applicable:

____ (1) Whether the contemplated acquisition will duplicate or otherwise conflict with existing work being performed or items already provided in the area, and whether economies of scope/schedule can be leveraged if there are already existing contracts in place for similar work or items.

____ (2) The availability of technically qualified and properly trained Government civilian and/or military personnel to oversee the performance of the contract in the combatant commander's area of responsibility (e.g., contracting officer's representatives, quality assurance representatives, property administrators).

____ (3) The applicability of any international agreements to the acquisition. (Some agreements may be classified and must be handled appropriately.)

____ (4) Compliance with area-specific, anti-terrorism security guidance set forth by the command anti-terrorism officer, to include soliciting anti-terrorism officer guidance on the particular requirement and the location of delivery and/or execution of services, and incorporating recommended security measures into the requirements package.

____ (5) Whether there are any requirements for use of foreign currencies, including applicability of U.S. holdings of excess foreign currencies.

____ (6) Information on taxes and duties from which the Government may be exempt.

____ (7) If the acquisition requires performance of work in the foreign country, whether there are standards of conduct for the prospective contractor and, if so, the consequences for violation of such standards of conduct.

____ (8) The availability of logistical and other Government-furnished support and equipment for contractor personnel. This includes, but is not limited to: berthing and messing; intra-theater transportation; medical support; morale, welfare, and recreation support; postal support; force protection support; organizational clothing and personal protective gear (e.g., body armor and gas masks.)

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____ (9) If the contractor will employ foreign workers, whether a waiver of the Defense Base Act will be required (see FAR 28.305).

____ (10) Whether contractor personnel will need authorization to carry weapons for the performance of the contract.

____ (11) If the contract will include the clause at DFARS [252.225-7040](#), Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States, the Government official authorized to receive DD Form 93, Record of Emergency Data Card, to enable the contracting officer to provide that information to the contractor, as required by paragraph (g) of the clause.

____ (12) Ascertain the existence of and detail any Geographic Combatant Commander's (GCC's)/Subordinate Joint Force Commander Combating Trafficking in Persons Directives or Notices applying to Combating Trafficking in Persons (as required by FAR 22.1705 for contracts performed outside the United States) that would require the contracting officer to use Alternate I of the clause at FAR 52.222-50 detailing these requirements. This information can be ascertained from review of content on the cognizant Geographic Combatant Command Operational Contract Support webpage referred to in (a)(iv) of this PGI section.

____ (13) Other requirements associated with contractor personnel to include deployment -related training, accountability (registration in Synchronized Pre-deployment and Operational Tracker), medical and dental qualifications, theater entrance and country clearance requirements.

____ (14) Any other requirements of the website for the country in which the contract will be performed or the designated operational area to which deliveries will be made.

____ (15) If the acquisition requires performance of security services, as defined in DFARS [252.225-7039](#), to be performed in areas of (a) combat operations, (b) contingency operations, or (c) other military operations or exercises, incorporate, and require compliance with, ANSI/ASIS PSC.1-2012, American National Standard, Management System for Quality of Private Security Operations—Requirements with Guidance (located at <https://www.asisonline.org/guidelines/published.htm>).

The contracting officer shall provide the following information to the applicable overseas contracting office (see [PGI 225.7401](#)(a)(v)):

____ (1) The solicitation number, the estimated dollar value of the acquisition, and a brief description of the work to be performed or the items to be delivered.

____ (2) Notice of contract award, including contract number, dollar value, and a brief description of the work to be performed or the items to be delivered.

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_____(3) Any additional information requested by the applicable contracting office to ensure full compliance with policies, procedures, and objectives of the applicable country or designated operational area.

(b) For work performed in Japan or Korea, U.S.-Japan or U.S.-Korea bilateral agreements govern the status of contractors and employees, criminal jurisdiction, and taxation. U.S. Forces Japan (USFJ) and U.S. Forces Korea (USFK) are sub-unified commands of Pacific Command (PACOM). The PACOM Staff Judge Advocate contact information is available at http://www.pacom.mil/web/Site_Pages/Staff%20Directory/J0/J0.shtml or by clicking on Staff Directory/Special Staff on the PACOM website. Links to USFJ and USFK websites can be found at the PACOM website at <http://www.pacom.mil> by clicking on “Regional Resources - Links”.

(i) For work performed in Japan—

(A) U.S.-Japan bilateral agreements govern the status of contractors and employees, criminal jurisdiction, and taxation;

(B) USFJ and component policy, as well as U.S.-Japan bilateral agreements, govern logistic support and base privileges of contractor employees;

(C) The Commander, USFJ, is primarily responsible for interpreting the Status of Forces Agreement (SOFA) and local laws applicable to U.S. Forces in Japan and for requirements in support of USFJ; and

(D) To ensure that the solicitation and resultant contract reflect an accurate description of available logistics support and application of the U.S.-Japan SOFA, review the information on Contract Performance in Japan at the USFJ website, <http://www.usfj.mil>; or

(2) Contact the Staff Judge Advocate at (commercial) 011-81-3117-55-7717, or DSN 315-225-7717.

(ii) For work performed in Korea—

(A) U.S.-Korea bilateral agreements govern the status of contractors and employees, criminal jurisdiction, and taxation;

(B) USFK and component policy, as well as U.S.-Korea bilateral agreements, govern logistics support and base privileges of contractor employees;

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(C) The Commander, USFK, is primarily responsible for interpreting the SOFA and local laws applicable to U.S. Forces in Korea and for requirements in support of USFK; and

(D) To ensure that the solicitation and resultant contract reflect an accurate description of available logistics support and application of the U.S.-Korea SOFA, review the SOFA information found at the USFK website at <http://www.usfk.mil/usfk/> under “Publications”, or at <http://www.usfk.mil/usfk/sofadocuments.aspx>. Contact information for the Commander is also available at <http://www.usfk.mil/usfk/leadership.aspx>.

(E) Additional applicable directives and regulations are available at <http://www.usfk.mil/usfk/>, click on the drop down menu for “Publications”.

(c) For work performed in specified countries in the USCENTCOM area of responsibility, follow theater business clearance/ contract administration delegation policy as set forth in OSD policy letters linked to this PGI, and specific theater business clearance/contract administration delegation instructions as implemented by USCENTCOM's Joint Theater Support Contracting Command and found under contracting guidance at http://www.acq.osd.mil/dpap/pacc/cc/areas_of_responsibility.html (click on CENTCOM area of responsibility).

PGI 225.7402 Contractor personnel authorized to accompany U.S. Armed Forces deployed outside the United States.

(1) DoDI 3020.41, Contractor Personnel Authorized to Accompany the U.S. Armed Forces, serves as a comprehensive source of DoD policy and procedures concerning DoD contractor and subcontractor personnel authorized to accompany the U.S. Armed Forces. Such personnel—

(i) May include U.S. citizens, U.S. legal aliens, third country nationals, and local nationals;

(ii) May be employees of external support, systems support, or theater support contractors, as defined in Enclosure 2 of DoDI 3020.41; and

(iii) Are provided with an appropriate identification card under the Geneva Conventions (also see DoDI 1000.1, Identity Cards Required by the Geneva Conventions).

(2) Not all contractor personnel in a designated operational area are authorized to accompany the U.S. Armed Forces. For example, contractor personnel performing reconstruction contracts generally are not authorized to accompany the U.S. Armed Forces.

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(3) Also see [PGI 207.105\(b\)\(20\)\(C\)](#) for special considerations for acquisition planning for crisis situations outside the United States.

PGI 225.7402-2 Definitions.

“Designated operational areas” include, but are not limited to, such descriptors as theater of war, theater of operations, joint operations area, amphibious objective area, joint special operations area, and area of operations. See DoD Joint Publication 3-0, Joint Operations, Chapter II, Paragraph 5, “Organizing the Operational Areas,” at <https://jdeis.js.mil/jdeis/index.jsp> (select “Browse Joint Pubs” under “Joint Doctrine” heading).

PGI 225.7402-3 Government support.

(a) Support that may be authorized or required when contractor personnel are deployed with or otherwise provide support in the theater of operations to U.S. military forces deployed outside the United States may include, but are not limited to—

- (i) Deployment in-processing centers;
- (ii) Training;
- (iii) Transportation to operation area;
- (iv) Transportation within operation area;
- (v) Physical security;
- (vi) Force protection;
- (vii) Organizational clothing and individual equipment;
- (viii) Emergency medical care;
- (ix) Mess operations;
- (x) Quarters;
- (xi) Postal service;
- (xii) Phone service;
- (xiii) Emergency notification;

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(xiv) Laundry; and

(xv) Religious services.

(e) *Letter of Authorization.*

(i) A Synchronized Predeployment and Operational Tracker (SPOT)-generated Letter of Authorization (LOA) is necessary to enable a contractor employee to process through a deployment processing center, to travel to, from, and within the theater of operations, and to identify any additional authorizations and privileges. If authorized by the contracting officer, a contracting officer's representative may approve a LOA. Contractor travel orders will be prepared by the supporting installation.

(ii) The LOA will state the intended length of assignment in the theater of operations and will identify planned use of Government facilities and privileges in the theater of operations, as authorized by the contract. Authorizations may include such privileges as access to the exchange facilities and the commissary, and use of Government messing and billeting. The LOA must include the name of the approving Government official.

(iii) Approved, standard DoD format for LOA: (See sample LOA, Business Rules for the Synchronized Predeployment and Operational Tracker, at the website provided at [PGI 225.7402-5\(a\)\(iv\)](#)).

(f) *Medical support of contractor personnel.*

(1) Contractors are required to ensure that the Government is reimbursed for any costs associated with medical or dental care provided to contractor employees accompanying the forces (see [252.225-7040\(c\)\(2\)](#)).

(2) If questions arise concerning Defense Finance and Accounting Services (DFAS) billing to contractors for medical or dental care provided, contracting officers may refer the individual to any of the following resources:

(i) For in-patient and out-patient billing rates, go to <http://comptroller.defense.gov/rates/>.

(ii) For Military Service-appointed points of contract (POCs) responsible for resolving medical billing disputes, see the POCs listed in the [memoranda of agreements between DFAS and the military services](#)).

(iii) For questions on retroactive billings, see USD(AT&L) [memorandum dated December 20, 2011, entitled "Notification of Retroactive Billing for Medical Services Provided by Non-Fixed Medical Facilities in the U.S. Central Command Area of Responsibility"](#).

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(iv) For additional information on Medical Billing in Theatre, see DoDI 3020.41, Operational Contract Support (OCS), Enclosure 3, entitled Guidance for Contractor Medical and Dental Fitness.

(3) Contracting officers are not responsible for adjudicating DFAS bills to contractors for such medical or dental reimbursement. However, contracting officers are required to assist the Military Service POCs in resolving billing disputes.

PGI 225.7402-5 Contract clauses.

(a) *Class Deviation [2013-00015](#), Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States.*

(i) “Performance in the United States Central Command Area of Responsibility (USCENTCOM AOR)” means performance of a service or construction, as required by the contract. For supply contracts, production of the supplies or associated overhead functions are not covered, but services associated with the acquisition of the supplies are covered (e.g., installation or maintenance).

(ii) If a contract requires performance in the USCENTCOM AOR, but some personnel performing the contract are authorized to accompany the U.S. Armed Forces, and other personnel performing the contract are not authorized to accompany the U.S. Armed Forces, include in the solicitation and contract both the clauses provided by this deviation: [252.225-7040](#) (DEVIATION [2013-O0015](#)) (JUN 2013) and [252.225-7995](#) (DEVIATION [2013-O0015](#)) (JUN 2013).

(iii) In exceptional circumstances, the head of the agency may authorize deviations from the requirements of Class Deviation [2013-O0015](#), in accordance with FAR Subpart 1.4 and DFARS Subpart [201.4](#).

(b) When using the clause at DFARS [252.225-7040](#), Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States, consider the applicability of the following clauses:

(i) The clause at DFARS [252.225-7043](#), Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States, as prescribed at DFARS [225.7403-2](#).

(ii) Either the clause at FAR 52.228-3, Workers’ Compensation Insurance (Defense Base Act), or the clause at FAR 52.228-4, Workers’ Compensation and War-Hazard Insurance Overseas, as prescribed at FAR 28.309(a) and (b).

(iii) The clause at FAR 52.228-7, Insurance—Liability to Third Persons, in cost-reimbursement contracts as prescribed at DFARS [228.311-1](#).

(iv) The clause at DFARS [252.228-7003](#), Capture and Detention, as prescribed at

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DFARS [228.370](#)(d).

(v) The clause at DFARS [252.237-7019](#), Training for Contractor Personnel Interacting with Detainees, as prescribed at DFARS [237.171-4](#).

(vi) The clause at FAR 52.249-14, Excusable Delays, as prescribed at FAR 49.505(b).

(vii) The clauses at FAR 52.251-1, Government Supply Sources, as prescribed at FAR 51.107, and DFARS [252.251-7000](#), Ordering from Government Supply Sources, as prescribed at DFARS [251.107](#).

PGI 225.7403 Antiterrorism/force protection.

PGI 225.7403-1 General.

Information and guidance pertaining to DoD antiterrorism/force protection policy for contracts that require performance or travel outside the United States can be obtained from the following offices:

(1) For Army contracts: HQDA-AT; telephone, DSN 222-9832 or commercial (703) 692-9832.

(2) For Navy contracts: Naval Criminal Investigative Service (NCIS), Code 21; telephone, DSN 288-9077 or commercial (202) 433-9077.

(3) For Marine Corps contracts: CMC Code POS-10; telephone, DSN 224-4177 or commercial (703) 614-4177.

(4) For Air Force and Combatant Command contracts: The appropriate Antiterrorism Force Protection Office at the Command Headquarters. Also see <https://atep.dtic.mil>.

(5) For defense agency contracts: The appropriate agency security office.

(6) For additional information: Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, ASD (SOLIC); telephone, DSN 227-7205 or commercial (703) 697-7205.

PGI 225.7404 Contract administration in support of contingency operations.

(a) In accordance with Joint Publication 1, Doctrine for the Armed Forces of the United States, at http://www.apexnet.org/docs/Joint_Publication_1.pdf, the geographic combatant commander or subordinate joint force commander, through his command authority to exercise operational control, has the authority to exercise control over the assignment of

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contract administration during contingency operations, consistent with the combat support agency's established mission functions, responsibilities, and core competencies, for contracts requiring delivery of items or performance within the area of operations.

(b) In certain contingency operations, the combatant commander or joint force commander may promulgate theater or joint operations area guidance for contracting that may include establishing—

- (1) A contracting command and control structure;
- (2) Head of contracting activity responsibilities, specific orders, and policies, including local clauses;
- (3) Roles and responsibilities of DoD components and supporting agencies in contract formation and execution; and
- (4) Procedures and requirements for contract clearance and contract administration of contracts requiring delivery of items and performance within the area of operations.

(c) When a combat support agency is tasked by the combatant commander to provide contingency contract administration services in support of contingency operations and such support will be required for a long duration, the combat support agency shall initiate a memorandum of agreement with the combatant commander or joint force commander. This agreement shall clearly delineate the purpose of the support, respective responsibilities of the combat support agency and the joint, lead service or service contracting activity requesting the support, combat support agency support parameters, and a resolution process for resolving support issues.

(1) The memorandum of agreement should focus on maximizing the combat support agency's core competencies to address the more critical, complex, high-risk, and specialized oversight requirements.

(2) The memorandum of agreement should take into consideration the combat support agency's core competencies, workload priorities, and contract administration services support parameters for accepting requests for contract administration services support.

(3) A combat support agency shall not be assigned to perform tasks outside its mission functions, responsibilities, or core competencies.

(4) Contracting officers contemplating requesting contract administration support in a contingency area from a combat support agency should first ascertain whether such a memorandum of agreement exists by contacting their combat support agency point of

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contact and or checking the combatant commander operational contract support website (referenced in DFARS [PGI 225.7401](#)).

(5) The following is a notional format for a memorandum of agreement for contract administration services support;

(A) Purpose: Outline formal procedures for requesting contract administration services support, describe objectives associated with combat support agency providing such support.

(B) Reference: Key documents or reference(s) associated with the execution of the contract administration services support.

(C) Clearing-house functions performed by the designated joint or lead component contracting activity in the operational area—

(1) Contract clearance parameters – when required;

(2) Contract delegation parameters – when required.

(D) Contract administration services support parameters –

(1) Acceptable for delegation - contract types that will be accepted by the combat support agency based on risk, dollar threshold, geographic dispersion of performance, service type, criticality of acceptance, or other criteria;

(2) Generally not be delegated – below-threshold contract types;

(3) Will not be delegated – no agency expertise to oversee.

(E) Delegation process – process for accepting and assigning contract administration services tasks within the combat support agency.

(F) Joint resolution process – procedures in the event of disagreement on actions to be supported by the combat support agency.

(G) Term of the Agreement and Modification - length of time the agreement will be in effect and procedures for the parties to modify or terminate it.

(d) Disputes regarding requested support should be resolved at the lowest management level possible, through a predetermined resolution process. When support issues arise that affect the ability of a combat support agency to provide contract administration support that cannot be resolved at lower management levels, follow

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procedures set forth in DoDI 3000.06, Combat Support Agencies, paragraphs 5.6.8 and 5.6.9, (<http://www.dtic.mil/whs/directives/corres/pdf/300006p.pdf>).

(e) Responsibilities of the head of the contracting activity for contingency contract closeout are addressed at DFARS [204.804](#)(2). See also planning considerations at [PGI 207.105](#)(b)(20)(C)(8).

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PGI 225.77—ACQUISITIONS IN SUPPORT OF OPERATIONS IN IRAQ OR AFGHANISTAN

PGI 225.7703 Acquisition of products or services other than small arms.

PGI 225.7703-2 Determination requirements.

(b) Subject matter experts for defense industrial base matters are as follows:

For Army: SAAL-PA, Army Industrial Base Policy, telephone 703-695-2488.

For DLA: DLA J-74, Acquisition Programs and Industrial Capabilities Division, telephone 703-767-1427.

For Navy: Ship Programs, DASN Ships, telephone 703-697-1710.

For Air Force: Air Force Research Laboratory, Materials Manufacturing Directorate, telephone 703-588-7777.

For Other Defense Agencies: Personnel at defense agencies without industrial base expertise on staff should contact the Office of the Deputy Under Secretary of Defense for Industrial Policy (Acquisition, Technology, and Logistics), telephone 703-697-0051.

(c) Determination formats.

(i) Prepare an individual determination and findings substantially as follows:

DEPARTMENT OR AGENCY

Authority to Acquire Products or Services
from Iraq or Afghanistan

Determination and Findings

Upon the basis of the following findings and determination which I hereby make in accordance with the provisions of DFARS [225.7703-2](#), the acquisition of a product or service, other than small arms, in support of operations in [*Select one:* Iraq / Afghanistan / Iraq and Afghanistan] may be made as follows:

Findings

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1. The [contracting office] proposes to purchase under contract number _____, [describe item]. The total estimated cost of this acquisition is _____.
2. The product or service is to be used by [describe the entity(ies) that are the intended user(s) of the product or service].
3. The contracting officer recommends conducting the acquisition using the following procedure, which, given this determination, is authorized by Section 886 of Public Law 110-181:

[Select one of the following:]

Provide a preference for products or services from Iraq or Afghanistan.

Limit competition to products or services from Iraq or Afghanistan.

Use procedures other than competitive procedures to award a contract to a particular source or sources from Iraq or Afghanistan.

4. To implement the recommended procedure, the solicitation will contain [title and number of the applicable provision and/or clause prescribed at DFARS [225.7703-5](#)].
5. The proposed acquisition will provide a stable source of jobs in [*Select one:* Iraq / Afghanistan / Iraq and Afghanistan], because _____.
6. The proposed use of other than full and open competition is necessary to provide this stable source of jobs in [*Select one:* Iraq / Afghanistan / Iraq and Afghanistan].
7. The proposed use of other than full and open competition will not adversely affect military operations or stability operations in [*Select one:* Iraq / Afghanistan / Iraq and Afghanistan], because _____ . This is the opinion of the *[title of the official responsible for operations in the area involved]*.
8. The proposed use of other than full and open competition will not adversely affect the United States industrial base.
9. *[If a preference will be provided for products or services from Iraq or Afghanistan, or if competition will be limited to products or services from Iraq or Afghanistan, include—*

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(1) A description of efforts made to ensure that offers are solicited from as many potential sources as is practicable; and

(2) Whether a notice was or will be publicized as required by FAR Subpart 5.2 and, if not, which exception in FAR 5.202 applies.]

- or -

[If procedures other than competitive procedures will be used to award a contract to a particular source or sources from Iraq or Afghanistan, include—

(1) A description of the market research conducted in accordance with FAR Part 10 and the results; or a statement of the reason market research was not conducted;

(2) A listing of the sources, if any, that expressed, in writing, an interest in the acquisition;

(3) A demonstration that the proposed contractor's unique qualifications require the use of a noncompetitive acquisition, or an explanation of the other reasons for use of a noncompetitive acquisition; and

(4) A certification by the contracting officer that the information in paragraphs (1) through (3) above is accurate and complete to the best of the contracting officer's knowledge and belief.]

Determination

I hereby determine that it is in the national security interest of the United States to use the acquisition procedure described above, because the procedure is necessary to provide a stable source of jobs in [*Select one: Iraq / Afghanistan / Iraq and Afghanistan*] and it will not adversely affect (1) Operations in [*Select one: Iraq / Afghanistan / Iraq and Afghanistan*] or (2) the United States industrial base.

(Date)

(ii) Prepare a determination and findings for a class of acquisitions substantially as follows:

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DEPARTMENT OR AGENCY

Authority to Acquire Products or Services
from Iraq or Afghanistan

Determination and Findings

Upon the basis of the following findings and determination which I hereby make in accordance with the provisions of DFARS [225.7703-2](#), the acquisition of products or services, other than small arms, in support of operations in [Select one: Iraq / Afghanistan / Iraq and Afghanistan] may be made as follows:

Findings

1. It is anticipated that [applicable departments/agencies/components] will need to award contracts during the period from _____ to _____ in order to acquire [describe the type(s) of products or services] for [describe the purpose, if the purpose for which the items will be acquired is a defining characteristic of the class of acquisitions to be covered by the class determination].
2. The products or services to be acquired under the contemplated contracts are to be used by [describe the entity(ies) intended to use the products or services].
3. This class of acquisitions should be conducted using the following procedure, which, given this determination, is authorized by Section 886 of Public Law 110-181:

[Select one of the following:]

Provide a preference for products or services from Iraq or Afghanistan.

Limit competition to products or services from Iraq or Afghanistan.

Use procedures other than competitive procedures to award a contract to a particular source or sources from Iraq or Afghanistan.

4. To implement the recommended procedure, solicitations will contain [title and number of the applicable provision and/or clause prescribed at DFARS [225.7703-5](#)].

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5. Each of the contemplated contracts will provide a stable source of jobs in [*Select one: Iraq / Afghanistan / Iraq and Afghanistan*], because _____.
6. The proposed use of other than full and open competition for this class of acquisitions is necessary to provide this stable source of jobs in [*Select one: Iraq / Afghanistan / Iraq and Afghanistan*].
7. The proposed use of other than full and open competition for this class of acquisitions will not adversely affect operations in [*Select one: Iraq / Afghanistan / Iraq and Afghanistan*], because_____. This is the opinion of the [*title of the official responsible for operations in the area involved*].
8. The proposed use of other than full and open competition for this class of acquisitions will not adversely affect the United States industrial base.
9. [*If a preference will be provided for products or services from Iraq or Afghanistan, or if competition will be limited to products or services from Iraq or Afghanistan, include—*

(1) A description of the efforts that will be made to ensure that offers are solicited from as many potential sources as is practicable; and

(2) Whether a notice will be publicized as required by FAR Subpart 5.2 and, if not, which exception in FAR 5.202 applies.]

- or -

[If procedures other than competitive procedures will be used to award contracts to a particular source or sources from Iraq or Afghanistan, include—

(1) A description of the market research conducted in accordance with FAR Part 10 and the results; or a statement of the reason market research was not conducted;

(2) A listing of the sources, if any, that expressed, in writing, an interest in this class of acquisitions;

(3) A demonstration that the proposed contractor's unique qualifications require the use of a noncompetitive acquisition, or an explanation of the other reasons for use of a noncompetitive acquisition; and

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(4) *A certification by the contracting officer that the information in paragraphs (1) through (3) above is accurate and complete to the best of the contracting officer's knowledge and belief.]*

Determination

I hereby determine that it is in the national security interest of the United States to use the acquisition procedure described above for [description of the class of acquisitions to which this determination is intended to apply], because the procedure is necessary to provide a stable source of jobs in [Select one: Iraq / Afghanistan / Iraq and Afghanistan] and it will not adversely affect (1) Operations in [Select one: Iraq / Afghanistan / Iraq and Afghanistan] or (2) the United States industrial base.

(Date)

(iii) Prepare a determination and findings for acquisitions issued pursuant to [Class Deviation 2012-O0009](#), Revise Implementation of Temporary Authority to Acquire Products and Services (Including Construction) from Countries along a Major Route of Supply to Afghanistan, substantially as follows:

DEPARTMENT OR AGENCY

AUTHORITY TO ACQUIRE PRODUCTS OR SERVICES FROM

Determination and Findings

Upon the basis of the following findings and determination, which I hereby make in accordance with the provisions of DFARS 225.7799-2 (DEVIATION [2012-O0009](#)), the acquisition of a product or service, other than small arms, in support of operations in Afghanistan may be made as follows:

FINDINGS

- 1., The _____ 1A _____ proposes to purchase under solicitation number _____
_____ 1B _____, _____ 1C _____.
The total estimated cost of this acquisition is _____ 1D _____.
- 2., The product or service is to be used by _____ 2 _____
_____.

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3., The contracting officer recommends conducting the acquisition using the following procedure, which, given this determination, is authorized by Section 801 of Public Law 111-084:

3

4. To implement the recommended procedure, the solicitation will contain:

a. DFARS 252.225-7990, Preference for Products or Services from a Central Asian State (AUG 2012)(DEVIATION [2012-O0009](#)) and 252.225-7091, Requirement for Products or Services from a Central Asian State (AUG 2012)(DEVIATION);

b. DFARS 252.225-7992, Acquisition Restricted to Products or Services from a Central Asian State (AUG 2012)(DEVIATION [2012-O0009](#));

c. DFARS 252.225-7998, Preference for Products or Services from Central Asia, Pakistan, or the South Caucasus (AUG 2012) (DEVIATION [2012-O0009](#)), and DFARS 252.225-7999, Requirement for Products or Services from a Central Asia, Pakistan, or the South Caucasus (AUG 2012) (DEVIATION [2012-O0009](#));
or

d. DFARS 252.225-7996, Acquisition Restricted to Products or Services from Central Asia, Pakistan, or the South Caucasus.

5., The proposed acquisition will provide a product or service that is to be used

5

6. It is in the national security interest of the United States to use a procedure specified in 225.7799-1(a)(DEVIATION [2012-O0009](#)) because the procedure is necessary to

6A

Use of the procedure will not adversely affect military or stability operations in Afghanistan or the United States industrial base (see 6B).

7. Acquisitions conducted using the procedures specified in DFARS 225.7799-1(a) (DEVIATION [2012-O0009](#)), (see para. 3. above), are authorized to use other than full and open competition procedures and do not require the justification and approval addressed in FAR Subpart 6.3.

8. Requirement will be/was synopsised: YES NO If not synopsised, exception at FAR 5.202(a) applies.

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_____ Date: _____
CONTRACTING OFFICER
Name: _____
Office Symbol: _____

DETERMINATION

In accordance with the authorization outlined in DFARS 225.7799-2(b)(1)(i)([DEVIATION 2012-O0009](#)) and under the authority of section 801 of the National Defense Authorization Act for Fiscal Year 2010, I hereby determine that it is in the national security interest of the United States to use the acquisition procedure described above because the procedure is necessary to encourage countries along a major route of supply in support of military and stability operations in Afghanistan. This procedure will not adversely affect military or stability operations in Afghanistan; or the United States industrial base.

_____ Date: _____

INSTRUCTIONS FOR COMPLETING DETERMINATION

- 1A Office symbol of your contracting office
- 1B RFP/RFQ/IFB number
- 1C Description of the items to be purchased
- 1D Estimated amount of the requirement (in USD)
- 2 Describe the entity(ies) that are the intended user(s) of the product or service
- 3 *Select and include one of the following:*
 - a. Provide a preference for products or services from the five Central Asian states IAW the evaluation procedures at 225.7799-3 (DEVIATION [2012-O0009](#)).
 - b. Limit competition to products or services from the five Central Asian states listed in DEVIATION [2012-O0009](#)).
 - c. Provide a preference for products or services from Central Asia, Pakistan, or the South Caucasus IAW the evaluation procedures at 225.7799-3 (DEVIATION [2012-O0009](#)).
 - d. Limit competition to products or services from the nine states of Central Asia, Pakistan, or the South Caucasus (DEVIATION [2012-O0009](#)).
- 5 *Select and include one of the following:*

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In the country that is the source of the product or service.

In the course of efforts by the United States and the NATO International Security Assistance Force to ship goods to Afghanistan in support of operations in Afghanistan.

By the military forces, police, or other security personnel of Afghanistan.

6A *Select and include one of the following:*

Reduce the overall United States transportation costs and risks in shipping goods in support of operations in Afghanistan.

Encourage states of Central Asia, Pakistan, and the South

Caucasus-to cooperate in expanding supply routes through their territory in support of operations in Afghanistan.

Help develop more robust and enduring routes of supply to Afghanistan.

6B The contracting officer generally may presume that there will not be an adverse effect on the U.S. industrial base. However, when in doubt the contracting officer should coordinate with the applicable subject matter experts.

8 Include a description of efforts made to ensure offers are solicited from as many potential sources as is practicable.

PGI 225.7703-3 Evaluating offers.

When acquiring products or services in support of the United States Central Command (USCENTCOM) theater of operations, contracting officers must check the “NDAA FY12 Section 841 Identified Entities” list on the USCENTCOM website at <https://www2.centcom.mil/sites/contracts/default.aspx> prior to awarding contracts and ensure that DoD does not award contracts to an enemy of the United States.

PGI 225.7703-4 Reporting requirement.

(1) Reports for [Class Deviation 2009-O0012](#), Class Deviation to Implement Temporary Authority to Acquire Products and Services Produced in Countries along a Major Route of Supply to Afghanistan and Class Deviation 2012-O0009, Revise Implementation of Temporary Authority to Acquire Products and Services (Including Construction) from Countries along a Major Supply Route to Afghanistan, shall include—

(i) The number of occasions on which a determination under Class Deviation 2009-O0012 or 2012-O0009 was made with respect to the exercise of the authority, regardless of whether or not the determination resulted in the exercise of such authority;

(ii) The total dollar amount of contracts issued pursuant to the exercise of such authority displayed—

(A) Separately for each country (Georgia, the Kyrgyz Republic, Pakistan, the Republic of Armenia, the Republic of Azerbaijan, the Republic of Kazakhstan, the Republic of Tajikistan, the Republic of Uzbekistan, or Turkmenistan for [Class Deviation 2009-O0012](#)) (the Kyrgyz Republic, the Republic of Kazakhstan, the Republic of Tajikistan, the Republic of

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Uzbekistan, or Turkmenistan for [Class Deviation 2012-O0009](#)); and

(B) Combined total for all countries pursuant to each deviation; and

(iii) A description and assessment of the extent to which procurements pursuant to the exercise of such authority furthered the national security interest of the United States to—

(A) Improve local market and transportation infrastructure in order to reduce overall United States transportation costs and risks in shipping goods in support of operations in Afghanistan; or

(B) Encourage states along the major supply route to Afghanistan to cooperate in expanding supply routes through their territory in support of operations in Afghanistan.

(2) Reports for the period of January 1, 2012, through October 27, 2012, shall be submitted no later than November 30, 2012, separately reporting determinations and resultant contract actions under the authority of Class Deviation 2001-O0012, and [Class Deviation 2012-O0009](#).

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(Revised July 3, 2013)

PGI 225.8--OTHER INTERNATIONAL AGREEMENTS AND COORDINATION

PGI 225.802 Procedures.

(b) Information on specific memoranda of understanding and other international agreements is available as follows:

(i) Memoranda of understanding and other international agreements between the United States and the countries listed in DFARS [225.872-1](#) are maintained in the Office of the Director of Defense Procurement and Acquisition Policy (Contract Policy and International Contracting) ((703) 697-9351, DSN 227-9351) and are available at http://www.acq.osd.mil/dpap/cpic/ic/reciprocal_procurement_memoranda_of_understanding.html.

(ii) Military Assistance Advisory Groups, Naval Missions, and Joint U.S. Military Aid Groups normally have copies of the agreements applicable to the countries concerned.

(iii) Copies of international agreements covering the United Kingdom of Great Britain and Northern Ireland, Western European countries, North Africa, and the Middle East are filed with the U.S. European Command.

(iv) Agreements with countries in the Pacific and Far East are filed with the U.S. Pacific Command.

PGI 225.802-70 Contracts for performance outside the United States and Canada.

When a contracting office anticipates placement of a contract for performance outside the United States and Canada, and the contracting office is not under the jurisdiction of a command for the country involved, the contracting office shall maintain liaison with the cognizant contract administration office (CAO) during preaward negotiations and postaward administration. The cognizant CAO can be found at <http://home.dcms.mil/cassites/district.htm>. The CAO will provide pertinent information for contract negotiations, effect appropriate coordination, and obtain required approvals for the performance of the contract.

PGI 225.870 Contracting with Canadian contractors.

PGI 225.870-1 General.

(d)(i) The Canadian Commercial Corporation uses provisions in contracts with Canadian or U.S. concerns that give DoD the same production rights, data, and information

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that DoD would obtain in contracts with U.S. concerns.

(ii) The Government of Canada will provide the following services under contracts with the Canadian Commercial Corporation without charge to DoD:

(A) Contract administration services, including—

(1) Cost and price analysis;

(2) Industrial security;

(3) Accountability and disposal of Government property;

(4) Production expediting;

(5) Compliance with Canadian labor laws;

(6) Processing of termination claims and disposal of termination inventory;

(7) Customs documentation;

(8) Processing of disputes and appeals; and

(9) Such other related contract administration functions as may be required with respect to the Canadian Commercial Corporation contract with the Canadian supplier.

(B) *Audits.* The Public Works and Government Services Canada (PWGSC) performs audits, when needed, for contracts overseen by the Canadian Commercial Corporation, in accordance with international agreement.

(C) *Inspection.* The Department of National Defence (Canada) provides inspection personnel, services, and facilities, at no charge to DoD departments and agencies (see DFARS [225.870-7](#)).

(iii) PWGSC will perform audits without charge to DoD, when needed, for DoD direct contracts with Canadian firms and for subcontracts with Canadian firms under DoD contracts with U.S. contractors, including accounting system and interim voucher reviews, in accordance with [DPAP Policy Memorandum dated June 5, 2013](#).

PGI 225.870-5 Contract administration.

(1) Assign contract administration in accordance with DFARS Part 242. When the Defense Contract Management Agency will perform contract administration in Canada,

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name in the contract the following payment office for disbursement of DoD funds (DoD Department Code: 17-Navy; 21-Army; 57-Air Force; 97-all other DoD components), whether payment is in Canadian or U.S. dollars:

DFAS Columbus Center
DFAS-CO/North Entitlement Operations
PO Box 182266
Columbus, OH 43218-2266.

(2) The following procedures apply to cost-reimbursement type contracts:

(i) The Public Works and Government Services Canada (PWGSC) automatically arranges audits on contracts with the Canadian Commercial Corporation.

(A) Consulting and Audit Canada (CAC) furnishes audit reports to PWGSC.

(B) Upon advice from PWGSC, the Canadian Commercial Corporation certifies the invoice and forwards it with Standard Form (SF) 1034, Public Voucher, to the administrative contracting officer for further processing and transmittal to the disbursing office.

(ii) For contracts placed directly with Canadian firms, the administrative contracting officer requests audits from the CAC, Ottawa, Ontario, Canada. Route requests for audit of non-Canadian Commercial Corporation contracts through the cognizant contract management office of the Defense Contract Management Agency.

(A) Within 25 days of the date of the audit request, PWGSC will provide—

(1) An acknowledgement of receipt form;

(2) An estimate of completion form; and

(3) A single point of contact to report the status of audit requests and the progress of audits.

(B) Audits will be completed within 24 months of the requested date for post-award audits.

(C) PWGSC will provide information to support the determination that the price is fair and reasonable.

(D) The CAC/PWGSC--

(1) Approves invoices on a provisional basis pending completion of the

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contract and final audit;

(2) Forwards these invoices, accompanied by SF 1034, Public Voucher, to the administrative contracting officer for further processing and transmittal to the disbursing officer; and

(3) Furnishes periodic advisory audit reports directly to the administrative contracting officer.

PGI 225.870-7 Acceptance of Canadian supplies.

(1) For contracts placed in Canada, either with the Canadian Commercial Corporation or directly with Canadian suppliers, the Department of National Defence (Canada) will perform any necessary contract quality assurance and/or acceptance, as applicable.

(2) Signature by the Department of National Defence (Canada) quality assurance representative on the DoD inspection and acceptance form is satisfactory evidence of acceptance for payment purposes.

PGI 225.871 North Atlantic Treaty Organization (NATO) cooperative projects.

PGI 225.871-4 Statutory waivers.

Forward any request for waiver under a cooperative project to the Deputy Secretary of Defense, through the Director of Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics). The waiver request shall include a draft Determination and Findings for signature by the Deputy Secretary of Defense establishing that the waiver is necessary to significantly further NATO standardization, rationalization, and interoperability.

PGI 225.871-5 Directed subcontracting.

The cooperative project agreement is the authority for a contractual provision requiring the contractor to place certain subcontracts with particular subcontractors. No separate justification and approval during the acquisition process is required.

PGI 225.872 Contracting with qualifying country sources.

PGI 225.872-4 Individual determinations.

(1) Obtain signature of the determination and findings—

(i) At a level above the contracting officer, for acquisitions valued at or below the simplified acquisition threshold; or

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(ii) By the chief of the contracting office, for acquisitions with a value greater than the simplified acquisition threshold.

(2) Prepare the determination and findings substantially as follows:

SERVICE OR AGENCY

Exemption of the Buy American and Balance of Payments Program

Determination and Findings

Upon the basis of the following findings and determination which I hereby make in accordance with the provisions of FAR 25.103(a), the acquisition of a qualifying country end product may be made as follows:

Findings

1.

The (*contracting office*) proposes to purchase under contract number _____, (*describe item*) mined, produced, or manufactured in (*qualifying country of origin*). The total estimated cost of this acquisition is _____.

2.

The United States Government and the Government of _____ have agreed to remove barriers to procurement at the prime and subcontract level for defense equipment produced in each other's countries insofar as laws and regulations permit.

3.

The agreement provides that the Department of Defense will evaluate competitive offers of qualifying country end products mined, produced, or manufactured in (*qualifying country*) without imposing any price differential under the Buy American statute or the Balance of Payments Program and without taking applicable U.S. customs and duties into consideration so that such items may better compete for sales of defense equipment to the Department of Defense. In addition, the Agreement stipulates that acquisitions of such items shall fully satisfy Department of Defense requirements for performance, quality, and delivery and shall cost the Department of Defense no more than would comparable U.S. source or other foreign source defense equipment eligible for award.

4.

To achieve the foregoing objectives, the solicitation contained the clause (*title and number of the Buy American clause contained in the contract*). Offers were solicited from other sources and the offer received from (*offeror*) is found to be otherwise eligible for award.

Determination

I hereby determine that it is inconsistent with the public interest to apply the restrictions of

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the Buy American statute or the Balance of Payments Program to the offer described in this determination and findings.

(Date)

PGI 225.872-5 Contract administration.

(b)(i) When contract administration services are required on contracts to be performed in qualifying countries, direct the request to the cognizant activity listed in the Federal Directory of Contract Administration Services. The cognizant activity also will arrange contract administration services for DoD subcontracts that qualifying country sources place in the United States.

(ii) The contract administration activity receiving a delegation shall determine whether any portions of the delegation are covered by memoranda of understanding annexes and, if so, shall delegate those functions to the appropriate organization in the qualifying country's government.

PGI 225.872-6 Audit.

(c)(i) Except for the United Kingdom, send requests for audits in qualifying countries to the administrative contracting officer at the cognizant activity listed in Section 2B of the Federal Directory of Contract Administration Services. Send a request for audit from the United Kingdom directly to their Ministry of Defence.

(ii) Send an advance copy of the request to the focal point identified by the Deputy Director of Defense Procurement and Acquisition Policy (Contract Policy and International Contracting).

PGI 225.873 Waiver of United Kingdom commercial exploitation levies.

PGI 225.873-2 Procedures.

(1) The Government of the U.K. shall approve waiver of U.K. levies. When an offeror or contractor identifies a levy included in an offered or contract price, the contracting officer shall provide written notification to the Defense Security Cooperation Agency, ATTN: PSD-PMD, 1111 Jefferson Davis Highway, Arlington, VA 22202-4306, telephone (703) 601-3864. The Defense Security Cooperation Agency will request a waiver of the levy from the Government of the U.K. The notification shall include—

- (i) Name of the U.K. firm;
- (ii) Prime contract number;

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(iii) Description of item for which waiver is being sought;

(iv) Quantity being acquired; and

(v) Amount of levy.

(2) Waiver may occur after contract award. If levies are waived before contract award, evaluate the offer without the levy. If levies are identified but not waived before contract award, evaluate the offer inclusive of the levies.