

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(Revised December 20, 2002)

225.000 Scope of part.

This part also provides policy and procedures for—

- (1) Purchasing foreign defense supplies, services, and construction materials;
- (2) Foreign military sale acquisitions;
- (3) Coordinating acquisitions involving work to be performed in foreign countries;
- (4) Cooperative programs.

225.001 General.

To apply the policies and procedures of this part, analyze and evaluate offers of foreign end products generally as follows:

(1) *Statutory or policy restrictions.*

(i) Determine whether the product is restricted by—

- (A) Defense authorization or appropriations acts (see Subpart 225.70); or
- (B) DoD policy (see Subpart 225.71 and FAR 6.302-3).

(ii) Where an exception to or waiver of a restriction would result in award of a foreign end product, apply the policies and procedures of the Buy American Act or the Balance of Payments Program, and, if applicable, the trade agreements.

(2) *Memoranda of understanding or other international agreements.*

(i) Determine whether the offered product is the product of one of the countries (qualifying country), listed in 225.872-1.

(ii) If the product is the product of a qualifying country, evaluate the offer under Subpart 225.5 and 225.872-4.

(3) *Trade agreements.*

(i) Determine whether the product is covered by the Trade Agreements Act or the North American Free Trade Agreement Implementation Act (see Subpart 225.4).

(ii) If the product is not an eligible product, a qualifying country end product, or a U.S.-made end product, purchase of the foreign end product may be prohibited (see FAR 25.403(c) and 225.403(c)).

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(4) *Contractors controlled by terrorist nations.*

(i) Determine whether the contractor is controlled by a terrorist nation.

(ii) If the contractor is controlled by a terrorist nation, comply with 209.104-1(g).

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

225.003 Definitions.

As used in this part--

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

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

(3) "Domestic concern" means--

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

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

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

(5) "Eligible product" means, instead of the definition at FAR 25.003, a designated, NAFTA, or Caribbean Basin country end product in the categories listed in 225.401-70.

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

(7) "Nondesignated country end product" means any end product which is not a U.S. made end product or a designated country end product.

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

(9) "Nonqualifying country end product" means an end product which is neither a domestic nor qualifying country end product.

(10) "Nonqualifying country offer" means an offer of a nonqualifying country end product, including the price of transportation to destination.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(11) "Qualifying country" is a term used to describe certain countries with memoranda of understanding or international agreements with the United States. These countries are listed in 225.872-1.

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

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

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