

THE SECRETARY OF DEFENSE
WASHINGTON

16 JUL 1962

MEMORANDUM FOR The Secretaries of the Military Departments
The Director of Defense Research and Engineering
The Chairman, Joint Chiefs of Staff
The Assistant Secretaries of Defense
The General Counsel
The Special Assistant to the Secretary of Defense
The Assistants to the Secretary of Defense
The Director, Defense Supply Agency
The Administrative Assistant
The Administrative Secretary

SUBJECT: Supplies and Services for Use Outside the United States

The memoranda on the above subject dated 16 December 1960, 9 August 1961, and 26 January 1962, are hereby rescinded.

This memorandum applies to all procurements for use outside the United States, its possessions, and Puerto Rico, except purchases of construction, purchases of petroleum, purchases for the Military Assistance Program, and purchases from non-appropriated funds, all of which are the subject of separate directives.

Until further notice, procurements of supplies and services using Department of Defense appropriated funds that will result in dollar expenditures outside the United States, its possessions, and Puerto Rico, shall be held to an absolute minimum, and may be made only in the following cases:

1. procurements required to be made from indigenous sources pursuant to a treaty or executive agreement between governments;
2. procurements estimated not to exceed \$500;
3. procurements estimated not to exceed \$10,000 required by compelling emergencies;

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TAB B

4. procurement of perishable subsistence items (such as fresh vegetables, fresh fruit, and milk) which are of such a nature that their quality at the point of consumption would be destroyed or significantly impaired if shipped from the United States, when approved by the individuals designated in the attached inclosure, except that this authority may be redelegated to individuals specifically designated for the purpose if the procurement is estimated not to exceed \$10,000.
5. procurements as to which it is determined in advance that the requirements can only be filled by foreign supplies or services and such determination is made --
 - (i) by the individuals designated in the attached inclosure if the procurement is estimated not to exceed \$1 million, except that this authority may be redelegated to individuals specifically designated for the purpose if the procurement is estimated not to exceed \$10,000.
 - (ii) by the Departmental Secretary or the Director, Defense Supply Agency if the procurement is estimated to exceed \$1 million but not \$3 million, and
 - (iii) by the Secretary of Defense or the Deputy Secretary of Defense, if the procurement is estimated to exceed \$3 million.

provided that before making such a determination, the approving authority shall consider whether it would be feasible to forego filling the requirement or to provide a United States substitute for it.

Except as specified above, procurements of supplies and services to be used outside the United States, its possessions, and Puerto Rico, (1) when it is estimated that the price delivered from U. S. sources will not exceed \$10,000 shall be restricted to domestic source end products, or services of domestic concerns, without regard to possible price differentials, and (2) such procurements which are estimated to exceed \$10,000 shall be similarly restricted provided that the cost of domestic source end products, or services of domestic concerns, (including transportation and handling costs) is estimated to be not more than 50% in excess of the cost of foreign

supplies or services (including transportation and handling costs). In connection with procurements estimated to exceed \$10,000, if the estimated or actual cost differential exceeds 50%, the matter shall be referred to the Secretary of Defense for determination.

Contracts in furtherance of the balance of payments program are considered to be negotiated procurements. Such contracts may be entered into by conventional negotiation or by a special method of procurement known as "Balance of Payments Restricted Advertising". The latter method shall be used wherever possible. Balance of Payments Restricted Advertising, including awards thereunder, shall be conducted in the same way as prescribed for formal advertising in Section II, except that bids and awards shall be restricted to domestic suppliers and to domestic end products. Contracts entered into pursuant to conventional negotiation shall cite any appropriate exception (2) through (17) of 10 U. S. C. 2304(a); however, where such negotiation authority is not applicable or where contracts are entered into pursuant to the Balance of Payments Restricted Advertising method of procurement, 10 U. S. C. 2304(a)(1), shall be cited as negotiation authority. Invitations for Bids and Requests for Proposals shall clearly designate items being procured pursuant to the Balance of Payments Program.

Invitations for Bids and Requests for Proposals shall require that each bid or proposal include a certificate substantially as follows:

UNITED STATES PRODUCTS CERTIFICATE (JULY 1962)

To the extent that the Government specifies that the items being purchased are in implementation of the Balance of Payments Program the bidder or offeror hereby certifies that each such end product is a United States end product (as defined in the contract clause entitled United States Products); that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States; and that he is a domestic supplier.

The clause set forth below shall be inserted in Balance of Payments Program procurements:

UNITED STATES PRODUCTS

(a) To the extent that the Government specifies that the items being purchased are in implementation of the Balance of Payments Program, the contractor agrees that there will be delivered under this contract only United States end products.

(b) For the purpose of this clause:

(i) "components" means those articles, materials, and supplies, which are directly incorporated in the end products;

(ii) "end products" means those articles, materials, and supplies, which are acquired under this contract for public use; and

(iii) a "United States end product" means

(A) an unmanufactured end product which has been mined or produced in the United States, and

(B) an end product manufactured in the United States if the cost of the components thereof which are mined, produced, or manufactured in the United States exceeds 50% of the cost of all its components.

Reports in duplicate, in accordance with the memorandum from the Assistant Secretary of Defense (I&L) to the Materiel Secretaries of the Military Departments and the Director, Defense Supply Agency, dated 21 March 1962, will be made for each quarter of the Calendar Year of progress made under this program. Such reports will be submitted to the Assistant Secretary of Defense (Installations and Logistics) within thirty days following the end of each quarterly period. The first report under this requirement will cover the Calendar Quarter ending 30 September 1962 and will be due not later than 31 October 1962. This reporting requirement has been assigned Report Control Symbol DD-I&L (Fo) 6218.

Robert S. McNamee

Inclosure