

**SUBPART 204.4—SAFEGUARDING CLASSIFIED INFORMATION WITHIN
INDUSTRY**

(Revised September 19, 2014)

204.402 General.

DoD employees or members of the Armed Forces who are assigned to or visiting a contractor facility and are engaged in oversight of an acquisition program will retain control of their work products, both classified and unclassified (see [PGI 204.402](#)).

204.403 Responsibilities of contracting officers.

(1) Contracting officers shall ensure that solicitations comply with [PGI 204.403](#)(1).

(2) For additional guidance on determining a project to be fundamental research in accordance with [252.204-7000](#)(a)(3), see [PGI 204.403](#)(2).

204.404 Contract clause.

204.404-70 Additional contract clauses.

(a) Use the clause at [252.204-7000](#), Disclosure of Information, in solicitations and contracts when the contractor will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public.

(b) Use the clause at [252.204-7003](#), Control of Government Personnel Work Product, in all solicitations and contracts.

(c) Use the clause at [252.204-7005](#), Oral Attestation of Security Responsibilities, in solicitations and contracts that include the clause at FAR 52.204-2, Security Requirements.

204.470 U.S.-International Atomic Energy Agency Additional Protocol.

204.470-1 General.

Under the U.S.-International Atomic Energy Agency Additional Protocol (U.S.-IAEA AP), the United States is required to declare a wide range of public and private nuclear-related activities to the IAEA and potentially provide access to IAEA inspectors for verification purposes.

204.470-2 National security exclusion.

(a) The U.S.-IAEA AP permits the United States unilaterally to declare exclusions from inspection requirements for activities, or locations or information associated with such activities, with direct national security significance.

(b) In order to ensure that all relevant activities are reviewed for direct national security significance, both current and former activities, and associated locations or information, are to be considered for applicability for a national security exclusion.

Defense Federal Acquisition Regulation Supplement

Part 204—Administrative Matters

(c) If a DoD program manager receives notification from a contractor that the contractor is required to report any of its activities in accordance with the U.S.-IAEA AP, the program manager will—

(1) Conduct a security assessment to determine if, and by what means, access may be granted to the IAEA; or

(2) Provide written justification to the component or agency treaty office for application of the national security exclusion at that location to exclude access by the IAEA, in accordance with DoD Instruction 2060.03, Application of the National Security Exclusion to the Agreements Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America.

204.470-3 Contract clause.

Use the clause at [252.204-7010](#), Requirement for Contractor to Notify DoD if the Contractor's Activities are Subject to Reporting Under the U.S.-International Atomic Energy Agency Additional Protocol, in solicitations and contracts for research and development or major defense acquisition programs involving—

(a) Any fissionable materials (e.g., uranium, plutonium, neptunium, thorium, americium);

(b) Other radiological source materials; or

(c) Technologies directly related to nuclear power production, including nuclear or radiological waste materials.

SUBPART 213.3—SIMPLIFIED ACQUISITION METHODS

(Revised September 19, 2014)

213.301 Governmentwide commercial purchase card.

Follow the procedures at [PGI 213.301](#) for authorizing, establishing, and operating a Governmentwide commercial purchase card program.

(1) “United States,” as used in this section, means the 50 States and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, Wake Island, Johnston Island, Canton Island, the outer Continental Shelf, and any other place subject to the jurisdiction of the United States (but not including leased bases).

(2) An individual appointed in accordance with [201.603-3\(a\)](#) also may use the Governmentwide commercial purchase card to make a purchase that exceeds the micro-purchase threshold but does not exceed \$25,000, if—

(i) The purchase—

(A) Is made outside the United States for use outside the United States;

and

(B) Is for a commercial item; but

(C) Is not for work to be performed by employees recruited within the United States;

(D) Is not for supplies or services originating from, or transported from or through, sources identified in FAR Subpart 25.7;

(E) Is not for ball or roller bearings as end items;

(F) Does not require access to classified or Privacy Act information; and

(G) Does not require transportation of supplies by sea; and

(ii) The individual making the purchase—

(A) Is authorized and trained in accordance with agency procedures;

(B) Complies with the requirements of FAR 8.002 in making the purchase;

(C) Seeks maximum practicable competition for the purchase in accordance with FAR 13.104(b).

(3) A contracting officer supporting a contingency operation as defined in 10 U.S.C. 101(a)(13) or a humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(8) also may use the Governmentwide commercial purchase card to make a purchase that

Defense Federal Acquisition Regulation Supplement

Part 213—Simplified Acquisition Procedures

exceeds the micro-purchase threshold but does not exceed the simplified acquisition threshold, if--

- (i) The supplies or services being purchased are immediately available;
- (ii) One delivery and one payment will be made; and
- (iii) The requirements of paragraphs (2)(i) and (ii) of this section are met.

(4) Guidance on DoD purchase, travel, and fuel card programs is available in the “Department of Defense Government Charge Card Guidebook for Establishing and Managing Purchase, Travel, and Fuel Card Programs” at http://www.acq.osd.mil/dpap/pdi/pc/policy_documents.html. Additional guidance on the fuel card programs is available at <http://www.energy.dla.mil>.

213.302 Purchase orders.

213.302-3 Obtaining contractor acceptance and modifying purchase orders.

- (1) Require written acceptance of purchase orders for classified acquisitions.
- (2) See [PGI 213.302-3](#) for guidance on the use of unilateral modifications.

(3) A supplemental agreement converts a unilateral purchase order to a bilateral agreement. If not previously included in the purchase order, incorporate the clause at [252.243-7001](#), Pricing of Contract Modifications, in the Standard Form 30, and obtain the contractor’s acceptance by signature on the Standard Form 30.

213.302-5 Clauses.

(a) Use the clause at [252.243-7001](#), Pricing of Contract Modifications, in all bilateral purchase orders.

(d) When using the clause at FAR 52.213-4, delete the reference to the clause at FAR 52.225-1, Buy American—Supplies. Instead, if the Buy American statute applies to the acquisition, use the clause at—

(i) [252.225-7001](#), Buy American and Balance of Payments Program, as prescribed at [225.1101](#)(2); or

(ii) [252.225-7036](#), Buy American—Free Trade Agreements—Balance of Payments Program, as prescribed at [225.1101](#)(10).

213.303 Blanket purchase agreements (BPAs).

213.303-5 Purchases under BPAs.

(b) Individual purchases for subsistence may be made at any dollar value; however, the contracting officer must satisfy the competition requirements of FAR Part 6 for any action not using simplified acquisition procedures.

213.305 Imprest funds and third party drafts.

213.305-3 Conditions for use.

(d)(i) On a very limited basis, installation commanders and commanders of other activities with contracting authority may be granted authority to establish imprest funds and third party draft (accommodation check) accounts. Use of imprest funds and third party drafts must comply with—

(A) DoD 7000.14-R, DoD Financial Management Regulation, Volume 5, Disbursing Policy and Procedures; and

(B) The Treasury Financial Manual, Volume I, Part 4, Chapter 3000.

(ii) Use of imprest funds requires approval by the Director for Financial Commerce, Office of the Deputy Chief Financial Officer, Office of the Under Secretary of Defense (Comptroller), except as provided in paragraph (d)(iii) of this subsection.

(iii) Imprest funds are authorized for use without further approval for—

(A) Overseas transactions at or below the micro-purchase threshold in support of a contingency operation as defined in 10 U.S.C. 101(a)(13) or a humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(8); and

(B) Classified transactions.

213.306 SF 44, Purchase Order-Invoice-Voucher.

(a)(1) The micro-purchase limitation applies to all purchases, except that purchases not exceeding the simplified acquisition threshold may be made for—

(A) Fuel and oil. U.S. Government fuel cards may be used in lieu of an SF 44 for fuel, oil, and authorized refueling-related items (see [PGI 213.306](#) for procedures on use of fuel cards);

(B) Overseas transactions by contracting officers in support of a contingency operation as defined in 10 U.S.C. 101(a)(13) or a humanitarian or peacekeeping operation as defined in 10 U.S.C. 2302(8); and

(C) Transactions in support of intelligence and other specialized activities addressed by Part 2.7 of Executive Order 12333.

213.307 Forms.

See [PGI 213.307](#) for procedures on use of forms for purchases made using simplified acquisition procedures.

**SUBPART 217.78—CONTRACTS OR DELIVERY ORDERS ISSUED BY A NON-
DOD AGENCY**

(Revised September 19, 2014)

217.7800 Scope of subpart.

This subpart—

(a) Implements section 854 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375), section 801 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181), and section 806 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84); and

(b) Prescribes policy for the acquisition of supplies and services through the use of contracts or orders issued by non-DoD agencies.

217.7801 Definitions.

As used in this subpart—

“Acquisition official” means—

(1) A DoD contracting officer; or

(2) Any other DoD official authorized to approve a direct acquisition or an assisted acquisition on behalf of DoD.

“Assisted acquisition” means the type of interagency contracting through which acquisition officials of a non-DoD agency award a contract or a task or delivery order for the acquisition of supplies or services on behalf of DoD.

“Direct acquisition” means the type of interagency contracting through which DoD orders a supply or service from a Governmentwide acquisition contract maintained by a non-DoD agency.

“Governmentwide acquisition contract” means a task or delivery order contract that—

(1) Is entered into by a non-defense agency; and

(2) May be used as the contract under which property or services are procured for one or more other departments or agencies of the Federal Government.

“Non-DoD agency” means any department or agency of the Federal Government other than DoD.

“Non-DoD agency that is an element of the intelligence community” means the Office of the Director of National Intelligence; the Central Intelligence Agency; the intelligence elements of the Federal Bureau of Investigation; the intelligence elements of the Department of Energy; the Bureau of Intelligence and Research of the Department of State; the Office of Intelligence and Analysis of the Department of the Treasury; and the elements of the Department of Homeland Security concerned with the analysis of intelligence information, including the Office of Intelligence of the Coast Guard.

217.7802 Policy.

(a) A DoD acquisition official may place an order, make a purchase, or otherwise acquire supplies or services for DoD in excess of the simplified acquisition threshold through a non-DoD agency in any fiscal year only if the head of the non-DoD agency has certified that the non-DoD agency will comply with defense procurement requirements for the fiscal year to include applicable DoD financial management regulations.

(1) This limitation shall not apply to the acquisition of supplies and services during any fiscal year for which there is in effect a written determination of the Under Secretary of Defense for Acquisition, Technology, and Logistics, that it is necessary in the interest of DoD to acquire supplies and services through the non-DoD agency during the fiscal year. A written determination with respect to a non-DoD agency shall apply to any category of acquisitions through the non-DoD agency that is specified in the determination.

(2) Non-DoD agency certifications and additional information are available at http://www.acq.osd.mil/dpap/cpic/cp/interagency_acquisition.html.

(3) The limitation in paragraph (a) of this section does not apply to contracts entered into by a non-DoD agency that is an element of the intelligence community for the performance of a joint program conducted to meet the needs of DoD and the non-DoD agency.

(b) Departments and agencies shall establish and maintain procedures for reviewing and approving orders placed for supplies and services under non-DoD contracts, whether through direct acquisition or assisted acquisition, when the amount of the order exceeds the simplified acquisition threshold. These procedures shall include—

(1) Evaluating whether using a non-DoD contract for the acquisition is in the best interest of DoD. Factors to be considered include:

(i) Satisfying customer requirements.

(ii) Schedule.

(iii) Cost effectiveness (taking into account discounts and fees). In order to ensure awareness of the total cost of fees associated with use of a non-DoD contract, follow the procedures at [PGI 217.7802\(b\)\(1\)\(iii\)](#).

(iv) Contract administration (including oversight).

(2) Determining that the tasks to be accomplished or supplies to be provided are within the scope of the contract to be used;

(3) Reviewing funding to ensure that it is used in accordance with appropriation limitations;

Defense Federal Acquisition Regulation Supplement

Part 217—Special Contracting Methods

(4) Providing unique terms, conditions, and requirements to the assisting agency for incorporation into the order or contract as appropriate to comply with all applicable DoD-unique statutes, regulations, directives, and other requirements; and

(5) Collecting and reporting data on the use of assisted acquisition for analysis. Follow the reporting requirements in Subpart [204.6](#).

SUBPART 225.77—ACQUISITIONS IN SUPPORT OF OPERATIONS IN AFGHANISTAN

(Revised September 19, 2014)

225.7700 Scope.

This subpart implements—

(a) Section 892 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181);

(b) Section 886 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110-181), as amended by section 842 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239);

(c) Section 826 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239); and

(d) The determinations by the Deputy Secretary of Defense regarding participation of the countries of the South Caucasus or Central and South Asia in acquisitions in support of operations in Afghanistan.

225.7701 Definitions.

As used in this subpart—

“Product from Afghanistan” means a product that is mined, produced, or manufactured in Afghanistan.

“Service from Afghanistan” means a service including construction that is performed in Afghanistan predominantly by citizens or permanent resident aliens of Afghanistan.

“Small arms” means pistols and other weapons less than 0.50 caliber.

“Source from Afghanistan” means a source that—

- (1) Is located in Afghanistan; and
- (2) Offers products or services from Afghanistan.

“Textile component” is defined in the clause at [252.225-7029](#), Acquisition of Uniform Components for Afghan Military or Afghan National Police.

225.7702-1 Acquisition of small arms.

(a) Except as provided in paragraph (b) of this section, when acquiring small arms for assistance to the Army of Afghanistan, the Afghani Police Forces, or other Afghani security organizations—

(1) Use full and open competition to the maximum extent practicable, consistent with the provisions of 10 U.S.C. 2304;

(2) If use of other than full and open competition is justified in accordance with FAR Subpart 6.3, ensure that—

(i) No responsible U.S. manufacturer is excluded from competing for the acquisition; and

(ii) Products manufactured in the United States are not excluded from the competition; and

(3) If the exception at FAR 6.302-2 (unusual and compelling urgency) applies, do not exclude responsible U.S. manufacturers or products manufactured in the United States from the competition for the purpose of administrative expediency. However, such an offer may be rejected if it does not meet delivery schedule requirements.

(b) Paragraph (a)(2) of this section does not apply when—

(1) The exception at FAR 6.302-1 (only one or a limited number of responsible sources) applies, and the only responsible source or sources are not U.S. manufacturers or are not offering products manufactured in the United States; or

(2) The exception at FAR 6.302-4 (international agreement) applies, and United States manufacturers or products manufactured in the United States are not the source(s) specified in the written directions of the foreign government reimbursing the agency for the cost of the acquisition of the property or services for such government.

225.7702-2 Acquisition of uniform components for the Afghan military or the Afghan police.

Any textile components supplied by DoD to the Afghan National Army or the Afghan National Police for purpose of production of uniforms shall be produced in the United States.

225.7703 Enhanced authority to acquire products or services from Afghanistan.

225.7703-1 Acquisition procedures.

(a) Subject to the requirements of [225.7703-2](#), except as provided in [225.7702](#), a product or service (including construction), in support of operations in Afghanistan, may be acquired by—

(1) Providing a preference for products or services from Afghanistan in accordance with the evaluation procedures at [225.7703-3](#);

(2) Limiting competition to products or services from Afghanistan; or

(3) Using procedures other than competitive procedures to award a contract to a particular source or sources from Afghanistan. When other than competitive procedures are used, the contracting officer shall document the contract file with the rationale for selecting the particular source(s).

(b) For acquisitions conducted using a procedure specified in paragraph (a) of this subsection, the justification and approval addressed in FAR Subpart 6.3 is not required.

225.7703-2 Determination requirements.

Before use of a procedure specified in [225.7703-1\(a\)](#), a written determination must be prepared and executed as follows:

(a) For products or services to be used only by the military forces, police, or other security personnel of Afghanistan, the contracting officer shall—

(1) Determine in writing that the product or service is to be used only by the military forces, police, or other security personnel of Afghanistan; and

(2) Include the written determination in the contract file.

(b) For products or services not limited to use by the military forces, police, or other security personnel of Afghanistan, the following requirements apply:

(1) The appropriate official specified in paragraph (b)(2) of this subsection must determine in writing that it is in the national security interest of the United States to use a procedure specified in [225.7703-1\(a\)](#), because—

(i) The procedure is necessary to provide a stable source of jobs in Afghanistan; and

(ii) Use of the procedure will not adversely affect—

(A) Operations in Afghanistan (including security, transition, reconstruction, and humanitarian relief activities); or

(B) The U.S. industrial base. The authorizing official generally may presume that there will not be an adverse effect on the U.S. industrial base. However, when in doubt, the authorizing official should coordinate with the applicable subject matter expert specified in [PGI 225.7703-2\(b\)](#).

(2) Determinations may be made for an individual acquisition or a class of acquisitions meeting the criteria in paragraph (b)(1) of this subsection as follows:

(i) The head of the contacting activity is authorized to make a determination that applies to an individual acquisition with a value of less than \$85.5 million.

(ii) The Director, Defense Procurement and Acquisition Policy, and the following officials, without power of redelegation, are authorized to make a determination that applies to an individual acquisition with a value of \$85.5 million or more or to a class of acquisitions:

(A) Defense Logistics Agency Component Acquisition Executive.

(B) Army Acquisition Executive.

(C) Navy Acquisition Executive.

(D) Air Force Acquisition Executive.

(E) Commander of the United States Central Command Joint Theater Support Contracting Command (C–JTSCC).

(3) The contracting officer—

(i) Shall include the applicable written determination in the contract file;
and

(ii) Shall ensure that each contract action taken pursuant to the authority of a class determination is within the scope of the class determination, and shall document the contract file for each action accordingly.

(c) See [PGI 225.7703-2\(c\)](#) for formats for use in preparation of the determinations required by this subsection.

225.7703-3 Evaluating offers.

Evaluate offers submitted in response to solicitations that include the provision at [252.225-7023](#), Preference for Products or Services from Afghanistan, as follows:

(a) If the low offer is an offer of a product or service from Afghanistan, award on that offer.

(b) If there are no offers of a product or service from Afghanistan, award on the low offer.

(c) Otherwise, apply the evaluation factor specified in the solicitation to the low offer.

(1) If the price of the low offer of a product or service from Afghanistan is less than the evaluated price of the low offer, award on the low offer of a product or service from Afghanistan.

(2) If the evaluated price of the low offer remains less than the low offer of a product or service from Afghanistan, award on the low offer.

(d) For acquisitions in support of the United States Central Command (USCENTCOM), United States European Command (USEUCOM), United States Africa Command (USAFRICOM), United States Southern Command (USSOUTHCOM), or United States Pacific Command (USPACOM) theater of operations, see [PGI 225.7703-3](#).

225.7703-4 Solicitation provisions and contract clauses.

(a) Use the provision at [252.225-7023](#), Preference for Products or Services from Afghanistan, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, that provide a preference for products or services from Afghanistan in accordance with [225.7703-1\(a\)\(1\)](#). The contracting officer may modify the 50 percent evaluation factor in accordance with contracting office procedures.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(b) Use the clause at [252.225-7024](#), Requirement for Products or Services from Afghanistan, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, that include the provision at [252.225-7023](#), Preference for Products or Services from Afghanistan, and in the resulting contract.

(c) Use the clause at [252.225-7026](#), Acquisition Restricted to Products or Services from Afghanistan, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that—

(1) Are restricted to the acquisition of products or services from Afghanistan in accordance with [225.7703-1\(a\)\(2\)](#); or

(2) Will be directed to a particular source or sources from Afghanistan in accordance with [225.7703-1\(a\)\(3\)](#).

(d) Use the clause at [252.225-7029](#), Acquisition of Uniform Components for Afghan Military or Afghan National Police, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, for the acquisition of any textile components that DoD intends to supply to the Afghan National Army or the Afghan National Police for purposes of production of uniforms.

(e) When the Trade Agreements Act applies to the acquisition, use the appropriate clause and provision as prescribed at [225.1101](#) (5), and (6).

(f) Do not use any of the following provisions or clauses in solicitations or contracts that include the provision at [252.225-7023](#), the clause at [252.225-7024](#), or the clause at [252.225-7026](#):

(1) [252.225-7000](#), Buy American Act—Balance of Payments Program Certificate.

(2) [252.225-7001](#), Buy American Act and Balance of Payments Program.

(3) [252.225-7002](#), Qualifying Country Sources as Subcontractors.

(4) [252.225-7035](#), Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate.

(5) [252.225-7036](#), Buy American Act—Free Trade Agreements—Balance of Payments Program.

(6) [252.225-7044](#), Balance of Payments Program—Construction Material.

(7) [252.225-7045](#), Balance of Payments Program—Construction Material Under Trade Agreements.

(g) Do not use the following clause or provision in solicitations or contracts that include the clause at [252.225-7026](#):

(1) [252.225-7020](#), Trade Agreements Certificate.

- (2) [252.225-7021](#), Trade Agreements.

225.7704 Acquisitions of products and services from South Caucasus/Central and South Asian (SC/CASA) state in support of operations in Afghanistan.

225.7704-1 Applicability of trade agreements.

As authorized by the United States Trade Representative, the Secretary of Defense has waived the prohibition in section 302(a) of the Trade Agreements Act (see subpart [225.4](#)) for acquisitions by DoD, and by GSA on behalf of DoD, of products and services from SC/CASA states in direct support of operations in Afghanistan.

225.7704-2 Applicability of Balance of Payments Program.

The Deputy Secretary of Defense has determined, because of importance to national security, that it would be inconsistent with the public interest to apply the provisions of the Balance of Payments Program (see subpart [225.75](#)) to offers of end products other than arms, ammunition, and war materials (i.e., end products listed in [225.401-70](#)) and construction materials from the SC/CASA states that are being acquired by or on behalf of DoD in direct support of operations in Afghanistan.

225.7704-3 Solicitation provisions and contract clauses.

Appropriate solicitation provisions and contract clauses are prescribed as alternates to the Buy American-Trade Agreements-Balance of Payments Program solicitation provisions and contract clauses prescribed at [225.1101](#) and [225.7503](#).

225.7799 Authority to acquire products and services (including construction) from countries along a major supply route of supply to Afghanistan and Afghanistan.

See [Class Deviation 2014-O00014](#), dated April 4, 2014, implementing section 801 of the FY 2010 National Defense Authorization Act (NDAA), as most recently amended by section 832 of the FY 2014 NDAA and section 886 of the FY 2008 NDAA, as amended by section 842 of the FY 2013 NDAA. Contracting officers shall limit competition to, or provide a preference for products mined, produced, or manufactured in, or services from the Central Asian states of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, or Uzbekistan or from Afghanistan before considering other sourcing options that include Pakistan and the South Caucasus.

See DoD [Class Deviation 2014-O0020](#), Class Deviation-Prohibition on Contracting with the Enemy. This deviation is applicable to solicitations and contracts awarded on or before December 31, 2018, with an estimated value in excess of \$50,000 that are being, or will be performed, in the U.S. Central Command, U.S. European Command, U.S. Africa Command, U.S. Southern Command, or U.S. Pacific Command theaters of operation.

SUBPART 249.70—SPECIAL TERMINATION REQUIREMENTS

(Revised September 19, 2014)

249.7000 Terminated contracts with Canadian Commercial Corporation.

(a) Terminate contracts with the Canadian Commercial Corporation in accordance with—

(1) The Letter of Agreement (LOA) between the Department of Defence Production (Canada) and the U.S. DoD, “Canadian Agreement” (for a copy of the LOA or for questions on its currency, contact the Office of the Director of Defense Procurement and Acquisition Policy (Contract Policy and International Contracting), osd.pentagon.ousd-atl.mbx.epic@mail.mil;

(2) Policies in the Canadian Agreement and Part 249; and

(3) The Canadian Supply Manual, Chapter 8, Annex 8.3, available at <http://www.tpsgc-pwgsc.gc.ca/app-acq/ga-sm/index-eng.html>, “Termination for Convenience Process, Public Works and Government Services Canada.”

(b) Contracting officers shall ensure that the Canadian Commercial Corporation submits termination settlement proposals in the format prescribed in FAR 49.602 and that they contain the amount of settlements with subcontractors. The termination contracting officer (TCO) shall prepare an appropriate settlement agreement. (See FAR 49.603.) The letter transmitting a settlement proposal must certify—

(1) That disposition of inventory has been completed; and

(2) That the Contract Claims Resolution Board of the Public Works and Government Services Canada has approved settlements with Canadian subcontractors when the Procedures Manual on Termination of Contracts requires such approval.

(c)(1) The Canadian Commercial Corporation will—

(i) Settle all Canadian subcontractor termination claims under the Canadian Agreement; and

(ii) Submit schedules listing serviceable and usable contractor inventory for screening to the TCO (see FAR 45.6).

(2) After screening, the TCO must provide guidance to the Canadian Commercial Corporation for disposition of the contractor inventory.

(3) Settlement of Canadian subcontractor claims are not subject to the approval and ratification of the TCO. However, when the proposed negotiated settlement exceeds the total contract price of the prime contract, the TCO shall obtain from the U.S. contracting officer prior to final settlement—

(i) Ratification of the proposed settlement; and

Defense Federal Acquisition Regulation Supplement

Part 249—Termination of Contracts

(ii) A contract modification increasing the contract price and obligating the additional funds.

(d) The Canadian Commercial Corporation should send all termination settlement proposals submitted by U.S. subcontractors and suppliers to the TCO of the cognizant contract administration office of the Defense Contract Management Agency for settlement. The TCO will inform the Canadian Commercial Corporation of the amount of the net settlement of U.S. subcontractors and suppliers so that this amount can be included in the Canadian Commercial Corporation termination proposal. The Canadian Commercial Corporation is responsible for execution of the settlement agreement with these subcontractors.

(e) The Canadian Commercial Corporation will continue administering contracts that the U.S. contracting officer terminates.

(f) The Canadian Commercial Corporation will settle all Canadian subcontracts in accordance with the policies, practices, and procedures of the Canadian Government.

(g) The U.S. agency administering the contract with the Canadian Commercial Corporation shall provide any services required by the Canadian Commercial Corporation, including disposal of inventory, for settlement of any subcontracts placed in the United States. Settlement of such U.S. subcontracts will be in accordance with this regulation.

249.7001 Congressional notification on significant contract terminations.

Congressional notification is required for any termination involving a reduction in employment of 100 or more contractor employees. Proposed terminations must be cleared through department/agency liaison offices before release of the termination notice, or any information on the proposed termination, to the contractor. Follow the procedures at PGI [249.7001](#) for congressional notification and release of information.

See DoD Class Deviation [2011-O0002](#), [Congressional Notification on Significant Contract Terminations](#), issued on October 8, 2010. The class deviation eliminates the congressional notification requirement for firms performing in Iraq or Afghanistan if the firm is not incorporated in the United States. This deviation is effective until incorporated in the DFARS or rescinded.

249.7002 Reserved.

249.7003 Notification of anticipated contract terminations or reductions.

(a) Section 1372 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103-160) and Section 824 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104-201) are intended to help establish benefit eligibility under the Job Training Partnership Act (29 U.S.C. 1661 and 1662) for employees of DoD contractors and subcontractors adversely affected by termination or substantial reductions in major defense programs.

(b) Departments and agencies are responsible for establishing procedures to:

Defense Federal Acquisition Regulation Supplement

Part 249—Termination of Contracts

(1) Identify which contracts (if any) under major defense programs will be terminated or substantially reduced as a result of the funding levels provided in an appropriations act.

(2) Within 60 days of the enactment of such an act, provide notice of the anticipated termination of or substantial reduction in the funding of affected contracts—

(i) Directly to the Secretary of Labor; and

(ii) Through the contracting officer to each prime contractor.

(c) Use the clause at [252.249-7002](#), Notification of Anticipated Contract Termination or Reduction, in all contracts under a major defense program.