

(Revised February 26, 2015)

SUBCHAPTER A—GENERAL

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

SUBPART 201.1—PURPOSE, AUTHORITY, ISSUANCE

SUBPART 201.2—ADMINISTRATION

SUBPART 201.3—AGENCY ACQUISITION REGULATIONS

SUBPART 201.4—DEVIATIONS FROM THE FAR

**SUBPART 201.6—CAREER DEVELOPMENT, CONTRACTING AUTHORITY,
AND RESPONSIBILITIES**

PART 202—DEFINITIONS OF WORDS AND TERMS

SUBPART 202.1—DEFINITIONS

**PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL
CONFLICTS OF INTEREST**

SUBPART 203.0

SUBPART 203.1—SAFEGUARDS

SUBPART 203.5—OTHER IMPROPER BUSINESS PRACTICES

SUBPART 203.7—VOIDING AND RESCINDING CONTRACTS

**SUBPART 203.8— LIMITATIONS ON THE PAYMENT OF FUNDS TO
INFLUENCE FEDERAL TRANSACTIONS**

**SUBPART 203.9—WHISTLEBLOWER PROTECTIONS FOR CONTRACTOR
EMPLOYEES**

**SUBPART 203.10—CONTRACTOR CODE OF BUSINESS ETHICS AND
CONDUCT**

PART 204—ADMINISTRATIVE MATTERS

SUBPART 204.1—CONTRACT EXECUTION

SUBPART 204.2—CONTRACT DISTRIBUTION

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

SUBPART 204.6—CONTRACT REPORTING

SUBPART 204.8—CONTRACT FILES

SUBPART 204.9—TAXPAYER IDENTIFICATION NUMBER INFORMATION

SUBPART 204.11—SYSTEM FOR AWARD MANAGEMENT

SUBPART 204.12—ANNUAL REPRESENTATIONS AND CERTIFICATIONS

SUBPART 204.18—COMMERCIAL AND GOVERNMENT ENTITY CODE

**SUBPART 204.70—UNIFORM PROCUREMENT INSTRUMENT
IDENTIFICATION NUMBERS**

SUBPART 204.71—UNIFORM CONTRACT LINE ITEM NUMBERING SYSTEM

**SUBPART 204.73—SAFEGUARDING UNCLASSIFIED CONTROLLED
TECHNICAL INFORMATION**

**SUBPART 204.74—DISCLOSURE OF INFORMATION TO LITIGATION
SUPPORT CONTRACTORS**

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

PART 205—PUBLICIZING CONTRACT ACTIONS

SUBPART 205.2—SYNOPSES OF PROPOSED CONTRACT ACTIONS

SUBPART 205.3—SYNOPSES OF CONTRACT AWARDS

SUBPART 205.4—RELEASE OF INFORMATION

SUBPART 205.5—PAID ADVERTISEMENTS

PART 206—COMPETITION REQUIREMENTS

SUBPART 206.0

**SUBPART 206.2—FULL AND OPEN COMPETITION AFTER EXCLUSION OF
SOURCES**

SUBPART 206.3—OTHER THAN FULL AND OPEN COMPETITION

PART 207—ACQUISITION PLANNING

SUBPART 207.1—ACQUISITION PLANS

SUBPART 207.4—EQUIPMENT LEASE OR PURCHASE

SUBPART 207.5—INHERENTLY GOVERNMENTAL FUNCTIONS

**SUBPART 207.70—BUY-TO-BUDGET – ADDITIONAL QUANTITIES OF END
ITEMS**

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

SUBPART 208.0

SUBPART 208.4—FEDERAL SUPPLY SCHEDULES

SUBPART 208.6—ACQUISITION FROM FEDERAL PRISON INDUSTRIES, INC.

SUBPART 208.7—ACQUISITION FROM NONPROFIT AGENCIES EMPLOYING PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SUBPART 208.70—COORDINATED ACQUISITION

SUBPART 208.71—ACQUISITION FOR NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

SUBPART 208.73—USE OF GOVERNMENT-OWNED PRECIOUS METALS

SUBPART 208.74—ENTERPRISE SOFTWARE AGREEMENTS

PART 209—CONTRACTOR QUALIFICATIONS

SUBPART 209.1—RESPONSIBLE PROSPECTIVE CONTRACTORS

SUBPART 209.2—QUALIFICATIONS REQUIREMENTS

SUBPART 209.4—DEBARMENT, SUSPENSION, AND INELIGIBILITY

SUBPART 209.5—ORGANIZATIONAL AND CONSULTANT CONFLICTS OF INTEREST

PART 210—MARKET RESEARCH

SUBPART 210.0

PART 211—DESCRIBING AGENCY NEEDS

SUBPART 211.0

SUBPART 211.1—SELECTING AND DEVELOPING REQUIREMENTS DOCUMENTS

SUBPART 211.2—USING AND MAINTAINING REQUIREMENTS DOCUMENTS

SUBPART 211.5—LIQUIDATED DAMAGES

SUBPART 211.6—PRIORITIES AND ALLOCATIONS

SUBPART 211.70—PURCHASE REQUESTS

PART 212—ACQUISITION OF COMMERCIAL ITEMS

SUBPART 212.1—ACQUISITION OF COMMERCIAL ITEMS - GENERAL

SUBPART 212.2—SPECIAL REQUIREMENTS FOR THE ACQUISITION OF COMMERCIAL ITEMS

SUBPART 212.3—SOLICITATION PROVISIONS AND CONTRACT CLAUSES FOR THE ACQUISITION OF COMMERCIAL ITEMS

SUBPART 212.5—APPLICABILITY OF CERTAIN LAWS TO THE ACQUISITION OF COMMERCIAL ITEMS

SUBPART 212.6—STREAMLINED PROCEDURES FOR EVALUATION AND SOLICITATION FOR COMMERCIAL ITEMS

SUBPART 212.71—PILOT PROGRAM FOR ACQUISITION OF MILITARY-PURPOSE NONDEVELOPMENTAL ITEMS

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

SUBPART 213.1—PROCEDURES

SUBPART 213.2—ACTIONS AT OR BELOW THE MICRO-PURCHASE THRESHOLD

SUBPART 213.3—SIMPLIFIED ACQUISITION METHODS

SUBPART 213.4—FAST PAYMENT PROCEDURE

SUBPART 213.70—SIMPLIFIED ACQUISITION PROCEDURES UNDER THE 8(A) PROGRAM

PART 214—SEALED BIDDING

SUBPART 214.2—SOLICITATION OF BIDS

SUBPART 214.4—OPENING OF BIDS AND AWARD OF CONTRACT

PART 215—CONTRACTING BY NEGOTIATION

SUBPART 215.1—SOURCE SELECTION PROCESSES AND TECHNIQUES

SUBPART 215.2—SOLICITATION AND RECEIPT OF PROPOSALS AND INFORMATION

SUBPART 215.3—SOURCE SELECTION

SUBPART 215.4—CONTRACT PRICING

**SUBPART 215.5—PREAWARD, AWARD, AND POSTAWARD
NOTIFICATIONS, PROTESTS, AND MISTAKES**

PART 216—TYPES OF CONTRACTS

SUBPART 216.1—SELECTING CONTRACT TYPES

SUBPART 216.2—FIXED-PRICE CONTRACTS

SUBPART 216.3—COST-REIMBURSEMENT CONTRACTS

SUBPART 216.4—INCENTIVE CONTRACTS

SUBPART 216.5—INDEFINITE-DELIVERY CONTRACTS

**SUBPART 216.6—TIME-AND-MATERIALS, LABOR-HOUR, AND LETTER
CONTRACTS**

SUBPART 216.7—AGREEMENTS

PART 217—SPECIAL CONTRACTING METHODS

SUBPART 217.1—MULTIYEAR CONTRACTING

SUBPART 217.2—OPTIONS

**SUBPART 217.5—INTERAGENCY ACQUISITIONS UNDER THE ECONOMY
ACT**

SUBPART 217.6—MANAGEMENT AND OPERATING CONTRACTS

SUBPART 217.70—EXCHANGE OF PERSONAL PROPERTY

**SUBPART 217.71—MASTER AGREEMENT FOR REPAIR AND ALTERATION
OF VESSELS**

SUBPART 217.73—IDENTIFICATION OF SOURCES OF SUPPLY

SUBPART 217.74—UNDEFINITIZED CONTRACT ACTIONS

SUBPART 217.75—ACQUISITION OF REPLENISHMENT PARTS

SUBPART 217.76—CONTRACTS WITH PROVISIONING REQUIREMENTS

SUBPART 217.77—OVER AND ABOVE WORK

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

PART 218—EMERGENCY ACQUISITIONS

SUBPART 218.1–AVAILABLE ACQUISITION FLEXIBILITIES

SUBPART 218.2–EMERGENCY ACQUISITION FLEXIBILITIES

SUBCHAPTER D–SOCIOECONOMIC PROGRAMS

PART 219–SMALL BUSINESS PROGRAMS

SUBPART 219.2–POLICIES

**SUBPART 219.3–DETERMINATION OF SMALL BUSINESS STATUS FOR
SMALL BUSINESS PROGRAMS**

**SUBPART 219.4–COOPERATION WITH THE SMALL BUSINESS
ADMINISTRATION**

SUBPART 219.5–SET-ASIDES FOR SMALL BUSINESS

**SUBPART 219.6–CERTIFICATES OF COMPETENCY AND
DETERMINATIONS OF RESPONSIBILITY**

SUBPART 219.7–THE SMALL BUSINESS SUBCONTRACTING PROGRAM

**SUBPART 219.8–CONTRACTING WITH THE SMALL BUSINESS
ADMINISTRATION (THE 8(A) PROGRAM)**

**SUBPART 219.13–HISTORICALLY UNDERUTILIZED BUSINESS ZONE
(HUBZONE) PROGRAM**

SUBPART 219.71–PILOT MENTOR-PROTEGE PROGRAM

PART 220–RESERVED

PART 221–RESERVED

**PART 222–APPLICATION OF LABOR LAWS TO GOVERNMENT
ACQUISITIONS**

SUBPART 222.0

SUBPART 222.1–BASIC LABOR POLICIES

SUBPART 222.3–CONTRACT WORK HOURS AND SAFETY STANDARDS

**SUBPART 222.4–LABOR STANDARDS FOR CONTRACTS INVOLVING
CONSTRUCTION**

**SUBPART 222.6– CONTRACTS FOR MATERIALS, SUPPLIES, ARTICLES,
AND EQUIPMENT EXCEEDING \$15,000**

SUBPART 222.8–EQUAL EMPLOYMENT OPPORTUNITY

SUBPART 222.10—SERVICE CONTRACT LABOR STANDARDS

SUBPART 222.13—SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS

SUBPART 222.14—EMPLOYMENT OF WORKERS WITH DISABILITIES

SUBPART 222.17—COMBATING TRAFFICKING IN PERSONS

SUBPART 222.70—RESTRICTIONS ON THE EMPLOYMENT OF PERSONNEL FOR WORK ON CONSTRUCTION AND SERVICE CONTRACTS IN NONCONTIGUOUS STATES

SUBPART 222.71—RIGHT OF FIRST REFUSAL OF EMPLOYMENT

SUBPART 222.72—COMPLIANCE WITH LABOR LAWS OF FOREIGN GOVERNMENTS

SUBPART 222.73—LIMITATIONS APPLICABLE TO CONTRACTS PERFORMED ON GUAM

SUBPART 222.74—RESTRICTIONS ON THE USE OF MANDATORY ARBITRATION AGREEMENTS

PART 223—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

SUBPART 223.3—HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA

SUBPART 223.4—USE OF RECOVERED MATERIAL

SUBPART 223.5—DRUG-FREE WORKPLACE

SUBPART 223.7—CONTRACTING FOR ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES

SUBPART 223.8—OZONE-DEPLETING SUBSTANCES

SUBPART 223.71—STORAGE, TREATMENT, AND DISPOSAL OF TOXIC OR HAZARDOUS MATERIALS

SUBPART 223.72—SAFEGUARDING SENSITIVE CONVENTIONAL ARMS, AMMUNITION, AND EXPLOSIVES

SUBPART 223.73—MINIMIZING THE USE OF MATERIALS CONTAINING HEXAVALENT CHROMIUM

PART 224—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

SUBPART 224.1—PROTECTION OF INDIVIDUAL PRIVACY

SUBPART 224.2–FREEDOM OF INFORMATION ACT

PART 225–FOREIGN ACQUISITION

SUBPART 225.0

SUBPART 225.1–BUY AMERICAN–SUPPLIES

SUBPART 225.2–BUY AMERICAN–CONSTRUCTION MATERIALS

SUBPART 225.3–CONTRACTS PERFORMED OUTSIDE THE UNITED STATES

SUBPART 225.4–TRADE AGREEMENTS

SUBPART 225.5–EVALUATING FOREIGN OFFERS–SUPPLY CONTRACTS

SUBPART 225.7–PROHIBITED SOURCES

SUBPART 225.8–OTHER INTERNATIONAL AGREEMENTS AND COORDINATION

SUBPART 225.9–CUSTOMS AND DUTIES

SUBPART 225.10–ADDITIONAL FOREIGN ACQUISITION REGULATIONS

SUBPART 225.11–SOLICITATION PROVISIONS AND CONTRACT CLAUSES

SUBPART 225.70–AUTHORIZATION ACTS, APPROPRIATIONS ACTS, AND OTHER STATUTORY RESTRICTIONS ON FOREIGN ACQUISITION

SUBPART 225.71–OTHER RESTRICTIONS ON FOREIGN ACQUISITION

SUBPART 225.72–REPORTING CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES

SUBPART 225.73–ACQUISITIONS FOR FOREIGN MILITARY SALES

SUBPART 225.74–DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES

SUBPART 225.75–BALANCE OF PAYMENTS PROGRAM

SUBPART 225.76–SECONDARY ARAB BOYCOTT OF ISRAEL

SUBPART 225.77–ACQUISITIONS IN SUPPORT OF OPERATIONS IN AFGHANISTAN

SUBPART 225.78–ACQUISITIONS IN SUPPORT OF GEOGRAPHIC COMBATANT COMMAND’S THEATER SECURITY COOPERATION EFFORTS

SUBPART 225.79– EXPORT CONTROL

PART 226–OTHER SOCIOECONOMIC PROGRAMS

SUBPART 226.1–INDIAN INCENTIVE PROGRAM

SUBPART 226.71–PREFERENCE FOR LOCAL AND SMALL BUSINESS

SUBCHAPTER E–GENERAL CONTRACTING REQUIREMENTS

PART 227–PATENTS, DATA, AND COPYRIGHTS

SUBPART 227.3–PATENT RIGHTS UNDER GOVERNMENT CONTRACTS

SUBPART 227.4–RIGHTS IN DATA AND COPYRIGHTS

**SUBPART 227.6–FOREIGN LICENSE AND TECHNICAL ASSISTANCE
AGREEMENTS**

SUBPART 227.70–INFRINGEMENT CLAIMS, LICENSES, AND ASSIGNMENTS

SUBPART 227.71–RIGHTS IN TECHNICAL DATA

**SUBPART 227.72–RIGHTS IN COMPUTER SOFTWARE AND COMPUTER
SOFTWARE DOCUMENTATION**

PART 228–BONDS AND INSURANCE

SUBPART 228.1–BONDS

SUBPART 228.3–INSURANCE

PART 229–TAXES

SUBPART 229.1–GENERAL

SUBPART 229.4–CONTRACT CLAUSES

SUBPART 229.70–SPECIAL PROCEDURES FOR OVERSEAS CONTRACTS

PART 230–COST ACCOUNTING STANDARDS ADMINISTRATION

SUBPART 230.2–CAS PROGRAM REQUIREMENTS

PART 231–CONTRACT COST PRINCIPLES AND PROCEDURES

SUBPART 231.1–APPLICABILITY

SUBPART 231.2–CONTRACTS WITH COMMERCIAL ORGANIZATIONS

SUBPART 231.3–CONTRACTS WITH EDUCATIONAL INSTITUTIONS

Defense Federal Acquisition Regulation Supplement

Table of Contents

**SUBPART 231.6—CONTRACTS WITH STATE, LOCAL, AND FEDERALLY
RECOGNIZED INDIAN TRIBAL GOVERNMENTS**

SUBPART 231.7—CONTRACTS WITH NONPROFIT ORGANIZATIONS

PART 232—CONTRACT FINANCING

SUBPART 232.0

SUBPART 232.1—NON-COMMERCIAL ITEM PURCHASE FINANCING

SUBPART 232.2—COMMERCIAL ITEM PURCHASE FINANCING

SUBPART 232.3—LOAN GUARANTEES FOR DEFENSE PRODUCTION

SUBPART 232.4—ADVANCE PAYMENTS FOR NON-COMMERCIAL ITEMS

SUBPART 232.5—PROGRESS PAYMENTS BASED ON COSTS

SUBPART 232.6—CONTRACT DEBTS

SUBPART 232.7—CONTRACT FUNDING

SUBPART 232.8—ASSIGNMENT OF CLAIMS

SUBPART 232.9—PROMPT PAYMENT

SUBPART 232.10—PERFORMANCE-BASED PAYMENTS

SUBPART 232.11—ELECTRONIC FUNDS TRANSFER

**SUBPART 232.70—ELECTRONIC SUBMISSION AND PROCESSING OF
PAYMENT REQUESTS AND RECEIVING REPORTS**

SUBPART 232.71—LEVIES ON CONTRACT PAYMENTS

SUBPART 232.72—PAYMENT IN LOCAL CURRENCY (AFGHANISTAN)

PART 233—PROTESTS, DISPUTES, AND APPEALS

SUBPART 233.1—PROTESTS

SUBPART 233.2—DISPUTES AND APPEALS

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 234—MAJOR SYSTEM ACQUISITION

Defense Federal Acquisition Regulation Supplement

Table of Contents

SUBPART 234.0

SUBPART 234.2—EARNED VALUE MANAGEMENT SYSTEM

**SUBPART 234.70—ACQUISITION OF MAJOR WEAPON SYSTEMS AS
COMMERCIAL ITEMS**

SUBPART 234.71—COST AND SOFTWARE DATA REPORTING

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

SUBPART 235.0

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

SUBPART 236.1—GENERAL

**SUBPART 236.2—SPECIAL ASPECTS OF CONTRACTING FOR
CONSTRUCTION**

SUBPART 236.5—CONTRACT CLAUSES

SUBPART 236.6—ARCHITECT-ENGINEER SERVICES

**SUBPART 236.7—STANDARD AND OPTIONAL FORMS FOR CONTRACTING
FOR CONSTRUCTION, ARCHITECT-ENGINEER SERVICES, AND
DISMANTLING, DEMOLITION, OR REMOVAL OF IMPROVEMENTS**

PART 237—SERVICE CONTRACTING

SUBPART 237.1—SERVICE CONTRACTS—GENERAL

SUBPART 237.2—ADVISORY AND ASSISTANCE SERVICES

SUBPART 237.5—MANAGEMENT OVERSIGHT OF SERVICE CONTRACTS

SUBPART 237.70—MORTUARY SERVICES

SUBPART 237.71—LAUNDRY AND DRY CLEANING SERVICES

SUBPART 237.72—EDUCATIONAL SERVICE AGREEMENTS

**SUBPART 237.73—SERVICES OF STUDENTS AT RESEARCH AND
DEVELOPMENT LABORATORIES**

SUBPART 237.74—SERVICES AT INSTALLATIONS BEING CLOSED

**SUBPART 237.75—ACQUISITION AND MANAGEMENT OF INDUSTRIAL
RESOURCES**

SUBPART 237.76—CONTINUATION OF ESSENTIAL CONTRACTOR SERVICES

PART 238—FEDERAL SUPPLY SCHEDULE CONTRACTING

PART 239—ACQUISITION OF INFORMATION TECHNOLOGY

SUBPART 239.1—GENERAL

SUBPART 239.70—EXCHANGE OR SALE OF INFORMATION TECHNOLOGY

SUBPART 239.71—SECURITY AND PRIVACY FOR COMPUTER SYSTEMS

SUBPART 239.72—STANDARDS

**SUBPART 239.73—REQUIREMENTS FOR INFORMATION RELATING TO
SUPPLY CHAIN RISK**

SUBPART 239.74—TELECOMMUNICATIONS SERVICES

PART 240—RESERVED

PART 241—ACQUISITION OF UTILITY SERVICES

SUBPART 241.1—GENERAL

SUBPART 241.2—ACQUIRING UTILITY SERVICES

SUBPART 241.5—SOLICITATION PROVISION AND CONTRACT CLAUSES

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

SUBPART 242.0

SUBPART 242.2—CONTRACT ADMINISTRATION SERVICES

SUBPART 242.3—CONTRACT ADMINISTRATION OFFICE FUNCTIONS

SUBPART 242.5—POSTAWARD ORIENTATION

SUBPART 242.6—CORPORATE ADMINISTRATIVE CONTRACTING OFFICER

SUBPART 242.7—INDIRECT COST RATES

SUBPART 242.8—DISALLOWANCE OF COSTS

SUBPART 242.11—PRODUCTION SURVEILLANCE AND REPORTING

SUBPART 242.12—NOVATION AND CHANGE-OF-NAME AGREEMENTS

SUBPART 242.15—CONTRACTOR PERFORMANCE INFORMATION

SUBPART 242.70—CONTRACTOR BUSINESS SYSTEMS

Defense Federal Acquisition Regulation Supplement

Table of Contents

SUBPART 242.71–VOLUNTARY REFUNDS

SUBPART 242.72–CONTRACTOR MATERIAL MANAGEMENT AND ACCOUNTING SYSTEM

SUBPART 242.73–CONTRACTOR INSURANCE/PENSION REVIEW

SUBPART 242.74–TECHNICAL REPRESENTATION AT CONTRACTOR FACILITIES

SUBPART 242.75–CONTRACTOR ACCOUNTING SYSTEMS AND RELATED CONTROLS

PART 243–CONTRACT MODIFICATIONS

SUBPART 243.1–GENERAL

SUBPART 243.2–CHANGE ORDERS

PART 244–SUBCONTRACTING POLICIES AND PROCEDURES

SUBPART 244.1–GENERAL

SUBPART 244.2–CONSENT TO SUBCONTRACTS

SUBPART 244.3–CONTRACTORS' PURCHASING SYSTEMS REVIEWS

SUBPART 244.4–SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS

PART 245–GOVERNMENT PROPERTY

SUBPART 245.1–GENERAL

SUBPART 245.2–SOLICITATION AND EVALUATION PROCEDURES

SUBPART 245.3–AUTHORIZING THE USE AND RENTAL OF GOVERNMENT PROPERTY

SUBPART 245.4–TITLE TO GOVERNMENT PROPERTY

SUBPART 245.5–SUPPORT GOVERNMENT PROPERTY ADMINISTRATION

SUBPART 245.6–REPORTING, REUTILIZATION, AND DISPOSAL

SUBPART 245.70–PLANT CLEARANCE FORMS

PART 246–QUALITY ASSURANCE

SUBPART 246.1–GENERAL

SUBPART 246.2–CONTRACT QUALITY REQUIREMENTS

Defense Federal Acquisition Regulation Supplement

Table of Contents

SUBPART 246.3—CONTRACT CLAUSES

SUBPART 246.4—GOVERNMENT CONTRACT QUALITY ASSURANCE

SUBPART 246.5—ACCEPTANCE

SUBPART 246.6—MATERIAL INSPECTION AND RECEIVING REPORTS

SUBPART 246.7—WARRANTIES

**SUBPART 246.8—CONTRACTOR LIABILITY FOR LOSS OF OR DAMAGE TO
PROPERTY OF THE GOVERNMENT**

PART 247—TRANSPORTATION

SUBPART 247.0

SUBPART 247.1—GENERAL

**SUBPART 247.2—CONTRACTS FOR TRANSPORTATION OR FOR
TRANSPORTATION-RELATED SERVICES**

SUBPART 247.3—TRANSPORTATION IN SUPPLY CONTRACTS

SUBPART 247.5—OCEAN TRANSPORTATION BY U.S.-FLAG VESSELS

PART 248—VALUE ENGINEERING

PART 249—TERMINATION OF CONTRACTS

SUBPART 249.1—GENERAL PRINCIPLES

SUBPART 249.5—CONTRACT TERMINATION CLAUSES

SUBPART 249.70—SPECIAL TERMINATION REQUIREMENTS

**PART 250—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY
ACT**

SUBPART 250.1—EXTRAORDINARY CONTRACTUAL ACTIONS

PART 251—USE OF GOVERNMENT SOURCES BY CONTRACTORS

SUBPART 251.1—CONTRACTOR USE OF GOVERNMENT SUPPLY SOURCES

**SUBPART 251.2—CONTRACTOR USE OF INTERAGENCY FLEET
MANAGEMENT SYSTEM (IFMS) VEHICLES**

SUBCHAPTER H—CLAUSES AND FORMS

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

SUBPART 252.1—INSTRUCTIONS FOR USING PROVISIONS AND CLAUSES

SUBPART 252.2—TEXT OF PROVISIONS AND CLAUSES

PART 253—FORMS

SUBPART 253.3—ILLUSTRATION OF FORMS

APPENDICES

APPENDIX A—ARMED SERVICES BOARD OF CONTRACT APPEALS

Part 1—Charter

Part 2—Rules

APPENDIX B—RESERVED

APPENDIX C—RESERVED

APPENDIX D—RESERVED

APPENDIX E—RESERVED

APPENDIX F—MATERIAL INSPECTION AND RECEIVING REPORT

Part 1—Introduction.

Part 2—Contract Quality Assurance on Shipments Between Contractors.

Part 3—Preparation of the Wide Area Workflow Receiving Report (WAWF RR).

Part 4—Preparation of the DD Form 250 and DD Form 250c.

Part 5—Distribution of Wide Area Workflow Receiving Report (WAWF RR), DD Form 250 and DD Form 250c.

Part 6—Preparation of the DD Form 250-1 (Loading Report).

Part 7—Preparation of the DD Form 250-1 (Discharge Report).

Part 8—Distribution of the DD Form 250-1.

APPENDIX G—RESERVED

APPENDIX H—DEBARMENT AND SUSPENSION PROCEDURES

APPENDIX I—POLICY AND PROCEDURES FOR THE DOD PILOT MENTOR-PROTEGE PROGRAM

Defense Federal Acquisition Regulation Supplement

Part 212—Acquisition of Commercial Items

TABLE OF CONTENTS (Revised February 26, 2015)

SUBPART 212.1—ACQUISITION OF COMMERCIAL ITEMS - GENERAL

212.102 Applicability.

SUBPART 212.2—SPECIAL REQUIREMENTS FOR THE ACQUISITION OF COMMERCIAL ITEMS

212.205 Offers.

212.207 Contract type.

212.211 Technical data.

212.212 Computer software.

212.270 Major weapon systems as commercial items.

212.271 Limitation on acquisition of right-hand drive passenger sedans.

SUBPART 212.3—SOLICITATION PROVISIONS AND CONTRACT CLAUSES FOR THE ACQUISITION OF COMMERCIAL ITEMS

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

212.302 Tailoring of provisions and clauses for the acquisition of commercial items.

SUBPART 212.5—APPLICABILITY OF CERTAIN LAWS TO THE ACQUISITION OF COMMERCIAL ITEMS

212.503 Applicability of certain laws to Executive Agency contracts for the acquisition of commercial items.

212.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.

212.570 Applicability of certain laws to contracts and subcontracts for the acquisition of commercially available off-the-shelf items.

SUBPART 212.6—STREAMLINED PROCEDURES FOR EVALUATION AND SOLICITATION FOR COMMERCIAL ITEMS

212.602 Streamlined evaluation of offers.

SUBPART 212.71—PILOT PROGRAM FOR ACQUISITION OF MILITARY-PURPOSE NONDEVELOPMENTAL ITEMS

212.7100 Scope.

212.7101 Definitions.

212.7102 Pilot program.

212.7102-1 Contracts under the program.

212.7102-2 Reporting requirements.

212.7102-3 Sunset of the pilot authority.

212.7103 Solicitation provision.

Defense Federal Acquisition Regulation Supplement

Part 212—Acquisition of Commercial Items

SUBPART 212.1—ACQUISITION OF COMMERCIAL ITEMS - GENERAL *(Revised February 26, 2015)*

212.102 Applicability.

(a)(i) When using FAR part 12 procedures for acquisitions exceeding \$1 million in value, except for acquisitions made pursuant to FAR 12.102(f)(1), the contracting officer shall—

(A) Determine in writing that the acquisition meets the commercial item definition in FAR 2.101;

(B) Include the written determination in the contract file; and

(C) Obtain approval at one level above the contracting officer when a commercial item determination relies on subsections (1)(ii), (3), (4), or (6) of the “commercial item” definition at FAR 2.101.

(ii) Follow the procedures at [PGI 212.102\(a\)](#) regarding file documentation.

Defense Federal Acquisition Regulation Supplement

Part 212—Acquisition of Commercial Items

**SUBPART 212.70—PILOT PROGRAM FOR TRANSITION TO FOLLOW-ON
CONTRACTING AFTER USE OF OTHER TRANSACTION AUTHORITY**

(Deleted February 26, 2015)

Defense Federal Acquisition Regulation Supplement

Part 218—Emergency Acquisitions

TABLE OF CONTENTS *(Revised February 26, 2015)*

SUBPART 218.1—AVAILABLE ACQUISITION FLEXIBILITIES

218.170 Additional acquisition flexibilities.

SUBPART 218.2—EMERGENCY ACQUISITION FLEXIBILITIES

218.201 Contingency operation.

218.202 Defense or recovery from certain attacks.

218.203 Incidents of national significance, emergency declaration, or major disaster declaration.

218.270 Humanitarian or peacekeeping operation.

218.271 Head of contracting activity determinations.

218.272 Use of electronic tools.

SUBPART 218.2—EMERGENCY ACQUISITION FLEXIBILITIES
(Revised February 26, 2015)

218.201 Contingency operation.

(1) *Selection, appointment, and termination of appointment.* Contracting officer qualification requirements pertaining to a baccalaureate degree and 24 semester credit hours of business related courses do not apply to DoD employees or members of the armed forces who are in a contingency contracting force. See [201.603-2\(2\)](#).

(2) *Policy for item unique identification.* Contractors will not be required to provide DoD item unique identification if the items, as determined by the head of the agency, are to be used to support a contingency operation. See [211.274-2\(b\)](#).

(3) *Use of the Governmentwide commercial purchase card.* Governmentwide commercial purchase cards do not have to be used for purchases valued at or below the micro-purchase threshold if the purchase or payment is for an overseas transaction by a contracting officer in support of a contingency operation, or for training exercises in preparation for overseas contingency, humanitarian, or peacekeeping operations. See [213.270\(c\)\(3\)](#) and (5).

(4) *Governmentwide commercial purchase card.* A contracting office supporting a contingency operation or a humanitarian or peacekeeping operation may use the Governmentwide commercial purchase card to make a purchase that exceeds the micro-purchase threshold but does not exceed the simplified acquisition threshold if certain conditions are met. See [213.301\(3\)](#).

(5) *Imprest funds and third party drafts.* Imprest funds are authorized for use without further approval for overseas transactions at or below the micro-purchase threshold in support of a contingency operation or a humanitarian or peacekeeping operation. See [213.305-3\(d\)\(iii\)\(A\)](#).

(6) *Standard Form (SF) 44, Purchase Order-Invoice-Voucher.* SF 44s may be used for purchases not exceeding the simplified acquisition threshold for overseas transactions by contracting officers in support of a contingency operation or a humanitarian or peacekeeping operation. See [213.306\(a\)\(1\)\(B\)](#).

(7) *Undefinitized contract actions.* The head of the agency may waive certain limitations for undefinitized contract actions if the head of the agency determines that the waiver is necessary to support a contingency operation or a humanitarian or peacekeeping operation. See [217.7404-5\(b\)](#).

(8) *Prohibited sources.* DoD personnel are authorized to make emergency acquisitions in direct support of U.S. or allied forces deployed in military contingency, humanitarian, or peacekeeping operations in a country or region subject to economic sanctions administered by the Department of the Treasury, Office of Foreign Assets Control. See [225.701-70](#).

(9) *Authorization Acts, Appropriations Acts, and other statutory restrictions on foreign acquisition.* Acquisitions in the following categories are not subject to the restrictions of [225.7002](#), Restrictions on food, clothing, fabrics, specialty metals, and

hand or measuring tools: (1) Acquisitions at or below the simplified acquisition threshold; (2) Acquisitions outside the United States in support of combat operations; (3) Acquisitions of perishable foods by or for activities located outside the United States for personnel of those activities; (4) Acquisitions of food, specialty metals, or hand or measuring tools in support of contingency operations, or for which the use of other than competitive procedures has been approved on the basis of unusual and compelling urgency in accordance with FAR 6.302-2; (5) Emergency acquisitions by activities located outside the United States for personnel of those activities; and (6) Acquisitions by vessels in foreign waters. See [225.7002-2](#).

(10) *Electronic submission and processing of payment requests.* Contractors do not have to submit payment requests in electronic form for contracts awarded by deployed contracting officers in the course of military operations, including contingency operations or humanitarian or peacekeeping operations. See [232.7002\(a\)\(4\)](#).

218.202 Defense or recovery from certain attacks.

Policy for unique item identification. Contractors will not be required to provide DoD unique item identification if the items, as determined by the head of the agency, are to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack. See [211.274-2\(b\)](#).

218.203 Incidents of national significance, emergency declaration, or major disaster declaration.

(1) *Establishing or maintaining alternative sources.* PGI contains a sample format for Determination and Findings citing the authority of FAR 6.202(a), regarding exclusion of a particular source in order to establish or maintain an alternative source or sources. Alternate 2 of the sample format addresses having a supplier available for furnishing supplies or services in case of a national emergency. See PGI [206.202](#).

(2) *Electronic submission and processing of payment requests.* Contractors do not have to submit payment requests in electronic form for contracts awarded by contracting officers in the conduct of emergency operations, such as responses to natural disasters or national or civil emergencies. See [232.7002\(a\)\(4\)](#).

218.270 Humanitarian or peacekeeping operation.

The term “humanitarian or peacekeeping operation” is defined at FAR 2.101. In accordance with 10 U.S.C. 2302(7), when a humanitarian or peacekeeping operation is declared, the simplified acquisition threshold is raised to \$300,000 for DoD purchases that are awarded and performed, or purchases that are made, outside the United States in support of that operation. See [202.101](#).

218.271 Head of contracting activity determinations.

For contract actions supporting contingency operations or facilitating defense against or recovery from nuclear, biological, chemical, or radiological attack, the term “head of the agency” is replaced with “head of the contracting activity,” as defined in FAR 2.101, in the following locations:

Defense Federal Acquisition Regulation Supplement

Part 218—Emergency Acquisitions

- (a) FAR 2.101:
 - (1) Definition of “Micro-purchase threshold,” paragraph (3).
 - (2) Definition of “Simplified acquisition threshold.”
- (b) FAR 12.102(f).
- (c) FAR 13.201(g).
- (d) FAR 13.500(e).
- (e) FAR 18.2.

218.272 Use of electronic business tools.

When supporting a contingency operation or humanitarian or peacekeeping operation, follow the procedures at [PGI 218.272](#) concerning the use of electronic business tools.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

TABLE OF CONTENTS (Revised February 26, 2015)

225.001	General.
225.003	Definitions.
225.070	Reporting of acquisition of end products manufactured outside The United States.

SUBPART 225.1—BUY AMERICAN—SUPPLIES

225.101	General.
225.103	Exceptions.
225.105	Determining reasonableness of cost.
225.170	Acquisition from or through other Government agencies.

SUBPART 225.2—BUY AMERICAN—CONSTRUCTION MATERIALS

225.202	Exceptions.
225.206	Noncompliance.

SUBPART 225.3—CONTRACTS PERFORMED OUTSIDE THE UNITED STATES

225.301	Contractor personnel in a designated operational area or supporting a diplomatic or consular mission outside the United States.
225.301-1	Scope.
225.301-4	Contract clause.
225.302	Contractors performing private security functions outside the United States.
225.302-6	Contract clause.

SUBPART 225.4—TRADE AGREEMENTS

225.401	Exceptions.
225.401-70	End products subject to trade agreements.
225.401-71	Products or services in support of operations in Iraq or Afghanistan.
225.402	General.
225.403	World Trade Organization Government Procurement Agreement and Free Trade Agreements.
225.408	Procedures.

SUBPART 225.5—EVALUATING FOREIGN OFFERS—SUPPLY CONTRACTS

225.502	Application.
225.503	Group offers.
225.504	Evaluation examples.

SUBPART 225.7—PROHIBITED SOURCES

225.701	Restrictions.
225.701-70	Exception.
225.770	Prohibition on acquisition of United States Munitions List items from Communist Chinese military companies.
225.770-1	Definitions.
225.770-2	Prohibition.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

- 225.770-3 Exceptions.
- 225.770-4 Identifying USML items.
- 225.770-5 Waiver of prohibition.
- 225.771 Prohibition on contracting or subcontracting with a firm that is owned or controlled by the government of a country that is a state sponsor of terrorism.
- 225.771-0 Scope.
- 225.771-1 Definition.
- 225.771-2 Prohibition.
- 225.771-3 Notification.
- 225.771-4 Waiver of prohibition.
- 225.771-5 Solicitation provision.
- 225.772 Prohibition on acquisition of commercial satellite services from certain foreign entities.
- 225.772-0 Scope.
- 225.772-1 Definitions.
- 225.772-2 Prohibition.
- 225.772-3 Procedures.
- 225.772-4 Exception.
- 225.772-5 Solicitation provision.

SUBPART 225.8—OTHER INTERNATIONAL AGREEMENTS AND COORDINATION

- 225.802 Procedures.
- 225.802-70 Contracts for performance outside the United States and Canada.
- 225.802-71 End use certificates.
- 225.870 Contracting with Canadian contractors.
- 225.870-1 General.
- 225.870-2 Solicitation of Canadian contractors.
- 225.870-3 Submission of offers.
- 225.870-4 Contracting procedures.
- 225.870-5 Contract administration.
- 225.870-6 Termination procedures.
- 225.870-7 Acceptance of Canadian supplies.
- 225.870-8 Industrial security.
- 225.871 North Atlantic Treaty Organization (NATO) cooperative projects.
- 225.871-1 Scope.
- 225.871-2 Definitions.
- 225.871-3 General.
- 225.871-4 Statutory waivers.
- 225.871-5 Directed subcontracting.
- 225.871-6 Disposal of property.
- 225.871-7 Congressional notification.
- 225.872 Contracting with qualifying country sources.
- 225.872-1 General.
- 225.872-2 Applicability.
- 225.872-3 Solicitation procedures.
- 225.872-4 Individual determinations.
- 225.872-5 Contract administration.
- 225.872-6 Audit.
- 225.872-7 Industrial security for qualifying countries.
- 225.872-8 Subcontracting with qualifying country sources.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

- 225.873 Waiver of United Kingdom commercial exploitation levies.
- 225.873-1 Policy.
- 225.873-2 Procedures.

SUBPART 225.9—CUSTOMS AND DUTIES

- 225.900-70 Definition.
- 225.901 Policy.
- 225.902 Procedures.
- 225.903 Exempted supplies.

SUBPART 225.10—ADDITIONAL FOREIGN ACQUISITION REGULATIONS

- 225.1070 Clause deviations in overseas contracts.

SUBPART 225.11—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

- 225.1100 Scope of subpart.
- 225.1101 Acquisition of supplies.
- 225.1103 Other provisions and clauses.

SUBPART 225.70—AUTHORIZATION ACTS, APPROPRIATIONS ACTS, AND OTHER STATUTORY RESTRICTIONS ON FOREIGN ACQUISITION

- 225.7000 Scope of subpart.
- 225.7001 Definitions.
- 225.7002 Restrictions on food, clothing, fabrics, and hand or measuring tools.
- 225.7002-1 Restrictions.
- 225.7002-2 Exceptions.
- 225.7002-3 Contract clauses.
- 225.7003 Restrictions on acquisition of specialty metals.
- 225.7003-1 Definitions.
- 225.7003-2 Restrictions.
- 225.7003-3 Exceptions.
- 225.7003-4 One-time waiver.
- 225.7003-5 Solicitation provision and contract clauses.
- 225.7004 Restriction on acquisition of foreign buses.
- 225.7004-1 Restriction.
- 225.7004-2 Applicability.
- 225.7004-3 Exceptions.
- 225.7004-4 Waiver.
- 225.7005 Restriction on certain chemical weapons antidote.
- 225.7005-1 Restriction.
- 225.7005-2 Exception.
- 225.7005-3 Waiver.
- 225.7006 Restriction on air circuit breakers for naval vessels.
- 225.7006-1 Restriction.
- 225.7006-2 Exceptions.
- 225.7006-3 Waiver.
- 225.7006-4 Solicitation provision and contract clause.
- 225.7007 Restrictions on anchor and mooring chain.
- 225.7007-1 Restrictions.
- 225.7007-2 Waiver.
- 225.7007-3 Contract clause.
- 225.7008 Waiver of restrictions of 10 U.S.C. 2534.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

- 225.7009 Restriction on ball and roller bearings.
- 225.7009-1 Scope.
- 225.7009-2 Restriction.
- 225.7009-3 Exception.
- 225.7009-4 Waiver.
- 225.7009-5 Contract clause.
- 225.7010 Restriction on certain naval vessel components.
- 225.7010-1 Restriction.
- 225.7010-2 Exceptions.
- 225.7010-3 Waiver.
- 225.7010-4 Implementation.
- 225.7011 Restriction on carbon, alloy, and armor steel plate.
- 225.7011-1 Restriction.
- 225.7011-2 Waiver.
- 225.7011-3 Contract clause.
- 225.7012 Restriction on supercomputers.
- 225.7012-1 Restriction.
- 225.7012-2 Waiver.
- 225.7012-3 Contract clause.
- 225.7013 Restrictions on construction or repair of vessels in foreign shipyards.
- 225.7014 Restrictions on military construction.
- 225.7015 Restriction on overseas architect-engineer services.
- 225.7016 Prohibition.
- 225.7017 Utilization of domestic photovoltaic devices.
- 225.7017-1 Definitions.
- 225.7017-2 Restriction.
- 225.7017-3 Exceptions.
- 225.7017-4 Solicitation provisions and contract clauses.

SUBPART 225.71—OTHER RESTRICTIONS ON FOREIGN ACQUISITION

- 225.7100 Scope of subpart.
- 225.7101 Definitions.
- 225.7102 Forgings.
- 225.7102-1 Policy.
- 225.7102-2 Exceptions.
- 225.7102-3 Waiver.
- 225.7102-4 Contract clause.

SUBPART 225.72—REPORTING CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES

- 225.7201 Policy.
- 225.7202 Exception.
- 225.7203 Contracting officer distribution of reports.
- 225.7204 Solicitation provision and contract clauses.

SUBPART 225.73—ACQUISITIONS FOR FOREIGN MILITARY SALES

- 225.7300 Scope of subpart.
- 225.7301 General.
- 225.7302 Preparation of letter of offer and acceptance.
- 225.7303 Pricing acquisitions for FMS.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

- 225.7303-1 Contractor sales to other foreign customers.
- 225.7303-2 Cost of doing business with a foreign government or an international organization.
- 225.7303-3 Government-to-government agreements.
- 225.7303-4 Contingent fees.
- 225.7303-5 Acquisitions wholly paid for from nonrepayable funds.
- 225.7304 FMS customer involvement.
- 225.7305 Limitation of liability.
- 225.7306 Offset arrangements.
- 225.7307 Contract clauses.

SUBPART 225.74—DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES

- 225.7401 Contracts requiring performance or delivery in a foreign country.
- 225.7402 Contractor personnel supporting U.S. Armed Forces deployed outside the United States.
 - 225.7402-1 Scope.
 - 225.7402-2 Definitions.
 - 225.7402-3 Government support.
 - 225.7402-4 Law of war training.
 - 225.7402-5 Contract clauses.
- 225.7403 Antiterrorism/force protection.
 - 225.7403-1 General.
 - 225.7403-2 Contract clause.
- 225.7404 Contract administration in support of contingency operations.
- 225.7405 Use of electronic business tools.

SUBPART 225.75—BALANCE OF PAYMENTS PROGRAM

- 225.7500 Scope of subpart.
- 225.7501 Policy.
- 225.7502 Procedures.
- 225.7503 Contract clauses.

SUBPART 225.76—SECONDARY ARAB BOYCOTT OF ISRAEL

- 225.7601 Restriction.
- 225.7602 Procedures.
- 225.7603 Exceptions.
- 225.7604 Waivers.
- 225.7605 Solicitation provision.

SUBPART 225.77—ACQUISITIONS IN SUPPORT OF OPERATIONS IN AFGHANISTAN

- 225.7700 Scope.
- 225.7701 Definitions.
- 225.7702 Acquisitions not subject to the enhanced authority to acquire products or services from Afghanistan.
 - 225.7702-1 Acquisition of small arms.
 - 225.7702-2 Acquisition of uniform components for the Afghan military or the Afghan policy.
- 225.7703 Enhanced authority to acquire products or services from Afghanistan.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

- 225.7703-1 Acquisition procedures.
- 225.7703-2 Determination requirements.
- 225.7703-3 Evaluating offers.
- 225.7703-4 Solicitation provisions and contract clauses.
- 225.7704 Acquisitions of products and services from South
Caucasus/Central and South Asian (SC/CASA) states in support
of operations in Afghanistan.
- 225.7704-1 Applicability of trade agreements.
- 225.7704-2 Applicability of Balance of Payments Program.
- 225.7704-3 Solicitation provisions and contract clauses.

SUBPART 225.78—ACQUISITIONS IN SUPPORT OF GEOGRAPHIC COMBATANT COMMAND'S THEATER SECURITY COOPERATION EFFORTS

- 225.7801 Policy.

SUBPART 225.79—EXPORT CONTROL

- 225.7900 Scope of subpart.
- 225.7901 Export-controlled items.
- 225.7901-1 Definitions.
- 225.7901-2 General.
- 225.7901-3 Policy.
- 225.7901-4 Contract clauses.
- 225.7902 Defense Trade Cooperation Treaty with the United Kingdom.
- 225.7902-1 Definitions.
- 225.7902-2 Purpose.
- 225.7902-3 Policy.
- 225.7902-4 Procedures.
- 225.7902-5 Solicitation provision and contract clause.

**SUBPART 225.70—AUTHORIZATION ACTS, APPROPRIATIONS ACTS, AND
OTHER STATUTORY RESTRICTIONS ON FOREIGN ACQUISITION**

(Revised February 26, 2015)

225.7000 Scope of subpart.

(a) This subpart contains restrictions on the acquisition of foreign products and services, imposed by DoD appropriations and authorization acts and other statutes. Refer to the acts to verify current applicability of the restrictions.

(b) Nothing in this subpart affects the applicability of the Buy American statute or the Balance of Payments Program.

225.7001 Definitions.

As used in this subpart—

(a) “Bearing components” is defined in the clause at [252.225-7016](#), Restriction on Acquisition of Ball and Roller Bearings.

(b) “Component” is defined in the clauses at [252.225-7009](#), Restriction on Acquisition of Certain Articles Containing Specialty Metals; [252.225-7012](#), Preference for Certain Domestic Commodities; and [252.225-7016](#), Restriction on Acquisition of Ball and Roller Bearings except that for use in [225.7007](#), the term has the meaning given in the clause at [252.225-7019](#), Restriction on Acquisition of Anchor and Mooring Chain.

(c) “End product” is defined in the clause at [252.225-7012](#), Preference for Certain Domestic Commodities.

(d) “Hand or measuring tools” means those tools listed in Federal supply classifications 51 and 52, respectively.

(e) “Structural component of a tent” is defined in the clause at [252.225-7012](#), Preference for Certain Domestic Commodities.

225.7002 Restrictions on food, clothing, fabrics, and hand or measuring tools.

225.7002-1 Restrictions.

The following restrictions implement 10 U.S.C. 2533a (the “Berry Amendment”). Except as provided in subsection [225.7002-2](#), do not acquire—

(a) Any of the following items, either as end products or components, unless the items have been grown, reprocessed, reused, or produced in the United States:

(1) Food.

(2) Clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing and the materials and components thereof. Clothing includes items such as outerwear, headwear, underwear, nightwear, footwear, hosiery, handwear, belts, badges, and insignia. For additional guidance and examples, see [PGI 225.7002-1\(a\)\(2\)](#).

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

- (3)(i) Tents and the structural components of tents;
 - (ii) Tarpaulins; or
 - (iii) Covers.
 - (4) Cotton and other natural fiber products.
 - (5) Woven silk or woven silk blends.
 - (6) Spun silk yarn for cartridge cloth.
 - (7) Synthetic fabric or coated synthetic fabric, including all textile fibers and yarns that are for use in such fabrics.
 - (8) Canvas products.
 - (9) Wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles).
 - (10) Any item of individual equipment (Federal Supply Class 8465) manufactured from or containing any of the fibers, yarns, fabrics, or materials listed in this paragraph (a).
- (b) Hand or measuring tools, unless the tools were produced in the United States. For additional guidance, see [PGI 225.7002-1\(b\)](#).

225.7002-2 Exceptions.

Acquisitions in the following categories are not subject to the restrictions in [225.7002-1](#):

- (a) Acquisitions at or below the simplified acquisition threshold.
- (b) Acquisitions of any of the items in [225.7002-1](#), if the Secretary concerned determines that items grown, reprocessed, reused, or produced in the United States cannot be acquired as and when needed in a satisfactory quality and sufficient quantity at U.S. market prices. (See the requirement in [205.301](#) for synopsis within 7 days after contract award when using this exception.)
 - (1) The following officials are authorized, without power of redelegation, to make such a domestic nonavailability determination:
 - (i) The Under Secretary of Defense (Acquisition, Technology, and Logistics).
 - (ii) The Secretary of the Army.
 - (iii) The Secretary of the Navy.
 - (iv) The Secretary of the Air Force.
 - (v) The Director of the Defense Logistics Agency.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

- (2) The supporting documentation for the determination shall include—
- (i) An analysis of alternatives that would not require a domestic nonavailability determination; and
 - (ii) A written certification by the requiring activity, with specificity, why such alternatives are unacceptable.
- (3) Defense agencies other than the Defense Logistics Agency shall follow the procedures at [PGI 225.7002-2\(b\)\(3\)](#) when submitting a request for a domestic nonavailability determination.
- (4) Follow the procedures at [PGI 225.7002-2\(b\)\(4\)](#) for reciprocal use of domestic nonavailability determinations.
- (c) Acquisitions of items listed in FAR 25.104(a).
 - (d) Acquisitions outside the United States in support of combat operations.
 - (e) Acquisitions of perishable foods by or for activities located outside the United States for personnel of those activities.
 - (f) Acquisitions of food or hand or measuring tools—
 - (1) In support of contingency operations; or
 - (2) For which the use of other than competitive procedures has been approved on the basis of unusual and compelling urgency in accordance with FAR 6.302-2.
 - (g) Emergency acquisitions by activities located outside the United States for personnel of those activities.
 - (h) Acquisitions by vessels in foreign waters.
 - (i) Acquisitions of items specifically for commissary resale.
 - (j) Acquisitions of incidental amounts of cotton, other natural fibers, or wool incorporated in an end product, for which the estimated value of the cotton, other natural fibers, or wool--
 - (1) Is not more than 10 percent of the total price of the end product; and
 - (2) Does not exceed the simplified acquisition threshold.
 - (k) Acquisitions of waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives.
 - (l) Acquisitions of foods manufactured or processed in the United States, regardless of where the foods (and any component if applicable) were grown or produced. However, in accordance with Section 8118 of the DoD Appropriations Act for Fiscal Year 2005 (Pub. L. 108-287), this exception does not apply to fish, shellfish, or seafood

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

manufactured or processed in the United States or fish, shellfish, or seafood contained in foods manufactured or processed in the United States.

(m) Acquisitions of fibers and yarns that are for use in synthetic fabric or coated synthetic fabric (but not the purchase of the synthetic or coated synthetic fabric itself), if—

(1) The fabric is to be used as a component of an end product that is not a textile product. Examples of textile products, made in whole or in part of fabric, include—

(i) Draperies, floor coverings, furnishings, and bedding (Federal Supply Group 72, Household and Commercial Furnishings and Appliances);

(ii) Items made in whole or in part of fabric in Federal Supply Group 83, Textile/leather/furs/apparel/findings/tents/flags, or Federal Supply Group 84, Clothing, Individual Equipment and Insignia;

(iii) Upholstered seats (whether for household, office, or other use); and

(iv) Parachutes (Federal Supply Class 1670); or

(2) The fibers and yarns are para-aramid fibers and continuous filament para-aramid yarns manufactured in a qualifying country.

(n) Acquisitions of chemical warfare protective clothing when the acquisition furthers an agreement with a qualifying country. (See [225.872](#) and the requirement in [205.301](#) for synopsis within 7 days after contract award when using this exception.)

225.7002-3 Contract clauses.

See DoD [Class Deviation 2014-O0010](#), Acquisition of the American Flag, issued February 21, 2014. This deviation is effective for contract actions issued using DoD funds appropriated by the Department of Defense Appropriations Act, 2014 (Pub. L. 113-76, Division C).

See DoD [Class Deviation 2015-O0007](#), Acquisition of the American Flag, issued December 29, 2014. This deviation is effective for contract actions issued using DoD funds appropriated by the Department of Defense Appropriations Act, 2015 (Pub. L. 113-235, Division C). This class deviation remains in effect until incorporated in the DFARS or otherwise rescinded.

Unless an exception applies—

(a) Use the clause at [252.225-7012](#), Preference for Certain Domestic Commodities, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that exceed the simplified acquisition threshold.

(b) Use the clause at [252.225-7015](#), Restriction on Acquisition of Hand or Measuring Tools, in solicitations and contracts, including solicitations and contracts

using FAR part 12 procedures for the acquisition of commercial items, that exceed the simplified acquisition threshold that require delivery of hand or measuring tools.

225.7003 Restrictions on acquisition of specialty metals.

225.7003-1 Definitions.

As used in this section—

(a) “Assembly,” “commercial derivative military article,” “commercially available off-the-shelf item,” “component,” “electronic component,” “end item,” “high performance magnet,” “required form,” and “subsystem” are defined in the clause at [252.225-7009](#), Restriction on Acquisition of Certain Articles Containing Specialty Metals.

(b) “Automotive item”—

(1) Means a self-propelled military transport tactical vehicle, primarily intended for use by military personnel or for carrying cargo, such as—

- (i) A high-mobility multipurpose wheeled vehicle;
- (ii) An armored personnel carrier; or
- (iii) A troop/cargo-carrying truckcar, truck, or van; and

(2) Does not include—

- (i) A commercially available off-the-shelf vehicle; or
- (ii) Construction equipment (such as bulldozers, excavators, lifts, or loaders) or other self-propelled equipment (such as cranes or aircraft ground support equipment).

(c) “Produce” and “specialty metal” are defined in the clauses at [252.225-7008](#), Restriction on Acquisition of Specialty Metals, and [252.225-7009](#), Restriction on Acquisition of Certain Articles Containing Specialty Metals.

225.7003-2 Restrictions.

The following restrictions implement 10 U.S.C. 2533b. Except as provided in [225.7003-3](#)—

(a) Do not acquire the following items, or any components of the following items, unless any specialty metals contained in the items or components are melted or produced in the United States (also see guidance at [PGI 225.7003-2\(a\)](#)):

- (1) Aircraft.
- (2) Missile or space systems.
- (3) Ships.
- (4) Tank or automotive items.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(5) Weapon systems.

(6) Ammunition.

(b) Do not acquire a specialty metal (e.g., raw stock, including bar, billet, slab, wire, plate, and sheet; castings; and forgings) as an end item, unless the specialty metal is melted or produced in the United States. This restriction applies to specialty metal acquired by a contractor for delivery to DoD as an end item, in addition to specialty metal acquired by DoD directly from the entity that melted or produced the specialty metal.

225.7003-3 Exceptions.

(a) Acquisitions in the following categories are not subject to the restrictions in [225.7003-2](#):

(1) Acquisitions at or below the simplified acquisition threshold.

(2) Acquisitions outside the United States in support of combat operations.

(3) Acquisitions in support of contingency operations.

(4) Acquisitions for which the use of other than competitive procedures has been approved on the basis of unusual and compelling urgency in accordance with FAR 6.302-2.

(5) Acquisitions of items specifically for commissary resale.

(6) Acquisitions of items for test and evaluation under the foreign comparative testing program (10 U.S.C. 2350a(g)). However, this exception does not apply to any acquisitions under follow-on production contracts.

(b) One or more of the following exceptions may apply to an end item or component that includes any of the following, under a prime contract or subcontract at any tier. The restrictions in [225.7003-2](#) do not apply to the following:

(1) Electronic components, unless the Secretary of Defense, upon the recommendation of the Strategic Materials Protection Board pursuant to 10 U.S.C. 187, determines that the domestic availability of a particular electronic component is critical to national security.

(2)(i) Commercially available off-the-shelf (COTS) items containing specialty metals, except the restrictions do apply to contracts or subcontracts for the acquisition of—

(A) Specialty metal mill products, such as bar, billet, slab, wire, plate, and sheet, that have not been incorporated into end items, subsystems, assemblies, or components. Specialty metal supply contracts issued by COTS producers are not subcontracts for the purposes of this exception;

(B) Forgings or castings of specialty metals, unless the forgings or castings are incorporated into COTS end items, subsystems, or assemblies;

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(C) Commercially available high performance magnets that contain specialty metal, unless such high performance magnets are incorporated into COTS end items or subsystems (see [PGI 225.7003-3\(b\)\(6\)](#) for a table of applicability of specialty metals restrictions to magnets); and

(D) COTS fasteners, unless—

(1) The fasteners are incorporated into COTS end items, subsystems, or assemblies; or

(2) The fasteners qualify for the commercial item exception in paragraph (b)(3) of this subsection.

(ii) If this exception is used for an acquisition of COTS end items valued at \$5 million or more per item, the acquiring department or agency shall submit an annual report to the Director, Defense Procurement and Acquisition Policy, in accordance with the procedures at [PGI 225.7003-3\(b\)\(2\)](#).

(3) Fasteners that are commercial items and are acquired under a contract or subcontract with a manufacturer of such fasteners, if the manufacturer has certified that it will purchase, during the relevant calendar year, an amount of domestically melted or produced specialty metal, in the required form, for use in the production of fasteners for sale to DoD and other customers, that is not less than 50 percent of the total amount of the specialty metal that the manufacturer will purchase to carry out the production of such fasteners for all customers.

(4) Items listed in [225.7003-2\(a\)](#), manufactured in a qualifying country or containing specialty metals melted or produced in a qualifying country.

(5) Specialty metal in any of the items listed in [225.7003-2](#) if the USD(AT&L), or an official authorized in accordance with paragraph (b)(5)(i) of this subsection, determines that specialty metal melted or produced in the United States cannot be acquired as and when needed at a fair and reasonable price in a satisfactory quality, a sufficient quantity, and the required form (i.e., a domestic nonavailability determination). See guidance in [PGI 225.7003-3\(b\)\(5\)](#).

(i) The Secretary of the military department concerned is authorized, without power of redelegation, to make a domestic nonavailability determination that applies to only one contract.

The supporting documentation for the determination shall include—

(A) An analysis of alternatives that would not require a domestic nonavailability determination; and

(B) Written documentation by the requiring activity, with specificity, why such alternatives are unacceptable.

(ii) A domestic nonavailability determination that applies to more than one contract (i.e., a class domestic nonavailability determination), requires the approval of the USD(AT&L).

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(A) At least 30 days before making a domestic nonavailability determination that would apply to more than one contract, the USD(AT&L) will, to the maximum extent practicable, and in a manner consistent with the protection of national security and confidential business information—

(1) Publish a notice on the Federal Business Opportunities website (www.FedBizOpps.gov or any successor site) of the intent to make the domestic nonavailability determination; and

(2) Solicit information relevant to such notice from interested parties, including producers of specialty metal mill products.

(B) The USD(AT&L)—

(1) Will take into consideration all information submitted in response to the notice in making a class domestic nonavailability determination;

(2) May consider other relevant information that cannot be made part of the public record consistent with the protection of national security information and confidential business information; and

(3) Will ensure that any such domestic nonavailability determination and the rationale for the determination are made publicly available to the maximum extent consistent with the protection of national security and confidential business information.

(6) End items containing a minimal amount of otherwise noncompliant specialty metals (i.e., specialty metals not melted or produced in the United States that are not covered by another exception listed in this paragraph (b)), if the total weight of noncompliant specialty metal does not exceed 2 percent of the total weight of all specialty metal in the end item. This exception does not apply to high performance magnets containing specialty metals. See [PGI 225.7003-3\(b\)\(6\)](#) for a table of applicability of specialty metals restrictions to magnets.

(c) *Compliance for commercial derivative military articles.* The restrictions at 225.7003-2(a) do not apply to an item acquired under a prime contract if—

(1) The offeror has certified, and subsequently demonstrates, that the offeror and its subcontractor(s) will individually or collectively enter into a contractual agreement or agreements to purchase a sufficient quantity of domestically melted or produced specialty metal in accordance with the provision at [252.225-7010](#); and

(2) The USD(AT&L), or the Secretary of the military department concerned, determines that the item is a commercial derivative military article (defense agencies see procedures at [PGI 225.7003-3\(c\)](#)). The contracting officer shall submit the offeror's certification and a request for a determination to the appropriate official, through agency channels, and shall notify the offeror when a decision has been made.

(d) *National security waiver.* The USD(AT&L) may waive the restrictions at [225.7003-2](#) if the USD(AT&L) determines in writing that acceptance of the item is necessary to the national security interests of the United States (see procedures at [PGI 225.7003-3\(d\)](#)). This authority may not be delegated.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

- (1) The written determination of the USD(AT&L)—
 - (i) Shall specify the quantity of end items to which the national security waiver applies;
 - (ii) Shall specify the time period over which the national security waiver applies; and
 - (iii) Shall be provided to the congressional defense committees before the determination is executed, except that in the case of an urgent national security requirement, the determination may be provided to the congressional defense committees up to 7 days after it is executed.
- (2) After making such a determination, the USD(AT&L) will—
 - (i) Ensure that the contractor or subcontractor responsible for the noncompliant specialty metal develops and implements an effective plan to ensure future compliance; and
 - (ii) Determine whether or not the noncompliance was knowing and willful. If the USD(AT&L) determines that the noncompliance was knowing and willful, the appropriate debarring and suspending official shall consider suspending or debarring the contractor or subcontractor until such time as the contractor or subcontractor has effectively addressed the issues that led to the noncompliance.
- (3) Because national security waivers will only be granted when the acquisition in question is necessary to the national security interests of the United States, the requirement for a plan will be applied as a condition subsequent, and not a condition precedent, to the granting of a waiver.

225.7003-4 One-time waiver.

DoD may accept articles containing specialty metals that are not in compliance with the specialty metals clause of the contract if—

- (a) Final acceptance takes place before September 30, 2010;
- (b) The specialty metals were incorporated into items (whether end items or components) produced, manufactured, or assembled in the United States before October 17, 2006;
- (c) The contracting officer determines in writing that—
 - (1) It would not be practical or economical to remove or replace the specialty metals incorporated in such items or to substitute items containing compliant materials;
 - (2) The contractor and any subcontractor responsible for providing items containing non-compliant specialty metals have in place an effective plan to ensure compliance with the specialty metals clause of the contract for future items produced, manufactured, or assembled in the United States; and
 - (3) The non-compliance was not knowing or willful;

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(d) The determination is approved by—

(1) The USD(AT&L); or

(2) The service acquisition executive of the military department concerned; and

(e) Not later than 15 days after approval of the determination, the contracting officer posts a notice on the Federal Business Opportunities website at www.FedBizOpps.gov, stating that a waiver for the contract has been granted under Section 842(b) of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364).

225.7003-5 Solicitation provision and contract clauses.

(a) Unless the acquisition is wholly exempt from the specialty metals restrictions at [225.7003-2](#) because the acquisition is covered by an exception in [225.7003-3\(a\)](#) or (d) (but see paragraph (d) of this subsection)—

(1) Use the clause at [252.225-7008](#), Restriction on Acquisition of Specialty Metals, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that—

(i) Exceed the simplified acquisition threshold; and

(ii) Require the delivery of specialty metals as end items.

(2) Use the clause at [252.225-7009](#), Restriction on Acquisition of Certain Articles Containing Specialty Metals, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that—

(i) Exceed the simplified acquisition threshold; and

(ii) Require delivery of any of the following items, or components of the following items, if such items or components contain specialty metal:

(A) Aircraft.

(B) Missile or space systems.

(C) Ships.

(D) Tank or automotive items.

(E) Weapon systems.

(F) Ammunition.

(b) Use the provision at [252.225-7010](#), Commercial Derivative Military Article—Specialty Metals Compliance Certificate, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items,—

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(1) That contain the clause at [252.225-7009](#); and

(2) For which the contracting officer anticipates that one or more offers of commercial derivative military articles may be received.

(c) If an agency cannot reasonably determine at time of acquisition whether some or all of the items will be used in support of combat operations or in support of contingency operations, the contracting officer should not rely on the exception at [225.7003-3\(a\)\(2\)](#) or (3), but should include the appropriate specialty metals clause or provision in the solicitation and contract.

(d) If the solicitation and contract require delivery of a variety of contract line items containing specialty metals, but only some of the items are subject to domestic specialty metals restrictions, identify in the Schedule those items that are subject to the restrictions.

225.7004 Restriction on acquisition of foreign buses.

225.7004-1 Restriction.

In accordance with 10 U.S.C. 2534, do not acquire a multipassenger motor vehicle (bus) unless it is manufactured in the United States or Canada.

225.7004-2 Applicability.

Apply this restriction if the buses are purchased, leased, rented, or made available under contracts for transportation services.

225.7004-3 Exceptions.

This restriction does not apply in any of the following circumstances:

(a) Buses manufactured outside the United States and Canada are needed for temporary use because buses manufactured in the United States or Canada are not available to satisfy requirements that cannot be postponed. Such use may not, however, exceed the lead time required for acquisition and delivery of buses manufactured in the United States or Canada.

(b) The requirement for buses is temporary in nature. For example, to meet a special, nonrecurring requirement or a sporadic and infrequent recurring requirement, buses manufactured outside the United States and Canada may be used for temporary periods of time. Such use may not, however, exceed the period of time needed to meet the special requirement.

(c) Buses manufactured outside the United States and Canada are available at no cost to the U.S. Government.

(d) The acquisition is for an amount at or below the simplified acquisition threshold.

225.7004-4 Waiver.

The waiver criteria at [225.7008\(a\)](#) apply to this restriction.

225.7005 Restriction on certain chemical weapons antidote.

225.7005-1 Restriction.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

In accordance with 10 U.S.C. 2534, do not acquire chemical weapons antidote contained in automatic injectors, or the components for such injectors, unless the chemical weapons antidote or component is manufactured in the United States or Canada by a company that—

(a) Has received all required regulatory approvals; and

(b) Has the plant, equipment, and personnel to perform the contract in the United States or Canada at the time of contract award.

225.7005-2 Exception.

This restriction does not apply if the acquisition is for an amount at or below the simplified acquisition threshold.

225.7005-3 Waiver.

The waiver criteria at [225.7008\(a\)](#) apply to this restriction.

225.7006 Restriction on air circuit breakers for naval vessels.

225.7006-1 Restriction.

In accordance with 10 U.S.C. 2534, do not acquire air circuit breakers for naval vessels unless they are manufactured in the United States or Canada.

225.7006-2 Exceptions.

This restriction does not apply if the acquisition is—

(a) For an amount at or below the simplified acquisition threshold; or

(b) For spare or repair parts needed to support air circuit breakers manufactured outside the United States. Support includes the purchase of spare air circuit breakers when those from alternate sources are not interchangeable.

225.7006-3 Waiver.

(a) The waiver criteria at [225.7008\(a\)](#) apply to this restriction.

(b) The Under Secretary of Defense (Acquisition, Technology, and Logistics) has waived the restriction for air circuit breakers manufactured in the United Kingdom. See [225.7008](#).

225.7006-4 Solicitation provision and contract clause.

(a) Use the provision at [252.225-7037](#), Evaluation of Offers for Air Circuit Breakers, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, that require air circuit breakers for naval vessels unless--

(1) An exception applies; or

(2) A waiver has been granted, other than the waiver for the United Kingdom, which has been incorporated into the provision.

(b) Use the clause at [252.225-7038](#), Restriction on Acquisition of Air Circuit Breakers, in solicitations and contracts, including solicitations and contracts using FAR

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

part 12 procedures for the acquisition of commercial items, that require air circuit breakers for naval vessels unless—

- (1) An exception at [225.7006-2](#) applies; or
- (2) A waiver has been granted, other than the waiver for the United Kingdom, which has been incorporated into the clause.

225.7007 Restrictions on anchor and mooring chain.

225.7007-1 Restrictions.

(a) In accordance with Section 8041 of the Fiscal Year 1991 DoD Appropriations Act (Pub. L. 101-511) and similar sections in subsequent DoD appropriations acts, do not acquire welded shipboard anchor and mooring chain, four inches or less in diameter, unless--

- (1) It is manufactured in the United States, including cutting, heat treating, quality control, testing, and welding (both forging and shot blasting process); and
- (2) The cost of the components manufactured in the United States exceeds 50 percent of the total cost of components.

(b) 10 U.S.C. 2534 also restricts acquisition of welded shipboard anchor and mooring chain, four inches or less in diameter, when used as a component of a naval vessel. However, the Appropriations Act restriction described in paragraph (a) of this subsection takes precedence over the restriction of 10 U.S.C. 2534.

225.7007-2 Waiver.

(a) The Secretary of the department responsible for acquisition may waive the restriction in [225.7007-1\(a\)](#), on a case-by-case basis, if--

- (1) Sufficient domestic suppliers are not available to meet DoD requirements on a timely basis; and
- (2) The acquisition is necessary to acquire capability for national security purposes.

(b) Document the waiver in a written determination and findings containing--

- (1) The factors supporting the waiver; and
- (2) A certification that the acquisition must be made in order to acquire capability for national security purposes.

(c) Provide a copy of the determination and findings to the House and Senate Committees on Appropriations.

225.7007-3 Contract clause.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

Unless a waiver has been granted, use the clause at [252.225-7019](#), Restriction on Acquisition of Anchor and Mooring Chain, in solicitations and contracts requiring welded shipboard anchor or mooring chain four inches or less in diameter.

225.7008 Waiver of restrictions of 10 U.S.C. 2534.

(a) When specifically authorized by reference elsewhere in this subpart, the restrictions on certain foreign purchases under 10 U.S.C. 2534(a) may be waived as follows:

(1)(i) The Under Secretary of Defense (Acquisition, Technology, and Logistics) (USD(AT&L)), without power of delegation, may waive a restriction for a particular item for a particular foreign country upon determination that—

(A) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country; or

(B) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, or would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items under [225.872](#), and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(ii) A notice of the determination to exercise the waiver authority shall be published in the Federal Register and submitted to the congressional defense committees at least 15 days before the effective date of the waiver.

(iii) The effective period of the waiver shall not exceed 1 year.

(iv) For contracts entered into prior to the effective date of a waiver, provided adequate consideration is received to modify the contract, the waiver shall be applied as directed or authorized in the waiver to—

(A) Subcontracts entered into on or after the effective date of the waiver; and

(B) Options for the procurement of items that are exercised after the effective date of the waiver, if the option prices are adjusted for any reason other than the application of the waiver.

(2) The head of the contracting activity may waive a restriction on a case-by-case basis upon execution of a determination and findings that any of the following applies:

(i) The restriction would cause unreasonable delays.

(ii) Satisfactory quality items manufactured in the United States or Canada are not available.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(iii) Application of the restriction would result in the existence of only one source for the item in the United States or Canada.

(iv) Application of the restriction is not in the national security interests of the United States.

(v) Application of the restriction would adversely affect a U.S. company.

(3) A restriction is waived when it would cause unreasonable costs. The cost of an item of U.S. or Canadian origin is unreasonable if it exceeds 150 percent of the offered price, inclusive of duty, of items that are not of U.S. or Canadian origin.

(b) In accordance with the provisions of paragraphs (a)(1)(i) through (iii) of this section, the USD(AT&L) has waived the restrictions of 10 U.S.C. 2534(a) for certain items manufactured in the United Kingdom, including air circuit breakers for naval vessels (see [225.7006](#)) and the naval vessel components listed at [225.7010-1](#).

225.7009 Restriction on ball and roller bearings.

225.7009-1 Scope.

This section implements Section 8065 of the Fiscal Year 2002 DoD Appropriations Act (Pub. L. 107-117) and the same restriction in subsequent DoD appropriations acts.

225.7009-2 Restriction.

(a) Do not acquire ball and roller bearings unless—

(1) The bearings are manufactured in the United States or Canada; and

(2) For each ball or roller bearing, the cost of the bearing components manufactured in the United States or Canada exceeds 50 percent of the total cost of the bearing components of that ball or roller bearing.

(b) The restriction at [225.7003-2](#) may also apply to bearings that are made from specialty metals, such as high carbon chrome steel (bearing steel).

225.7009-3 Exception.

The restriction in [225.7009-2](#) does not apply to contracts or subcontracts for the acquisition of commercial items, except for commercial ball and roller bearings acquired as end items.

225.7009-4 Waiver.

The Secretary of the department responsible for acquisition or, for the Defense Logistics Agency, the Component Acquisition Executive, may waive the restriction in [225.7009-2](#), on a case-by-case basis, by certifying to the House and Senate Committees on Appropriations that--

(a) Adequate domestic supplies are not available to meet DoD requirements on a timely basis; and

(b) The acquisition must be made in order to acquire capability for national security purposes.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

225.7009-5 Contract clause.

Use the clause at [252.225-7016](#), Restriction on Acquisition of Ball and Roller Bearings, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, unless—

- (a) The items being acquired are commercial items other than ball or roller bearings acquired as end items;
- (b) The items being acquired do not contain ball and roller bearings; or
- (c) A waiver has been granted in accordance with [225.7009-4](#).

225.7010 Restriction on certain naval vessel components.

225.7010-1 Restriction.

In accordance with 10 U.S.C. 2534, do not acquire the following components of naval vessels, to the extent they are unique to marine applications, unless manufactured in the United States or Canada:

- (a) Gyrocompasses.
- (b) Electronic navigation chart systems.
- (c) Steering controls.
- (d) Pumps.
- (e) Propulsion and machinery control systems.
- (f) Totally enclosed lifeboats.

225.7010-2 Exceptions.

This restriction does not apply to—

- (a) Contracts or subcontracts that do not exceed the simplified acquisition threshold; or
- (b) Acquisition of spare or repair parts needed to support components for naval vessels manufactured outside the United States. Support includes the purchase of spare gyrocompasses, electronic navigation chart systems, steering controls, pumps, propulsion and machinery control systems, or totally enclosed lifeboats, when those from alternate sources are not interchangeable.

225.7010-3 Waiver.

- (a) The waiver criteria at [225.7008](#)(a) apply to this restriction.
- (b) The Under Secretary of Defense (Acquisition, Technology, and Logistics) has waived the restriction of 10 U.S.C. 2534 for certain items manufactured in the United Kingdom, including the items listed in section [225.7010-1](#). See [225.7008](#).

225.7010-4 Implementation.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(a) 10 U.S.C. 2534(h) prohibits the use of contract clauses or certifications to implement this restriction.

(b) Agencies shall accomplish implementation of this restriction through use of management and oversight techniques that achieve the objectives of this section without imposing a significant management burden on the Government or the contractor involved.

225.7011 Restriction on carbon, alloy, and armor steel plate.

225.7011-1 Restriction.

(a) In accordance with Section 8111 of the Fiscal Year 1992 DoD Appropriations Act (Pub. L. 102-172) and similar sections in subsequent DoD appropriations acts, do not acquire any of the following types of carbon, alloy, or armor steel plate for use in a Government-owned facility or a facility under the control of (e.g., leased by) DoD, unless it is melted and rolled in the United States or Canada:

(1) Carbon, alloy, or armor steel plate in Federal Supply Class 9515.

(2) Carbon, alloy, or armor steel plate described by specifications of the American Society for Testing Materials or the American Iron and Steel Institute.

(b) This restriction—

(1) Applies to the acquisition of carbon, alloy, or armor steel plate as a finished steel mill product that may be used “as is” or may be used as an intermediate material for the fabrication of an end product; and

(2) Does not apply to the acquisition of an end product (e.g., a machine tool), to be used in the facility, that contains carbon, alloy, or armor steel plate as a component.

225.7011-2 Waiver.

The Secretary of the department responsible for acquisition may waive this restriction, on a case-by-case basis, by certifying to the House and Senate Committees on Appropriations that—

(a) Adequate U.S. or Canadian supplies are not available to meet DoD requirements on a timely basis; and

(b) The acquisition must be made in order to acquire capability for national security purposes.

225.7011-3 Contract clause.

Unless a waiver has been granted, use the clause at [252.225-7030](#), Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate, in solicitations and contracts that—

(a) Require the delivery to the Government of carbon, alloy, or armor steel plate that will be used in a Government-owned facility or a facility under the control of DoD; or

(b) Require contractors operating in a Government-owned facility or a facility under the control of DoD to purchase carbon, alloy, or armor steel plate.

225.7012 Restriction on supercomputers.

225.7012-1 Restriction.

In accordance with Section 8112 of Pub. L. 100-202, and similar sections in subsequent DoD appropriations acts, do not purchase a supercomputer unless it is manufactured in the United States.

225.7012-2 Waiver.

The Secretary of Defense may waive this restriction, on a case-by-case basis, after certifying to the Armed Services and Appropriations Committees of Congress that—

(a) Adequate U.S. supplies are not available to meet requirements on a timely basis; and

(b) The acquisition must be made in order to acquire capability for national security purposes.

225.7012-3 Contract clause.

Unless a waiver has been granted, use the clause at [252.225-7011](#), Restriction on Acquisition of Supercomputers, in solicitations and contracts for the acquisition of supercomputers.

225.7013 Restrictions on construction or repair of vessels in foreign shipyards.

In accordance with 10 U.S.C. 7309 and 7310—

(a) Do not award a contract to construct in a foreign shipyard--

(1) A vessel for any of the armed forces; or

(2) A major component of the hull or superstructure of a vessel for any of the armed forces; and

(b) Do not overhaul, repair, or maintain in a foreign shipyard, a naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy) homeported in the United States. This restriction does not apply to voyage repairs.

225.7014 Restrictions on military construction.

(a) For restriction on award of military construction contracts to be performed in the United States outlying areas in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, see [236.273\(a\)](#).

(b) For restriction on acquisition of steel for use in military construction projects, see [236.274](#).

225.7015 Restriction on overseas architect-engineer services.

For restriction on award of architect-engineer contracts to be performed in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Sea, see [236.602-70](#).

225.7016 Prohibition on requiring the use of fire-resistant rayon fiber.

In accordance with section 821 of the National Defense Authorization Act for Fiscal Year 2011, do not include in any solicitation issued before January 1, 2015, a requirement that proposals submitted pursuant to such solicitation shall include the use of fire-resistant rayon fiber. However, this does not preclude issuing a solicitation that allows offerors to propose the use of fire-resistant rayon fiber.

225.7017 Utilization of domestic photovoltaic devices.

225.7017-1 Definitions. As used in this section—

“Covered contract” means an energy savings performance contract, a utility service contract, or a private housing contract awarded by DoD, if such contract results in DoD ownership of photovoltaic devices, by means other than DoD purchase as end products. DoD is deemed to own a photovoltaic device if the device is—

- (1) Installed on DoD property or in a facility owned by DoD; and
- (2) Reserved for the exclusive use of DoD for the full economic life of the device.

“Designated country photovoltaic device,” “domestic photovoltaic device,” “foreign photovoltaic device,” “Free Trade Agreement country photovoltaic device,” “photovoltaic device,” “qualifying country photovoltaic device,” and “U.S.-made photovoltaic device” are defined in the clause at [252.225-7017](#), Photovoltaic Devices.

225.7017-2 Restriction.

In accordance with section 846 of the National Defense Authorization Act for Fiscal Year 2011, photovoltaic devices provided under any covered contract shall comply with 41 U.S.C. chapter 83, Buy American, subject to the exceptions to that statute provided in the Trade Agreements Act of 1979 (19 U.S.C. 2501 *et seq.*) or otherwise provided by law.

225.7017-3 Exceptions.

DoD requires the contractor to utilize domestic photovoltaic devices in covered contracts, with the following exceptions:

(a) *Qualifying country.* Qualifying country photovoltaic devices may be utilized in any covered contract, because [225.103](#)(a)(i)(A) provides an exception to the Buy American statute for products of qualifying countries, as defined in [225.003](#).

(b) *Buy American—unreasonable cost.* For a covered contract that utilizes photovoltaic devices valued at less than \$204,000, the exception for unreasonable cost may apply (see FAR 25.103(c)). If the cost of a foreign photovoltaic device plus 50 percent is less than the cost of a domestic photovoltaic device, then the foreign photovoltaic device may be utilized.

(c) *Trade agreements.*

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(1) *Free Trade Agreements.* For a covered contract that utilizes photovoltaic devices valued at \$25,000 or more, photovoltaic devices may be utilized from a country covered under the acquisition by a Free Trade Agreement, depending upon dollar threshold (see FAR subpart 25.4).

(2) *World Trade Organization—Government Procurement Agreement.* For covered contracts that utilize photovoltaic devices that are valued at \$204,000 or more, only U.S.-made photovoltaic devices, designated country photovoltaic devices, or qualifying country photovoltaic devices may be utilized.

225.7017-4 Solicitation provisions and contract clauses.

(a)(1) Use the clause at [252.225-7017](#), Photovoltaic Devices, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, for a contract that—

(i) Is expected to exceed the simplified acquisition threshold; and

(ii) May be a covered contract, i.e., an energy savings performance contract, a utility service contract, or a private housing contract awarded by DoD, if such contract results in DoD ownership of photovoltaic devices, by means other than DoD purchase as end products.

(2) Use the clause in the resultant contract, including contracts using FAR part 12 procedures for the acquisition of commercial items, if it is a covered contract (i.e., will result in DoD ownership of photovoltaic devices, by means other than DoD purchase as end products).

(b) Use the provision at [252.225-7018](#), Photovoltaic Devices—Certificate, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, that contain the clause at [252.225-7017](#).

SUBPART 225.74—DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES

(Revised February 26, 2015)

225.7401 Contracts requiring performance or delivery in a foreign country.

(a) If an acquisition requires performance of work in a foreign country by contractor personnel other than host country personnel, or delivery of items to a Unified Combatant Command designated operational area, follow the procedures at [PGI 225.7401\(a\)](#).

(b) For work performed in Germany, eligibility for logistics support or base privileges of contractor employees is governed by U.S.-German bilateral agreements. Follow the procedures in Army in Europe Regulation 715-9, available at <http://www.eur.army.mil/g1/content/CPD/docper.html>.

(c) For work performed in Japan or Korea, see [PGI 225.7401\(c\)](#) for information on bilateral agreements and policy relating to contractor employees in Japan or Korea.

225.7402 Contractor personnel supporting U.S. Armed Forces deployed outside the United States.

For additional information on contractor personnel authorized to accompany the U.S. Armed Forces, see [PGI 225.7402](#).

225.7402-1 Scope.

(a) This section applies to contracts that involve contractor personnel authorized to accompany U.S. Armed Forces deployed outside the United States in—

- (1) Contingency operations;
- (2) Humanitarian or peacekeeping operations; or
- (3) Other military operations or military exercises, when designated by the combatant commander.

(b) Any of the types of operations listed in paragraph (a) of this subsection may include stability operations such as—

- (1) Establishment or maintenance of a safe and secure environment; or
- (2) Provision of emergency infrastructure reconstruction, humanitarian relief, or essential governmental services (until feasible to transition to local government).

225.7402-2 Definition.

“Designated operational area” is defined in the clause at [252.225-7040](#). See [PGI 225.7402-2](#) for additional information on designated operational areas.

225.7402-3 Government support.

- (a) Government support that may be authorized or required for contractor

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

personnel performing in a designated operational area may include, but is not limited to, the types of support listed in [PGI 225.7402-3\(a\)](#).

(b) The agency shall provide logistical or security support only when the appropriate agency official, in accordance with agency guidance, determines in coordination with the combatant commander that—

(1) Such Government support is available and is needed to ensure continuation of essential contractor services; and

(2) The contractor cannot obtain adequate support from other sources at a reasonable cost.

(c) The contracting officer shall specify in the solicitation and contract—

(1) Valid terms, approved by the combatant commander, that specify the responsible party, if a party other than the combatant commander is responsible for providing protection to the contractor personnel performing in the designated operational area as specified in [225.7402-1](#);

(2) If medical or dental care is authorized beyond the standard specified in paragraph (c)(2)(i) of the clause at [252.225-7040](#), Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States; and

(3) Any other Government support to be provided, and whether this support will be provided on a reimbursable basis, citing the authority for the reimbursement.

(d) The contracting officer shall provide direction to the contractor, if the contractor is required to reimburse the Government for medical treatment or transportation of contractor personnel to a selected civilian facility in accordance with paragraph (c)(2)(ii) of the clause at [252.225-7040](#).

(e) Contractor personnel must have a Synchronized Predeployment and Operational Tracker (SPOT)–generated letter of authorization (LOA) signed by the contracting officer in order to process through a deployment center or to travel to, from, or within the designated operational area. The LOA also will identify any additional authorizations, privileges, or Government support that the contractor personnel are entitled to under the contract. For a sample LOA, see [PGI 225.7402-5\(a\)\(iv\)](#).

225.7402-4 Law of war training.

(a) *Basic training.* Basic law of war training is required for all contractor personnel authorized to accompany U.S. Armed Forces deployed outside the United States. The basic training normally will be provided through a military-run training center. The contracting officer may authorize the use of an alternate basic training source, provided the servicing DoD legal advisor concurs with the course content. An example of an alternate source of basic training is the web-based training provided by the Defense Acquisition University at <https://acc.dau.mil/CommunityBrowser.aspx?id=18014&lang=en-US>.

(b) *Advanced law of war training.*

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(1) The types of personnel that must obtain advanced law of war training include the following:

(i) Private security contractors.

(ii) Security guards in or near areas of military operations.

(iii) Interrogators, linguists, interpreters, guards, report writers, information technology technicians, or others who will come into contact with enemy prisoners of war, civilian internees, retained persons, other detainees, terrorists, or criminals who are captured, transferred, confined, or detained during or in the aftermath of hostilities.

(iv) Other personnel when deemed necessary by the contracting officer.

(2) If contractor personnel will be required to obtain advanced law of war training, the solicitation and contract shall specify—

(i) The types of personnel subject to advanced law of war training requirements;

(ii) Whether the training will be provided by the Government or the contractor;

(iii) If the training will be provided by the Government, the source of the training; and

(iv) If the training will be provided by the contractor, a requirement for coordination of the content with the servicing DoD legal advisor to ensure that training content is commensurate with the duties and responsibilities of the personnel to be trained.

225.7402-5 Contract clauses.

Use the clause 252.225-7995, Contractor Personnel Performing in the United States Central Command Area of Responsibility ([DEVIATION 2015-O0009](#))(JAN 2015), in lieu of DFARS 252.225-7040, in all solicitations and contracts that require performance in the United States Central Command Area of Responsibility. This class deviation remains in effect until incorporated in the DFARS or otherwise rescinded.

Use the clause 252.225-7985, Contractor Personnel Performing in Support of Operation United Assistance (OUA) in the United States Africa Command (USAFRICOM) Theater of Operations ([DEVIATION 2015-O0003](#)), in solicitations and contracts that will require contractor personnel to perform construction or services, or to deliver supplies, in support of OUA in the USAFRICOM theater of operations.

Use the clause 252.225-7987, Requirements for Contractor Personnel Performing in USSOUTHCOM Area of Responsibility ([DEVIATION 2014-O0016](#))(OCT 2014), in all solicitations and contracts that require performance in the USSOUTHCOM Area of Responsibility, unless the clause at DFARS 252.225-7040 applies. This class deviation remains in effect until incorporated in the DFARS or otherwise rescinded.

Defense Federal Acquisition Regulation Supplement

Part 225—Foreign Acquisition

(a) Use the clause at [252.225-7040](#), Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States, instead of the clause at FAR 52.225-19, Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, for performance in a designated operational area that authorize contractor personnel (including both contractors authorized to accompany the Force (CAAF) and non-CAAF) to support U.S. Armed Forces deployed outside the United States in—

- (1) Contingency operations;
- (2) Humanitarian assistance operations;
- (3) Peace operations consistent with Joint Publication 3-07.3; or

(4) Other military operations or military exercises, when designated by the combatant commander or as directed by the Secretary of Defense.

(b) For additional guidance on clauses to consider when using the clause at [252.225-7040](#), see [PGI 225.7402-5\(b\)](#).

225.7403 Antiterrorism/force protection.

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 offices listed in [PGI 225.7403-1](#).

225.7403-2 Contract clause.

Use the clause at [252.225-7043](#), Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States, in solicitations and contracts, and contracts using FAR part 12 procedures for the acquisition of commercial items, that require performance or travel outside the United States, except for contracts with—

- (a) Foreign governments;
- (b) Representatives of foreign governments; or
- (c) Foreign corporations wholly owned by foreign governments.

225.7404 Contract administration in support of contingency operations.

For additional guidance on contract administration considerations when supporting contingency operations, see [PGI 225.7404](#).

225.7405 Use of electronic business tools.

See [218.272](#) concerning the use of electronic business tools in support of a contingency operation or humanitarian or peacekeeping operation.

SUBPART 242.75--CONTRACTOR ACCOUNTING SYSTEMS AND RELATED CONTROLS

(Revised February 26, 2015)

242.7501 Definitions.

As used in this subpart—

“Acceptable accounting system,” and “accounting system” are defined in the clause at [252.242-7006](#), Accounting System Administration.

“Significant deficiency” is defined in the clause at [252.242-7006](#), Accounting System Administration.

242.7502 Policy.

(a) Contractors receiving cost-reimbursement, incentive type, time-and-materials, or labor-hour contracts, or contracts which provide for progress payments based on costs or on a percentage or stage of completion, shall maintain an accounting system.

(b) The cognizant contracting officer, in consultation with the auditor or functional specialist, shall—

(1) Determine the acceptability of a contractor’s accounting system and approve or disapprove the system; and

(2) Pursue correction of any deficiencies.

(c) In evaluating the acceptability of a contractor’s accounting system, the contracting officer, in consultation with the auditor or functional specialist, shall determine whether the contractor’s accounting system complies with the system criteria for an acceptable accounting system as prescribed in the clause at [252.242-7006](#), Accounting System Administration.

(d) *Disposition of findings*—

(1) *Reporting of findings.* The auditor shall document findings and recommendations in a report to the contracting officer. If the auditor identifies any significant accounting system deficiencies, the report shall describe the deficiencies in sufficient detail to allow the contracting officer to understand the deficiencies. Follow the procedures at PGI [242.7502](#) for reporting of deficiencies.

(2) *Initial determination.* (i) The contracting officer shall review findings and recommendations and, if there are no significant deficiencies, shall promptly notify the contractor, in writing, that the contractor's accounting system is acceptable and approved; or

(ii) If the contracting officer finds that there are one or more significant deficiencies (as defined in the clause at [252.242-7006](#), Accounting System Administration) due to the contractor’s failure to meet one or more of the accounting system criteria in the clause at [252.242-7006](#), the contracting officer shall—

Defense Federal Acquisition Regulation Supplement

Part 242--Contract Administration and Audit Services

(A) Promptly make an initial written determination on any significant deficiencies and notify the contractor, in writing, providing a description of each significant deficiency in sufficient detail to allow the contractor to understand the deficiency;

(B) Request the contractor to respond, in writing, to the initial determination within 30 days; and

(C) Promptly evaluate the contractor's response to the initial determination, in consultation with the auditor or functional specialist, and make a final determination.

(3) *Final determination.* (i) The contracting officer shall make a final determination and notify the contractor, in writing, that-

(A) The contractor's accounting system is acceptable and approved, and no significant deficiencies remain, or

(B) Significant deficiencies remain. The notice shall identify any remaining significant deficiencies, and indicate the adequacy of any proposed or completed corrective action. The contracting officer shall-

(1) Request that the contractor, within 45 days of receipt of the final determination, either correct the deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies;

(2) Make a determination to disapprove the system in accordance with the clause at [252.242-7006](#), Accounting System Administration; and

(3) Withhold payments in accordance with the clause at [252.242-7005](#), Contractor Business Systems, if the clause is included in the contract.

(ii) Follow the procedures relating to monitoring a contractor's corrective action and the correction of significant deficiencies in PGI [242.7502](#).

(e) *System approval.* The contracting officer shall promptly approve a previously disapproved accounting system and notify the contractor when the contracting officer determines that there are no remaining significant deficiencies.

(f) *Contracting officer notifications.* The cognizant contracting officer shall promptly distribute copies of a determination to approve a system, disapprove a system and withhold payments, or approve a previously disapproved system and release withheld payments to the auditor; payment office; affected contracting officers at the buying activities; and cognizant contracting officers in contract administration activities.

(g) *Mitigating the risk of accounting system deficiencies on specific proposals.*

(1) Field pricing teams shall discuss identified accounting system deficiencies and their impact in all reports on contractor proposals until the deficiencies are resolved.

Defense Federal Acquisition Regulation Supplement

Part 242--Contract Administration and Audit Services

(2) The contracting officer responsible for negotiation of a proposal generated by an accounting system with an identified deficiency shall evaluate whether the deficiency impacts the negotiations. See [PGI 242.7502\(g\)\(2\)](#). If it does not, the contracting officer should proceed with negotiations. If it does, the contracting officer should consider other alternatives, e.g.—

(i) Allowing the contractor additional time to correct the accounting system deficiency and submit a corrected proposal;

(ii) Considering another type of contract;

(iii) Using additional cost analysis techniques to determine the reasonableness of the cost elements affected by the accounting system's deficiency;

(iv) Reducing the negotiation objective for profit or fee; or

(v) Including a contract (reopener) clause that provides for adjustment of the contract amount after award.

(3) The contracting officer who incorporates a reopener clause into the contract is responsible for negotiating price adjustments required by the clause. Any reopener clause necessitated by an accounting system deficiency should—

(i) Clearly identify the amounts and items that are in question at the time of negotiation;

(ii) Indicate a specific time or subsequent event by which the contractor will submit a supplemental proposal, including certified cost or pricing data, identifying the cost impact adjustment necessitated by the deficient accounting system;

(iii) Provide for the contracting officer to adjust the contract price unilaterally if the contractor fails to submit the supplemental proposal; and

(iv) Provide that failure of the Government and the contractor to agree to the price adjustment shall be a dispute under the Disputes clause.

242.7503 Contract clause.

Use the clause at [252.242-7006](#), Accounting System Administration, in solicitations and contracts when contemplating—

(a) A cost-reimbursement, incentive type, time-and-materials, or labor-hour contract;

(b) A contract with progress payments made on the basis of costs incurred by the contractor or on a percentage or stage of completion.