

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

(Revised May 31, 2007)

PGI 204.71—UNIFORM CONTRACT LINE ITEM NUMBERING SYSTEM

PGI 204.7103 Contract line items.

PGI 204.7103-2 Numbering procedures.

(a) Contract line items shall consist of four numeric digits 0001 through 9999. Do not use numbers beyond 9999. Within a given contract, the item numbers shall be sequential but need not be consecutive.

(b) The contract line item number shall be the same as the solicitation line item number unless there is a valid reason for using different numbers.

(c) Once a contract line item number has been assigned, it shall not be assigned to another, different, contract line item in the same contract.

PGI 204.7104 Contract subline items.

PGI 204.7104-2 Numbering procedures.

(a) Number subline items by adding either two numeric characters or two alpha characters to the basic contract line item number.

(1) *Information subline item numbers.* Use numeric characters only for information subline items, running 01 through 99. Do not use spaces or special characters to separate the subline item number from the contract line item number that is its root. For example, if the contract line item number is 0001, the first three subline items would be 000101, 000102, and 000103. Do not use a designation more than once within a contract line item.

(2) *Separately identified subline items.* Use alpha characters only for separately identified subline items, running AA through ZZ. Do not use spaces or special characters to separate the subline item number from the contract line item number that is its root. For example, if the contract line item number is 0001, the first three subline items would be 0001AA, 0001AB, and 0001AC.

(i) Do not use the letters I or O as alpha characters.

(ii) Use all 24 available alpha characters in the second position before selecting a different alpha character for the first position. For example, AA, AB, AC, through AZ before beginning BA, BB, and BC.

(b) Within a given contract line item, the subline item numbers shall be sequential but

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

need not be consecutive.

(c) Exhibits may be used as an alternative to setting forth in the schedule a long list of contract subline items. If exhibits are used, create a contract subline item citing the exhibit's identifier. See DFARS 204.7105.

(d) If a contract line item involves ancillary functions, like packaging and handling, transportation, payment of state or local taxes, or use of reusable containers, and these functions are normally performed by the contractor and the contractor is normally entitled to reimbursement for performing these functions, do not establish a separate subline item solely to account for these functions. However, do identify the functions in the contract schedule. If an offeror separately prices these functions, the contracting officer may establish separate subline items for the functions; however, the separate subline items must conform to the requirements of DFARS 204.7104-1.

(e) The following examples illustrate subline items numbering—

(1) Subline items structured to identify destinations for identical items, identically priced (delivery schedule shall be established for each subline item, not the contract line item).

ITEM NO.	SUPPLIES/SERVICE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	NSN 1615-00-591-6620 Shim, Aluminum Alloy,... Appl, Rotor, Helicopter PRON A1-9-63821-M1- M1 ACRN:AA				
0001AA	A3168R-9030-4025 A2537M IPD: 2 RDD: 334 PROJ: 501	10	EA	\$100.00	\$1,000.00
0001AB	A3168R-9030-4026 A51AXBM IPD: 2 RDD: 325 PROJ: 502	10	EA	\$100.00	\$1,000.00
0001AC	A3168R-9030-4027 A67KBCM IPD: 2 RDD: 349 PROJ: 503	15	EA	\$100.00	\$1,500.00

(2) Subline items structured to identify destinations for identical items, not identically priced (delivery schedule shall be established for each subline item, not the contract line item).

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

ITEM NO.	SUPPLIES/SERVICE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	NSN 1615-00-591-6620 Shim, Aluminum Alloy,... Appl, Rotor, Helicopter PRON A1-9-63821-M1- M1 ACRN:AA				
0001AA	A3168R-9030-4025 A2537M IPD: 2 RDD: 334 PROJ: 501	10	EA	\$100.00	\$1,000.00
0001AB	A3168R-9030-4026 A51AXB M IPD: 2 RDD: 325 PROJ: 502	20	EA	\$99.00	\$1,980.00
0001AC	A3168R-9030-4027 A67KBCM IPD: 2 RDD: 349 PROJ: 503	30	EA	\$98.00	\$2,940.00

NOTE: Difference in prices for identical items is due to separate destinations for FOB destination delivery.

(3) Subline items structured to identify different sizes of an item that are identically priced (delivery schedule shall be established for each subline item, not the contract line item).

ITEM NO.	SUPPLIES/ SERVICE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0013	Boots Insulated, Cold Weather White, Type II, Class 1				
0013AA	8430-00-655-5541 Size 5N	50			
0013AB	8430-00-655-5544 Size 8N	70			
0013AC	8430-00-655-5551 Size 9N	30			
0013AD	8430-00-655-5535 Size 9R	200			
			PR	\$38.35	\$13,422.50

NOTE: Unit price and total amount shown at line item level rather than at subline item level.

(4) Subline items structured to identify different sizes of an item that are not identically priced (delivery schedule shall be established for each subline item, not the contract line item).

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

ITEM NO.	SUPPLIES/ SERVICE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002	Body Armor Ground Troops Variable Type Small Arms, Fragmentation Protective Nylon Felt Vest, Front and Back Plates, Ceramic Plate, Type I				
0002AA	First Article	1	LO	NSP	
0002AB	8470-00-141-0935 Medium Regular	1936	SE	\$331.77	\$642,306.72
0002AC	8470-00-141-0936 Large Regular	625	SE	\$355.77	\$222,356.25
0002AD	8470-00-141-0937, Medium Long	1237	SE	\$346.77	\$428,954.49
0002AE	8470-00-141-0938, Large Long	804	SE	\$365.77	\$294,079.08

(5) Subline items structured to provide the capability for relating subordinate separately priced packaging costs to the overall contract line item. (Separate delivery schedules shall be established for the subline item identifying the contractor's product and for the subline item identifying packaging. No schedule will be established for the contract line item.)

ITEM NO.	SUPPLIES/ SERVICE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	6105-00-635-6568 50380 Ref No 63504-WZ Armature Motor ACRN: AA				
0001AA	6105-00-635-6568 50380 Ref No 63504-WZ Armature Motor ACRN: AA	2	EA	\$2,895.87	\$5,791.74
0001AB	Packaging ACRN:AA	2	EA	\$289.58	\$579.16

(6) Subline items structured to identify different accounting classifications for identical items (delivery schedule shall be established for each subline item, not the contract line item).

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

AJ: 17X150518350315069100000192B000000000000000000

AK: 17X150518370317569100000192B000000000000000000

AL: 17X150519350314369100000192B000000000000000000

ITEM NO.	SUPPLIES/ SERVICE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0002	Pulse Decoder KY-312/A5Q-19		EA	\$3,037.40	
0002AA	Pulse Decoder KY-312/A5Q-19 ACRN: AJ	2			\$6,074.80
0002AB	Pulse Decoder KY-312/A5Q-19 ACRN: AK	6			\$18,224.40
0002AC	Pulse Decoder KY-312/A5Q-19 ACRN: AL	2			\$6,074.80

NOTE: Unit price may be shown at line item level and total amounts shown at subline item level.

(7) Informational subline items established to identify multiple accounting classification citations assigned to a single contract line item.

ITEM NO.	SUPPLIES/ SERVICE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	Air Vehicle 000101 ACRN:AA \$3,300,000 000102 ACRN:AB \$2,000,000 000103 ACRN:AC \$1,400,000	1	EA	\$6,700,000	\$6,700,000

(8) Subline items structured to identify parts of an assembly (delivery schedule and price shall be established for each identified part at the subline item level, not for the assembly at the contract line item level).

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

ITEM NO.	SUPPLIES/ SERVICE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0003	Automatic Degausing System Consisting of: (2 ea @ \$52,061; \$104,122 total)				
0003AA	Switchboard	2	EA	\$52,061.00	\$104,122.00
0003AB	Remote Control Panel	2	EA	NSP	
0003AC	Power Supply (M Coil) SSM Type 145 Amps, 220 V DC)	2	EA	NSP	
*	* * *			*	*
0003AF	Power Supply (A Coil) SSM Type (118 Amps, 220 V DC)	2	EA	NSP	

(9) Subline items structured to identify parts of a kit (delivery schedule and price shall be established for each identified part at the subline item level, not for the kit at the contract line item level).

ITEM NO.	SUPPLIES/ SERVICE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0031	Conversion Kit to Convert Torpedo MK 45 Mod 0 to Torpedo MK 45 Mod 1 (50 Kt @ \$10,868.52; \$543,426 total)				
0031AA	Integrator Assy LD 620106	50	EA	\$10,868.52	\$543,426.00
0031AB	Pulse Generator Assy LD 587569	50	EA	NSP	
0031AC	Drive Shaft Assy LD 587559	50	EA	NSP	
*	* * *			*	
0031BF	Actual Panel Assy LD 542924	50	EA	NSP	

NOTE: In this example, the prices of subline items 0031AB through 0031BF are included in the Integrator Assembly.

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

PGI 204.7105 Contract exhibits and attachments.

(a) *Use of exhibits.*

(1) Exhibits may be used instead of putting a long list of contract line items or subline items in the contract schedule. Exhibits are particularly useful in buying spare parts.

(2) When using exhibits, establish a contract line or subline item and refer to the exhibit.

(3) Identify exhibits individually.

(4) Each exhibit shall apply to only one contract line item or subline item, except—

(i) One exhibit may apply to one or more option line item(s) when the data required under the exhibits is identical in all respects except the period during which the option is to be exercised; and

(ii) An exhibit may apply to more than one contract line item if the exhibit is not separately priced and the exhibit deliverable is identical for all applicable contract line items.

(5) More than one exhibit may apply to a single contract line item.

(6) Data items on a DD Form 1423, Contract Data Requirements List, may be either separately priced or not separately priced.

(i) Separately priced. When data are separately priced, enter the price in Section B of the contract.

(ii) Not separately priced. Include prices in a priced contract line item or subline item.

(7) The contracting officer may append attachments to exhibits, as long as the attachment does not identify a deliverable requirement that has not been established by a contract or exhibit line or subline item.

(b) *Numbering exhibits and attachments.*

(1) Use alpha characters to identify exhibits. The alpha characters shall be either single or double capital letters. Do not use the letters I or O.

(2) Once an identifier has been assigned to an exhibit, do not use it on another exhibit in the same contract.

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

(3) The identifier shall always appear in the first or first and second positions of all applicable exhibit line item numbers.

(4) If the exhibit has more than one page, cite the procurement instrument identification number, exhibit identifier, and applicable contract line or subline item number on each page.

(5) Use numbers to identify attachments.

(c) *Numbering exhibit line items and subline items.*

(1) Criteria for establishing. The criteria for establishing exhibit line items and subline items is the same as those for establishing contract line items and subline items (see DFARS 204.7103 and 204.7104, respectively).

(2) Procedures for numbering.

(i) Number items in an exhibit in a manner similar to contract line items and subline items.

(ii) Number line items using a four-position number.

(A) The first position or the first and second position contain the exhibit identifier.

(B) The third and fourth positions contain the alpha or numeric character serial numbers assigned to the line item.

(iii) Assign alpha or numeric characters to the line item on the basis of the same criteria outlined in contract subline items at DFARS 204.7104.

(iv) Exhibit line item numbers shall be sequential within the exhibit.

(3) Examples.

(i) Two-position serial number for double letter exhibit identifier.

<u>Cumulative No. of Line Items</u>	<u>Serial Number Sequence</u>
1-33	01 thru 09, then 0A thru 0Z, then
34-67	10 thru 19, then 1A thru 1Z, then

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

68-101	20 thru 29, then 2A thru 2Z, then
102-135	30 thru 39, then 3A thru 3Z, then
136-169	40 thru 49, then 4A thru 4Z, then
170-203	50 thru 59, then 5A thru 5Z, then
204-237	60 thru 69, then 6A thru 6Z, then
238-271	70 thru 79, then 7A thru 7Z, then
272-305	80 thru 89, then 8A thru 8Z, then
306-339	90 thru 99, then 9A thru 9Z, then
340-373	A0 thru A9, then AA thru AZ, then
374-407	B0 thru B9, then BA thru BZ, then
408-441	C0 thru C9, then CA thru CZ, then
442-475	D0 thru D9, then DA thru DZ, then
476-509	E0 thru E9, then EA thru EZ, then
510-543	F0 thru F9, then FA thru FZ, then
544-577	G0 thru G9, then GA thru GZ, then
578-611	H0 thru H9, then HA thru HZ, then
612-645	J0 thru J9, then JA thru JZ, then
646-679	K0 thru K9, then KA thru KZ, then
680-713	L0 thru L9, then LA thru LZ, then
714-747	M0 thru M9, then MA thru MZ, then
748-781	N0 thru N9, then NA thru NZ, then
782-815	P0 thru P9, then PA thru PZ, then

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

816-849	Q0 thru Q9, then QA thru QZ, then
850-883	R0 thru R9, then RA thru RZ, then
884-917	S0 thru S9, then SA thru SZ, then
918-951	T0 thru T9, then TA thru TZ, then
952-985	U0 thru U9, then UA thru UZ, then
986-1019	V0 thru V9, then VA thru VZ, then
1020-1053	W0 thru W9, then WA thru WZ, then
1054-1087	X0 thru X9, then XA thru XZ, then
1088-1121	Y0 thru Y9, then YA thru YZ, then
1122-1155	Z0 thru Z9, then ZA thru ZZ

(ii) Three-position numbers.

<u>Cumulative No. of Line Items</u>	<u>Serial Number Sequence</u>
1-33	01 thru 009, then 00A thru 00Z, then
34-67	010 thru 019, then 01A thru 01Z, then
68-101	020 thru 029, then 02A thru 02Z, then
102-135	030 thru 039, then 03A thru 03Z and
136-305	so on to
306-339	090 thru 099, then 09A thru 09Z, then
340-373	0A0 thru 0A9, then 0AA thru 0AZ, then
374-407	0B0 thru 0B9, then 0BB thru 0BZ, then
408-441	0C0 thru 0C9, then 0CA thru 0CZ, and
442-1121	so on to

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

1122-1155	0Z0 thru 0Z9, then 0ZA thru 0ZZ, then
1156-1189	100 thru 109, then 10A thru 10Z, then
1190-1223	110 thru 119, then 11A thru 11Z, then
1224-1257	120 thru 129, then 12A thru 12Z, and
1258-1461	so on to
1462-1495	190 thru 199, then 19A thru 19Z, then
1496-1529	1A0 thru 1A9, then 1AA thru 1AZ, then
1530-1563	1B0 thru 1B9, then 1BA thru 1BZ, and
1564-2277	so on to
2278-2311	1Z0 thru 1Z9, then 1ZA thru 1ZB, then
2312-2345	200 thru 109, then 10A thru 10Z, then
2346-2379	210 thru 219, then 21A thru 21Z, then
2380-2413	220 thru 229, then 22A thru 22Z, and
2414-2617	so on to
2618-2651	290 thru 299, then 29A thru 29Z, then
2652-2685	2A0 thru 2A9, then 2AA thru 2AZ, then
2686-2719	2B0 thru 2B9, then 2BA thru 2BZ, and
2720-3433	so on to
3434-3467	2Z0 thru 2Z9, then 2ZA thru 2ZZ, then
3468-3501	300 thru 309, then 30Z thru 30Z, and
3502-10403	so on to
10404-10437	900 thru 909, then 90A thru 90Z, then

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

10438-10471	910 thru 919, then 91A thru 91Z, and
10472-10709	so on to
10710-10743	990 thru 999, then 99A thru 99Z, then
10744-10777	9A0 thru 9A9, then 9AA thru 9AZ, then
10778-10811	9B0 thru 9B9, then 9BA thru 9BZ, and
10812-11525	so on to
11526-11559	9Z0 thru 9Z9, then 9ZA thru 9ZZ

PGI 204.7107 Contract accounting classification reference number (ACRN).

(a) The contracting office issuing the contract is responsible for assigning ACRNs. This authority shall not be delegated. If more than one office will use the contract (e.g., ordering officers, other contracting officers), the contract must contain instructions for assigning ACRNs.

(b) *Procedures for establishing ACRNs.* ACRNs shall be established in accordance with the following guidelines:

(1) Do not use the letters I and O.

(2) In no case shall an ACRN apply to more than one accounting classification citation, nor shall more than one ACRN be assigned to one accounting classification citation.

(c) *Using the ACRN in the contract.*

(1) Show the ACRN as a detached prefix to the accounting classification citation in the accounting and appropriations data block or, if there are too many accounting classification citations to fit reasonably in that block, in section G (Contract Administration Data).

(2) ACRNs need not prefix accounting classification citations if the accounting classification citations are present in the contract only for the transportation officer to cite to Government bills of lading.

(3) If the contracting officer is making a modification to a contract and using the same accounting classification citations, which have had ACRNs assigned to them, the

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

modification need cite only the ACRNs in the accounting and appropriations data block or on the continuation sheets.

(d) *Showing the ACRN in the contract.* If there is more than one ACRN in a contract, all the ACRNs will appear in several places in the schedule (e.g., ACRN:AA).

(1) Ship-to/mark-for block. Show the ACRN beside the identity code of each activity in the ship-to/mark-for block unless only one accounting classification citation applies to a line item or subline item. Only one ACRN may be assigned to the same ship-to/mark-for within the same contract line or subline item number unless multiple accounting classification citations apply to a single nonseverable deliverable unit such that the item cannot be related to an individual accounting classification citation.

(2) Supplies/services column.

(i) If only one accounting classification citation applies to a line item or a subline item, the ACRN may be shown in the supplies/services column near the item description.

(ii) If more than one accounting classification citation applies to a single contract line item, identify each assigned ACRN and the amount of associated funds using informational subline items (see DFARS 204.7104-1(a)).

PGI 204.7108 Payment instructions.

(a) *Scope.* This section applies to contracts and any separately priced orders that--

(1) Include contract line items that are funded by multiple accounting classification citations for which a contract line item or items are not broken out into separately identifiable subline items (informational subline items are not separately identifiable subline items);

(2) Contain cost-reimbursement or time-and-materials/labor-hour line items; or

(3) Authorize financing payments.

(b) For contracts and orders covered by this subpart, the contracting officer shall establish instructions in Section G (Contract Administration Data), under the heading "Payment Instructions for Multiple Accounting Classification Citations," to permit the paying office to charge the accounting classification citations assigned to that contract line item (see DFARS 204.7104-1(a)) in a manner that reflects the performance of work on the contract. If additional accounting classification citations are subsequently added, the payment instructions must be modified to include the additional accounting classification citations. Also, contracting officers shall not issue modifications that would create retroactive changes to payment instructions. All payment instruction changes shall be effective as of the date of the modification.

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

(c) Payment instructions—

(1) Shall provide a methodology for the payment office to assign payments to the appropriate accounting classification citation(s), based on anticipated contract work performance;

(2) Shall be consistent with the reasons for the establishment of separate contract line items.

(3) For contracts or orders other than those that provide for progress payments based on costs, shall be selected from those provided in paragraph (d) of this section;

(4) For contracts or orders that provide for progress payments based on costs, shall use the instructions in paragraph (d)(11) of this section unless the administrative contracting officer authorizes use of one of the other options in paragraph (d);

(5) Shall be revised to address the impact of changes to contract funding or significant disparities between existing instructions and actual contract performance.

(6) Shall state at what level (contract, contract line, subline, exhibit line, or ACRN) the payment instructions should be applied.

(7) Shall not be mixed within a level by contract type. For example, if the instructions apply at the contract level, there can be only one payment instruction for each contract type. If the instructions apply at the contract line or subline level, there can only be one payment instruction per contract line or subline item.

(8) For contracts or orders that contain a combination of fixed-price, cost-reimbursement, and/or time-and-materials/labor-hour line items, shall at a minimum include separate instructions for each contract type of contract line item (e.g., contract-wide proration for fixed-price line items and contract-wide ACRN level for cost-reimbursement line items).

(9) For contracts or orders that contain foreign military sales requirements, shall include instructions for distribution of the contract financing payments to each country's account.

(10) Shall use one of the standard payment instructions in paragraphs (d)(7) through (11) of this section unless the contracting officer documents in the contract file that there are significant benefits of requiring contractor identification of the contract line item on the payment request.

(d) The numbered payment instructions ((d)(1) through (12)) below correspond to

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

the automated payment instructions in the supporting systems; therefore, care should be exercised when identifying the numbered paragraph below in Section G of the contract. Include either one contract-wide instruction or one or more line item specific instructions. The contracting officer shall not use a combination of contract-wide and line item specific instructions.

(1) *Line item specific: single funding.* If there is only one source of funding for the contract line item (i.e., one ACRN), the payment office will make payment using the ACRN funding of the line item being billed.

(2) *Line item specific: sequential ACRN order.* If there is more than one ACRN within a contract line item, the payment office will make payment in sequential ACRN order within the line item, exhausting all funds in the previous ACRN before paying from the next ACRN using the following sequential order: Alpha/Alpha; Alpha/numeric; numeric/alpha; and numeric/numeric.

(3) *Line item specific: contracting officer specified ACRN order.* If there is more than one ACRN within a contract line item, the payment office will make payment within the line item in the sequence ACRN order specified by the contracting officer, exhausting all funds in the previous ACRN before paying from the next ACRN.

(4) *Line item specific: by fiscal year.* If there is more than one ACRN within a contract line item, the payment office will make payment using the oldest fiscal year appropriations first, exhausting all funds in the previous fiscal year before disbursing from the next fiscal year. In the event there is more than one ACRN associated with the same fiscal year, the payment amount shall be disbursed from each ACRN within a fiscal year in the same proportion as the amount of funding obligated for each ACRN within the fiscal year.

(5) *Line item specific: by cancellation date.* If there is more than one ACRN within a contract line item, the payment office will make payment using the ACRN with the earliest cancellation date first, exhausting all funds in that ACRN before disbursing funds from the next. In the event there is more than one ACRN associated with the same cancellation date, the payment amount shall be disbursed from each ACRN with the same cancellation date in the same proportion as the amount of funding obligated for each ACRN with the same cancellation date.

(6) *Line item specific: proration.* If there is more than one ACRN within a contract line item, the payment office will make payment from each ACRN in the same proportion as the amount of funding currently unliquidated for each ACRN.

(7) *Contract-wide: sequential ACRN order.* The payment office will make payment in sequential ACRN order within the contract or order, exhausting all funds in the previous ACRN before paying from the next ACRN using the following sequential order: alpha/alpha;

DFARS Procedures, Guidance, and Information

PGI 204—Administrative Matters

alpha/numeric; numeric/alpha; and numeric/numeric.

(8) *Contract-wide: contracting officer specified ACRN order.* The payment office will make payment in sequential ACRN order within the contract or order, exhausting all funds in the previous ACRN before paying from the next ACRN in the sequence order specified by the contracting officer.

(9) *Contract-wide: by fiscal year.* The payment office will make payment using the oldest fiscal year appropriations first, exhausting all funds in the previous fiscal year before disbursing from the next fiscal year. In the event there is more than one ACRN associated with the same fiscal year, the payment amount shall be disbursed from each ACRN within a fiscal year in the same proportion as the amount of funding obligated for each ACRN within the fiscal year.

(10) *Contract-wide: by cancellation date.* The payment office will make payment using the ACRN with the earliest cancellation date first, exhausting all funds in that ACRN before disbursing funds from the next. In the event there is more than one ACRN associated with the same cancellation date, the payment amount shall be disbursed from each ACRN with the same cancellation date in the same proportion as the amount of funding obligated for each ACRN with the same cancellation date.

(11) *Contract-wide: proration.* The payment office will make payment from each ACRN within the contract or order in the same proportion as the amount of funding currently unliquidated for each ACRN.

(12) *Other.* If none of the standard payment instructions identified in paragraphs (d)(1) through (11) of this section are appropriate, the contracting officer may insert other payment instructions, provided the other payment instructions--

(i) Provide a significantly better reflection of how funds will be expended in support of contract performance; and

(ii) Are agreed to by the payment office and the contract administration office.

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

(Revised May 31, 2007)

PGI 215.4—CONTRACT PRICING

PGI 215.402 Pricing policy.

(1) Contracting officers must purchase supplies and services from responsible sources at fair and reasonable prices. The Truth in Negotiations Act (TINA) (10 U.S.C. 2306a and 41 U.S.C. 254b) requires offerors to submit cost or pricing data if a procurement exceeds the TINA threshold and none of the exceptions to cost or pricing data requirements applies. Under TINA, the contracting officer obtains accurate, complete, and current data from offerors to establish a fair and reasonable price (see FAR 15.403). TINA also allows for a price adjustment remedy if it is later found that a contractor did not provide accurate, complete, and current data.

(2) When cost or pricing data are not required, and the contracting officer does not have sufficient data or information to determine price reasonableness, FAR 15.402(a)(2) requires the offeror to provide whatever information or data the contracting officer needs in order to determine fair and reasonable prices.

(3) Obtaining sufficient data or information from the offeror is particularly critical in situations where an item is determined to be a commercial item in accordance with FAR 2.101 and the contract is being awarded on a sole source basis. This includes commercial sales information of items sold in similar quantities and, if such information is insufficient, cost data to support the proposed price.

(4) See PGI 215.404-1 for more detailed procedures for obtaining data or information needed to determine fair and reasonable prices.

PGI 215.403 Obtaining cost or pricing data.

PGI 215.403-1 Prohibition on obtaining cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. 254b).

(b) *Exceptions to cost or pricing data requirements.* Even if an exception to cost or pricing data applies, the contracting officer is still required to determine price reasonableness. In order to make this determination, the contracting officer may require information other than cost or pricing data, including information related to prices and cost information that would otherwise be defined as cost or pricing data if certified.

(c)(3) *Commercial items.*

(A)(1) Contracting officers must exercise care when pricing a commercial item, especially in sole source situations. The definition of a commercial item at FAR 2.101

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

requires the product or service be one—

(i) That is of a type customarily used by the general public or by non-governmental entities for other than governmental purposes; and

(ii) That—

(A) Has been sold, leased, or licensed to the general public;

(B) Has been offered for sale, lease, or license to the general public; or

(C) Has evolved or been modified from such products or services.

(2) Therefore, some form of prior non-government sales data, or the fact that the item was sold, leased, licensed, or offered for sale (either the specific product or service or the product or service from which the item evolved) must be obtained.

(3) The fact that an item has been determined to be a commercial item does not, in and of itself, prohibit the contracting officer from requiring information other than cost or pricing data. This includes information related to prices and cost information that would otherwise be defined as cost or pricing data if certified. Obtaining sufficient data or information from the offeror is particularly critical in situations where an item is determined to be a commercial item in accordance with FAR 2.101 and the contract is being awarded on a sole source basis. See PGI 215.404-1 for more detailed procedures for use when obtaining information and data from the offeror to determine price reasonableness.

(B)(1) *Report Content.* The annual report of commercial item exceptions to Truth in Negotiations Act (TINA) requirements shall include the following:

Title: Commercial Item Exceptions to TINA Requirements

(1) Contract number, including modification number, if applicable, and program name.

(2) Contractor name.

(3) Contracting activity.

(4) Total dollar amount of exception.

(5) Brief explanation of the basis for determining that the item(s) are commercial.

(6) Brief description of the specific steps taken to ensure price

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

reasonableness.

(2) *Pricing Actions Reported.* The intent of this requirement is to report when a commercial item exception was determined. Therefore, the reporting of the commercial item exceptions are for pricing actions at the point the contracting officer makes a determination that the commercial item exception applies. For example—

Example 1: The contracting officer determined that a commercial item exception applies for an entire indefinite-delivery indefinite-quantity (IDIQ) contract and expected the subsequent orders to exceed \$15 million (based on the estimated maximum amount for the IDIQ or other supportable estimate of future orders). The organization would report this in accordance with DFARS 215.403-1(c)(3) for the period in which the IDIQ contract was awarded, and would include the total dollar amount of subsequent orders under the exception expected at the time of award.

Example 2: The contracting officer awards an IDIQ contract with no commercial item exceptions anticipated. The contracting officer later modifies the contract for an order that will meet commercial item exceptions, and the subsequent order(s) are expected to exceed \$15 million. Reporting (in the year the modification was issued) will include this IDIQ contract, the amount of this order, and any other expected future orders that will use the exception.

(i) For the above examples, after the contract is reported as receiving the exception with expected awards over \$15 million, there would be no further report, e.g., when a subsequent order under that contract exceeds \$15 million, because reporting for that contract was already accomplished.

(ii) When explaining price reasonableness in accordance with paragraph (c)(3)(B)(1)(6) of this subsection, if pricing was accomplished when the IDIQ contract was awarded, also explain how price reasonableness was determined. In circumstances where pricing will take place on the order at a future date, explain how pricing techniques at FAR 15.404-1 will be used, including obtaining cost information, if that is the only way to determine price reasonableness.

(4) *Waivers.*

(A) *Exceptional case TINA waiver.*

(1) In determining that an exceptional case TINA waiver is appropriate, the head of the contracting activity must exercise care to ensure that the supplies or services could not be obtained without the waiver and that the determination is clearly documented. See DPAP March 23, 2007, policy memorandum. The intent is not to relieve entities that normally perform Government contracts subject to TINA from an obligation to certify that cost or pricing data are accurate, complete, and current. Instead, waivers must be used

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

judiciously, in situations where the Government could not otherwise obtain a needed item without a waiver. A prime example would be when a particular company offers an item that is essential to DoD's mission but is not available from other sources, and the company refuses to submit cost or pricing data. In such cases, a waiver may be appropriate. However, the procuring agency should, in conjunction with the waiver, develop a strategy for procuring the item in the future that will not require such a waiver (e.g., develop a second source, develop an alternative product that satisfies the department's needs, or have DoD produce the item).

(2) *Senior procurement executive coordination.* An exceptional case TINA waiver that exceeds \$100 million shall be coordinated with the senior procurement executive prior to granting the waiver.

(3) *Waiver for part of a proposal.* The requirement for submission of cost or pricing data may be waived for part of an offeror's proposed price when it is possible to clearly identify that part of the offeror's cost proposal to which the waiver applies as separate and distinct from the balance of the proposal. In granting a partial waiver, in addition to complying with the requirements in DFARS 215.403-1(c)(4), the head of the contracting activity must address why it is in the Government's best interests to grant a partial waiver, given that the offeror has no objection to certifying to the balance of its cost proposal.

(4) *Waivers for unpriced supplies or services.* Because there is no price, unpriced supplies or services cannot be subject to cost or pricing data certification requirements. The Government cannot agree in advance to waive certification requirements for unpriced supplies or services, and may only consider a waiver at such time as an offeror proposes a price that would otherwise be subject to certification requirements.

(B) The annual report of waiver of TINA requirements shall include the following:

Title: Waiver of TINA Requirements

(1) Contract number, including modification number, if applicable, and program name.

(2) Contractor name.

(3) Contracting activity.

(4) Total dollar amount waived.

(5) Brief description of why the item(s) could not be obtained without a waiver. See DPAP March 23, 2007, policy memorandum.

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

(6) Brief description of the specific steps taken to ensure price reasonableness.

(7) Brief description of the demonstrated benefits of granting the waiver.

PGI 215.403-3 Requiring information other than cost or pricing data.

To the extent that cost or pricing data are not required by FAR 15.403-4 and there is no other means for the contracting officer to determine that prices are fair and reasonable, the offeror is required to submit “information other than cost or pricing data” (see definition at FAR 2.101). In accordance with FAR 15.403-3(a), the offeror must provide appropriate information on the prices at which the same or similar items have previously been sold, adequate for determining the reasonableness of the price. The following clarifies these requirements:

(1) *Information other than cost or pricing data.* When cost or pricing data are not required, the contracting officer must obtain whatever information is necessary in order to determine the reasonableness of the price. The FAR defines this as “information other than cost or pricing data.” When TINA does not apply and there is no other means of determining that prices are fair and reasonable, the contracting officer must obtain appropriate information on the prices at which the same or similar items have been sold previously, adequate for evaluating the reasonableness of the price. Sales data must be comparable to the quantities, capabilities, specifications, etc., of the product or service proposed. Sufficient steps must be taken to verify the integrity of the sales data, to include assistance from the Defense Contract Management Agency, the Defense Contract Audit Agency, and/or other agencies if required. See PGI 215.404-1 for more detailed procedures for obtaining information and data from offerors to determine price reasonableness.

(2) *Previously been sold.* Contracting officers shall request offerors to provide information related to prior sales (or “offered for sale”) in support of price reasonableness determinations.

(3) *Adequacy of sales data for pricing.* The contracting officer must determine if the prior sales information is sufficient for determining that prices are fair and reasonable. If the sales information is not sufficient, additional information shall be obtained, including cost information if necessary. See PGI 215.404-1 for more detailed procedures for obtaining whatever data or information is needed to determine fair and reasonable prices.

(4) *Reliance on prior prices paid by the Government.* Before relying on a prior price paid by the Government, the contracting officer must verify and document that sufficient analysis was performed to determine that the prior price was fair and reasonable. Sometimes, due to exigent situations, supplies or services are purchased even though an adequate price or cost analysis could not be performed. The problem is exacerbated when other contracting officers assume these prices were adequately analyzed and determined to be fair and

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

reasonable. The contracting officer also must verify that the prices previously paid were for quantities consistent with the current solicitation. Not verifying that a previous analysis was performed, or the inconsistencies in quantities, has been a recurring issue on sole source commercial items reported by oversight organizations. Sole source commercial items require extra attention to verify that previous prices paid on Government contracts were sufficiently analyzed and determined to be fair and reasonable. At a minimum, a contracting officer reviewing price history shall discuss the basis of previous prices paid with the contracting organization that previously bought the item. These discussions shall be documented in the contract file.

PGI 215.403-5 Instructions for submission of cost or pricing data or information other than cost or pricing data.

Require the contractor to submit DD Form 1921 or 1921-1 with its pricing proposal when the solicitation requires contractor compliance with the Contractor Cost Data Reporting System (DoD 5000.4-M-1, Contractor Cost Data Reporting Manual).

PGI 215.404 Proposal analysis.

PGI 215.404-1 Proposal analysis techniques.

(a) *General.*

(i) The objective of proposal analysis is to ensure that the final agreed-to price is fair and reasonable. When the contracting officer needs information to determine price reasonableness and the offeror will not furnish that information, use the following sequence of steps to resolve the issue:

(A) The contracting officer should make it clear what information is required and why it is needed to determine fair and reasonable prices, and should be flexible in requesting data and information in existing formats with appropriate explanations from the offeror.

(B) If the offeror refuses to provide the data, the contracting officer should elevate the issue within the contracting activity.

(C) Contracting activity management shall, with support from the contracting officer, discuss the issue with appropriate levels of the offeror's management.

(D) If the offeror continues to refuse to provide the data, contracting activity management shall elevate the issue to the head of the contracting activity for a decision in accordance with FAR 15.403-3(a)(4).

(E) The contracting officer shall document the contract file to describe—

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

(1) The data requested and the contracting officer's need for that data;

(2) Why there is currently no other alternative but to procure the item from this particular source; and

(3) A written plan for avoiding this situation in the future (e.g., develop a second source by...; bring the procurement in house to the Government by...).

(F) Consistent with the requirements at FAR 15.304 and 42.1502 and the DoD Guide to Collection and Use of Past Performance Information, Version 3, dated May 2003, the contracting officer shall provide input into the past performance system, noting the offeror's refusal to provide the requested information.

(ii) In some cases, supplies or services that are not subject to TINA may require a cost analysis (see paragraph (b)(iv) of this section). This will occur when a price analysis is not sufficient for determining prices to be fair and reasonable. In such cases, the contracting officer should consider the need for a Defense Contract Audit Agency audit of the cost data.

(iii) Particular attention should be paid to sole source commercial supplies or services. While the order of preference at FAR 15.402 must be followed, if the contracting officer cannot determine price reasonableness without obtaining information or cost data from the offeror, at a minimum, the contracting officer must obtain appropriate information on the prices at which the same or similar items have been sold previously (often previous sales information was the basis of the commercial item determination and must be requested during price analysis of the information or data provided by the offeror). If previous sales information is not sufficient to determine price reasonableness, the contracting officer must obtain "information other than cost or pricing data" and, if necessary, perform a cost analysis.

(b) *Price analysis.*

(i) Price analysis should generally be performed on supplies or services that are not subject to TINA. Available commercial sales, published catalogs or prices, etc., can sometimes be obtained through market research and can provide a basis for determining if the proposed prices are fair and reasonable.

(ii) In some cases, commercial sales are not available and there is no other market information for determining fair and reasonable prices. This is especially true when buying supplies or services that have been determined to be commercial, but have only been "offered for sale" or purchased on a sole source basis with no prior commercial sales upon which to rely. In such cases, the contracting officer must require the offeror to submit whatever cost information is needed to determine price reasonableness.

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

(iii) The following procedures shall be adhered to when executing the price analysis steps at FAR 15.404-1(b)(2):

(A) When the contracting officer is relying on information obtained from sources other than the offeror, the contracting officer must obtain and document sufficient information to confirm that previous prices paid by the Government were based on a thorough price and/or cost analysis. For example, it would not be sufficient to use price(s) from a database paid by another contracting officer without understanding the type of analysis that was performed to determine the price(s), and without verifying that the quantities were similar for pricing purposes. This does not necessarily need to be another analysis, but there should be coordination with the other office that acknowledges an analysis was performed previously.

(B) When purchasing sole source commercial items, the contracting officer must request non-Government sales data for quantities comparable to those in the solicitation. In addition, if there have not been any non-Government sales, “information other than cost or pricing data” shall be obtained and a price or cost analysis performed as required.

(iv) When considering advice and assistance from others, the contracting officer must pay particular attention to supplies or services that are not subject to TINA because they are “of a type” customarily used by the general public or “similar to” the item being purchased. There must be a thorough analysis of—

- (A) The available price information for the similar-type item;
- (B) The changes required by the solicitation; and
- (C) The cost of modifying the base item.

(v) In some cases, the contracting officer will have to obtain “information other than cost or pricing data” from the offeror because there is not sufficient information from other sources to determine if prices are fair and reasonable. The contracting officer must use business judgment to determine the level of information needed from the offeror, but must ensure that the information is sufficient for making a reasonableness determination. For example, the offeror may have significant sales of the item in comparable quantities to non-Government entities, and that may be all the information needed, once the sales information is appropriately verified. On the other hand, there may be no non-Government sales and the contracting officer may be required to obtain cost information, and should do so. The request for additional information shall be limited to only that needed to determine prices to be fair and reasonable. For example, assume the proposal is 40 percent purchase parts, 30 percent labor, and the balance indirect rates. Also assume that the Defense Contract Management Agency (DCMA) has a forward pricing rate agreement with the offeror. It may be sufficient to limit requests to historical purchase records and/or vendor quotes and the

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

proposed labor hours. Based on this information and the forward pricing rates from DCMA, the contracting officer may be able to determine price reasonableness.

(c) *Cost analysis.*

(i) When the contracting officer cannot obtain sufficient information to perform a price analysis in accordance with the pricing steps in FAR 15.404-1(b), a cost analysis is required.

(ii) When a solicitation is not subject to TINA and a cost analysis is required, the contracting officer must clearly communicate to the offeror the cost information that will be needed to determine if the proposed price is fair and reasonable.

(iii) To the extent possible, when cost or pricing data are not required to be submitted in accordance with Table 15-2 of FAR 15.408, the contracting officer should accept the cost data in a format consistent with the offeror's records.

(iv) The contracting officer must always consider the need for field pricing support from the Defense Contract Management Agency, the Defense Contract Audit Agency, and/or other agencies.

(e) *Technical analysis.*

Requesting technical assistance is particularly important when evaluating pricing related to items that are “similar to” items being purchased or commercial items that are “of a type” or require “minor modifications.” Technical analysis can assist in pricing these types of items by identifying any differences between the item being acquired and the “similar to” item. In particular, the technical review can assist in evaluating the changes that are required to get from the “similar to” item, to the item being solicited, so the contracting officer can determine sufficient price/cost analysis techniques when evaluating that the price for the item being solicited is fair and reasonable.

PGI 215.404-2 Information to support proposal analysis.

(a) *Field pricing assistance.*

(i) The contracting officer should consider requesting field pricing assistance for—

(A) Fixed-price proposals exceeding the cost or pricing data threshold;

(B) Cost-type proposals exceeding the cost or pricing data threshold from offerors with significant estimating system deficiencies (see DFARS 215.407-5-70(a)(4) and (c)(2)(i)); or

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

(C) Cost-type proposals exceeding \$10 million from offerors without significant estimating system deficiencies.

(ii) The contracting officer should not request field pricing support for proposed contracts or modifications in an amount less than that specified in paragraph (a)(i) of this subsection. An exception may be made when a reasonable pricing result cannot be established because of—

(A) A lack of knowledge of the particular offeror; or

(B) Sensitive conditions (e.g., a change in, or unusual problems with, an offeror's internal systems).

(c) *Audit assistance for prime contracts or subcontracts.*

(i) If, in the opinion of the contracting officer or auditor, the review of a prime contractor's proposal requires further review of subcontractors' cost estimates at the subcontractors' plants (after due consideration of reviews performed by the prime contractor), the contracting officer should inform the administrative contracting officer (ACO) having cognizance of the prime contractor before the review is initiated.

(ii) Notify the appropriate contract administration activities when extensive, special, or expedited field pricing assistance will be needed to review and evaluate subcontractors' proposals under a major weapon system acquisition. If audit reports are received on contracting actions that are subsequently cancelled, notify the cognizant auditor in writing.

PGI 215.404-3 Subcontract pricing considerations.

(a) The contracting officer should consider the need for field pricing analysis and evaluation of lower-tier subcontractor proposals, and assistance to prime contractors when they are being denied access to lower-tier subcontractor records.

(i) When obtaining field pricing assistance on a prime contractor's proposal, the contracting officer should request audit or field pricing assistance to analyze and evaluate the proposal of a subcontractor at any tier (notwithstanding availability of data or analyses performed by the prime contractor) if the contracting officer believes that such assistance is necessary to ensure the reasonableness of the total proposed price. Such assistance may be appropriate when, for example—

(A) There is a business relationship between the contractor and the subcontractor not conducive to independence and objectivity;

(B) The contractor is a sole source supplier and the subcontract costs represent a substantial part of the contract cost;

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

(C) The contractor has been denied access to the subcontractor's records;

(D) The contracting officer determines that, because of factors such as the size of the proposed subcontract price, audit or field pricing assistance for a subcontract at any tier is critical to a fully detailed analysis of the prime contractor's proposal;

(E) The contractor or higher-tier subcontractor has been cited for having significant estimating system deficiencies in the area of subcontract pricing, especially the failure to perform adequate cost analyses of proposed subcontract costs or to perform subcontract analyses prior to negotiation of the prime contract with the Government; or

(F) A lower-tier subcontractor has been cited as having significant estimating system deficiencies.

(ii) It may be appropriate for the contracting officer or the ACO to provide assistance to a contractor or subcontractor at any tier, when the contractor or higher-tier subcontractor has been denied access to a subcontractor's records in carrying out the responsibilities at FAR 15.404-3 to conduct price or cost analysis to determine the reasonableness of proposed subcontract prices. Under these circumstances, the contracting officer or the ACO should consider whether providing audit or field pricing assistance will serve a valid Government interest.

(iii) When DoD performs the subcontract analysis, DoD shall furnish to the prime contractor or higher-tier subcontractor, with the consent of the subcontractor reviewed, a summary of the analysis performed in determining any unacceptable costs included in the subcontract proposal. If the subcontractor withholds consent, DoD shall furnish a range of unacceptable costs for each element in such a way as to prevent disclosure of subcontractor proprietary data.

(iv) Price redeterminable or fixed-price incentive contracts may include subcontracts placed on the same basis. When the contracting officer wants to reprice the prime contract even though the contractor has not yet established final prices for the subcontracts, the contracting officer may negotiate a firm contract price—

(A) If cost or pricing data on the subcontracts show the amounts to be reasonable and realistic; or

(B) If cost or pricing data on the subcontracts are too indefinite to determine whether the amounts are reasonable and realistic, but—

(1) Circumstances require prompt negotiation; and

(2) A statement substantially as follows is included in the repricing

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

modification of the prime contract:

As soon as the Contractor establishes firm prices for each subcontract listed below, the Contractor shall submit (in the format and with the level of detail specified by the Contracting Officer) to the Contracting Officer the subcontractor's cost incurred in performing the subcontract and the final subcontract price. The Contractor and the Contracting Officer shall negotiate an equitable adjustment in the total amount paid or to be paid under this contract to reflect the final subcontract price.

(v) If the selection of the subcontractor is based on a trade-off among cost or price and other non-cost factors rather than lowest price, the analysis supporting subcontractor selection should include a discussion of the factors considered in the selection (also see FAR 15.101 and 15.304 and DFARS 215.304). If the contractor's analysis is not adequate, return it for correction of deficiencies.

(vi) The contracting officer shall make every effort to ensure that fees negotiated by contractors for cost-plus-fixed-fee subcontracts do not exceed the fee limitations in FAR 15.404-4(c)(4).

PGI 215.404-70 DD Form 1547, Record of Weighted Guidelines Method Application.

(1) The DD Form 1547—

(i) Provides a vehicle for performing the analysis necessary to develop a profit objective;

(ii) Provides a format for summarizing profit amounts subsequently negotiated as part of the contract price; and

(iii) Serves as the principal source document for reporting profit statistics to DoD's management information system.

(2) The military departments are responsible for establishing policies and procedures for feeding the DoD-wide management information system on profit and fee statistics (see PGI 215.404-76).

(3) The contracting officer shall—

(i) Use and prepare a DD Form 1547 whenever a structured approach to profit analysis is required by DFARS 215.404-4(b) (see DFARS 215.404-71, 215.404-72, and 215.404-73 for guidance on using the structured approaches). Administrative instructions

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

for completing the form are in PGI 253.215-70.

(ii) Ensure that the DD Form 1547 is accurately completed. The contracting officer is responsible for the correction of any errors detected by the management system auditing process.

PGI 215.404-71 Weighted guidelines method.

PGI 215.404-71-4 Facilities capital employed.

(c) *Use of DD Form 1861 - Field pricing support.*

(i) The contracting officer may ask the ACO to complete the forms as part of field pricing support.

(ii) When the Weighted Guidelines Method is used, completion of the DD Form 1861 requires information not included on the Form CASB-CMF, i.e., distribution percentages of land, building, and equipment for the business unit performing the contract. Choose the most practical method for obtaining this information, for example—

(A) Contract administration offices could obtain the information through the process used to establish factors for facilities capital cost of money or could establish advance agreements on distribution percentages for inclusion in field pricing reports;

(B) The corporate ACO could obtain distribution percentages; or

(C) The contracting officer could request the information through a solicitation provision.

PGI 215.404-76 Reporting profit and fee statistics.

(1) Contracting officers in contracting offices that participate in the management information system for profit and fee statistics must send completed DD Forms 1547 on actions that exceed the cost or pricing data threshold, where the contracting officer used the weighted guidelines method, an alternate structured approach, or the modified weighted guidelines method, to their designated office within 30 days after contract award.

(2) Participating contracting offices and their designated offices are—

<u>Contracting Office</u>	<u>Designated Office</u>
	ARMY
All	*
	NAVY

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

All	Commander Fleet and Industrial Supply Center, Norfolk Washington Detachment, Code 402 Washington Navy Yard Washington, DC 20374-5000
AIR FORCE	
Air Force Materiel Command (all field offices)	*

* Use the automated system, Profit Weighted Guidelines and Application at <https://www.wgl.wpafb.af.mil/wgl>, as required by your department.

(3) When the contracting officer delegates negotiation of a contract action that exceeds the cost or pricing data threshold to another agency (e.g., to an ACO), that agency must ensure that a copy of the DD Form 1547 is provided to the delegating office for reporting purposes within 30 days after negotiation of the contract action.

(4) Contracting offices outside the United States and its outlying areas are exempt from reporting.

(5) Designated offices send a quarterly (non-cumulative) report of DD Form 1547 data to—

Washington Headquarters Services
Directorate for Information Operations and Reports (WHS/DIOR)
1215 Jefferson Davis Highway
Suite 1204
Arlington, VA 22202-4302

(6) In preparing and sending the quarterly report, designated offices—

(i) Perform the necessary audits to ensure information accuracy;

(ii) Do not enter classified information;

(iii) Transmit the report using approved electronic means; and

(iv) Send the reports not later than the 30th day after the close of the quarterly reporting periods.

(7) These reporting requirements have been assigned Report Control Symbol DD-AT&L(Q)1751.

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

PGI 215.406-1 Prenegotiation objectives.

(a) Also consider—

(i) Data resulting from application of work measurement systems in developing prenegotiation objectives; and

(ii) Field pricing assistance personnel participation in planned prenegotiation and negotiation activities.

(b) Prenegotiation objectives, including objectives related to disposition of findings and recommendations contained in preaward and postaward contract audit and other advisory reports, shall be documented and reviewed in accordance with departmental procedures.

PGI 215.406-3 Documenting the negotiation.

(a)(7) Include the principal factors related to the disposition of findings and recommendations contained in preaward and postaward contract audit and other advisory reports.

(10) The documentation—

(A) Must address significant deviations from the prenegotiation profit objective;

(B) Should include the DD Form 1547, Record of Weighted Guidelines Application (see DFARS 215.404-70), if used, with supporting rationale; and

(C) Must address the rationale for not using the weighted guidelines method when its use would otherwise be required by DFARS 215.404-70.

PGI 215.407-4 Should-cost review.

(b) *Program should-cost review.*

(2) DoD contracting activities should consider performing a program should-cost review before award of a definitive contract for a major system as defined by DoDI 5000.2. See DoDI 5000.2 regarding industry participation.

(c) *Overhead should-cost review.*

(1) Contact the Defense Contract Management Agency (DCMA) (<http://www.dcma.mil/>) for questions on overhead should-cost analysis.

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

(2)(A) DCMA or the military department responsible for performing contract administration functions (e.g., Navy SUPSHIP) should consider, based on risk assessment, performing an overhead should-cost review of a contractor business unit (as defined in FAR 2.101) when all of the following conditions exist:

- (1) Projected annual sales to DoD exceed \$1 billion;
- (2) Projected DoD versus total business exceeds 30 percent;
- (3) Level of sole-source DoD contracts is high;
- (4) Significant volume of proposal activity is anticipated;
- (5) Production or development of a major weapon system or program is anticipated; and
- (6) Contractor cost control/reduction initiatives appear inadequate.

(B) The head of the contracting activity may request an overhead should-cost review for a business unit that does not meet the criteria in paragraph (c)(2)(A) of this subsection.

(C) Overhead should-cost reviews are labor intensive. These reviews generally involve participation by the contracting, contract administration, and contract audit elements. The extent of availability of military department, contract administration, and contract audit resources to support DCMA-led teams should be considered when determining whether a review will be conducted. Overhead should-cost reviews generally should not be conducted at a contractor business segment more frequently than every 3 years.

PGI 215.407-5 Estimating systems.

PGI 215.407-5-70 Disclosure, maintenance, and review requirements.

(e) *Review procedures.* Cognizant audit and contract administration activities shall—

- (1) Establish and manage regular programs for reviewing selected contractors' estimating systems.
- (2) Conduct reviews as a team effort.
 - (i) The contract auditor will be the team leader.
 - (ii) The team leader will—

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

(A) Coordinate with the ACO to ensure that team membership includes qualified contract administration technical specialists.

(B) Advise the ACO and the contractor of significant findings during the conduct of the review and during the exit conference.

(C) Prepare a team report.

(1) The ACO or a representative should—

(i) Coordinate the contract administration activity's review;

(ii) Consolidate findings and recommendations; and

(iii) When appropriate, prepare a comprehensive written report for submission to the auditor.

(2) The contract auditor will attach the ACO's report to the team report.

(3) Tailor reviews to take full advantage of the day-to-day work done by both organizations.

(4) Conduct a review, every 3 years, of contractors subject to the disclosure requirements. The ACO and the auditor may lengthen or shorten the 3-year period based on their joint risk assessment of the contractor's past experience and current vulnerability.

(f) *Disposition of survey team findings.*

(1) Reporting of survey team findings. The auditor will document the findings and recommendations of the survey team in a report to the ACO. If there are significant estimating deficiencies, the auditor will recommend disapproval of all or portions of the estimating system.

(2) Initial notification to the contractor. The ACO will provide a copy of the team report to the contractor and, unless there are no deficiencies mentioned in the report, will ask the contractor to submit a written response in 30 days, or a reasonable extension.

(i) If the contractor agrees with the report, the contractor has 60 days from the date of initial notification to correct any identified deficiencies or submit a corrective action plan showing milestones and actions to eliminate the deficiencies.

(ii) If the contractor disagrees, the contractor should provide rationale in its written response.

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

(3) Evaluation of contractor's response. The ACO, in consultation with the auditor, will evaluate the contractor's response to determine whether—

- (i) The estimating system contains deficiencies that need correction;
- (ii) The deficiencies are significant estimating deficiencies that would result in disapproval of all or a portion of the contractor's estimating system; or
- (iii) The contractor's proposed corrective actions are adequate to eliminate the deficiency.

(4) Notification of ACO determination. The ACO will notify the contractor and the auditor of the determination and, if appropriate, of the Government's intent to disapprove all or selected portions of the system. The notice shall—

- (i) List the cost elements covered;
- (ii) Identify any deficiencies requiring correction; and
- (iii) Require the contractor to correct the deficiencies within 45 days or submit an action plan showing milestones and actions to eliminate the deficiencies.

(5) Notice of disapproval. If the contractor has neither submitted an acceptable corrective action plan nor corrected significant deficiencies within 45 days, the ACO shall disapprove all or selected portions of the contractor's estimating system. The notice of disapproval must—

- (i) Identify the cost elements covered;
- (ii) List the deficiencies that prompted the disapproval; and
- (iii) Be sent to the cognizant auditor, and each contracting and contract administration office having substantial business with the contractor.

(6) Monitoring contractor's corrective action. The auditor and the ACO will monitor the contractor's progress in correcting deficiencies. If the contractor fails to make adequate progress, the ACO shall take whatever action is necessary to ensure that the contractor corrects the deficiencies. Examples of actions the ACO can take are: bringing the issue to the attention of higher level management, reducing or suspending progress payments (see FAR 32.503-6), and recommending nonaward of potential contracts.

(7) Withdrawal of estimating system disapproval. The ACO will withdraw the disapproval when the ACO determines that the contractor has corrected the significant

DFARS Procedures, Guidance, and Information

PGI 215—Contracting by Negotiation

system deficiencies. The ACO will notify the contractor, the auditor, and affected contracting and contract administration activities of the withdrawal.

PGI 215.470 Estimated data prices.

(b)(i) The form and the provision included in the solicitation request the offeror to state what portion of the total price is estimated to be attributable to the production or development of the listed data for the Government (not to the sale of rights in the data). However, offerors' estimated prices may not reflect all such costs; and different offerors may reflect these costs in a different manner, for the following reasons—

- (A) Differences in business practices in competitive situations;
- (B) Differences in accounting systems among offerors;
- (C) Use of factors or rates on some portions of the data;
- (D) Application of common effort to two or more data items; and
- (E) Differences in data preparation methods among offerors.

(ii) Data price estimates should not be used for contract pricing purposes without further analysis.

DFARS Procedures, Guidance, and Information

PGI 225--Foreign Acquisition

(Revised May 31, 2007)

PGI 225.8--OTHER INTERNATIONAL AGREEMENTS AND COORDINATION

PGI 225.802 Procedures.

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

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

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

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

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

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

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

PGI 225.870 Contracting with Canadian contractors.

PGI 225.870-1 General.

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

DFARS Procedures, Guidance, and Information

PGI 225--Foreign Acquisition

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

(A) Contract administration services, including—

- (1) Cost and price analysis;
- (2) Industrial security;
- (3) Accountability and disposal of Government property;
- (4) Production expediting;
- (5) Compliance with Canadian labor laws;
- (6) Processing of termination claims and disposal of termination inventory;
- (7) Customs documentation;
- (8) Processing of disputes and appeals; and

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

(B) Audits. The Public Works and Government Services Canada performs audits when needed. Route requests for audit on non-Canadian Commercial Corporation contracts through the cognizant contract management office of the Defense Contract Management Agency.

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

PGI 225.870-5 Contract administration.

(1) Assign contract administration in accordance with DFARS Part 242. When the Defense Contract Management Agency will perform contract administration in Canada, name in the contract the following payment office for disbursement of DoD funds (DoD Department Code: 17-Navy; 21-Army; 57-Air Force; 97-all other DoD components), whether payment is in Canadian or U.S. dollars:

DFAS Columbus Center
DFAS-CO/North Entitlement Operations

DFARS Procedures, Guidance, and Information

PGI 225--Foreign Acquisition

PO Box 182266
Columbus, OH 43218-2266.

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

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

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

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

(ii) For contracts placed directly with Canadian firms, the administrative contracting officer requests audits from the CAC, Ottawa, Ontario, Canada. The CAC/PWGSC--

(A) Approves invoices on a provisional basis pending completion of the contract and final audit;

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

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

PGI 225.870-7 Acceptance of Canadian supplies.

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

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

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

PGI 225.871-4 Statutory waivers.

Forward any request for waiver under a cooperative project to the Deputy Secretary of Defense, through the Director of Defense Procurement and Acquisition Policy, Office of the

DFARS Procedures, Guidance, and Information

PGI 225--Foreign Acquisition

Under Secretary of Defense (Acquisition, Technology, and Logistics). The waiver request shall include a draft Determination and Findings for signature by the Deputy Secretary of Defense establishing that the waiver is necessary to significantly further NATO standardization, rationalization, and interoperability.

PGI 225.871-5 Directed subcontracting.

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

PGI 225.872 Contracting with qualifying country sources.

PGI 225.872-4 Individual determinations.

(1) Obtain signature of the determination and findings—

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

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

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

SERVICE OR AGENCY

Exemption of the Buy American Act and Balance of Payments Program

Determination and Findings

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

Findings

1. The (contracting office) proposes to purchase under contract number _____, (describe item) mined, produced, or manufactured in (qualifying country of origin). The total estimated cost of this acquisition is _____.
2. The United States Government and the Government of _____ have agreed to remove barriers to procurement at the prime and subcontract level for defense equipment produced in each other's

DFARS Procedures, Guidance, and Information

PGI 225--Foreign Acquisition

- countries insofar as laws and regulations permit.
3. The agreement provides that the Department of Defense will evaluate competitive offers of qualifying country end products mined, produced, or manufactured in (qualifying country) without imposing any price differential under the Buy American Act or the Balance of Payments Program and without taking applicable U.S. customs and duties into consideration so that such items may better compete for sales of defense equipment to the Department of Defense. In addition, the Agreement stipulates that acquisitions of such items shall fully satisfy Department of Defense requirements for performance, quality, and delivery and shall cost the Department of Defense no more than would comparable U.S. source or other foreign source defense equipment eligible for award.
 4. To achieve the foregoing objectives, the solicitation contained the clause (title and number of the Buy American Act clause contained in the contract). Offers were solicited from other sources and the offer received from (offeror) is found to be otherwise eligible for award.

Determination

I hereby determine that it is inconsistent with the public interest to apply the restrictions of the Buy American Act or the Balance of Payments Program to the offer described in this determination and findings.

(Date)

PGI 225.872-5 Contract administration.

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

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

PGI 225.872-6 Audit.

(c)(i) Except for the United Kingdom, send requests for audits in qualifying countries to the administrative contracting officer at the cognizant activity listed in Section 2B of the

DFARS Procedures, Guidance, and Information

PGI 225--Foreign Acquisition

Federal Directory of Contract Administration Services. Send a request for audit from the United Kingdom directly to their Ministry of Defence.

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

PGI 225.873 Waiver of United Kingdom commercial exploitation levies.

PGI 225.873-2 Procedures.

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

- (i) Name of the U.K. firm;
- (ii) Prime contract number;
- (iii) Description of item for which waiver is being sought;
- (iv) Quantity being acquired; and
- (v) Amount of levy.

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

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(Revised May 31, 2007)

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

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

PGI 225.7002-1 Restrictions.

(a)(2)(A) The following are examples, not all-inclusive, of Federal Supply Classes that contain items of clothing:

(1) Clothing apparel (such as outerwear, headwear, underwear, nightwear, footwear, hosiery, or handwear) listed in Federal Supply Class 8405, 8410, 8415, 8420, 8425, 8450, or 8475.

(2) Footwear listed in Federal Supply Class 8430 or 8435.

(3) Hosiery, handwear, or other items of clothing apparel, such as belts and suspenders, listed in Federal Supply Class 8440 or 8445.

(4) Badges or insignia listed in Federal Supply Class 8455.

(B) The Federal Supply Classes listed in paragraph (a)(2)(A) of this subsection also contain items that are not clothing, such as—

(1) Visors;

(2) Kevlar helmets;

(3) Handbags; and

(4) Plastic identification tags.

(C) Each item should be individually analyzed to determine if it is clothing, rather than relying on the Federal Supply Class alone to make that determination.

(D) The fact that an item is excluded from the foreign source restriction of the Berry Amendment applicable to clothing does not preclude application of another Berry Amendment restriction in DFARS 225.7002-1 to the components of the item.

(E) Small arms protective inserts (SAPI plates) are an example of items added to, and not normally associated with, clothing. Therefore, SAPI plates are not covered

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

under the Berry Amendment as clothing. However, fabrics used in the SAPI plate are still subject to the foreign source restrictions of the Berry Amendment. If the fabric used in the SAPI plate is a synthetic fabric or a coated synthetic fabric, the fibers and yarns used in the fabric are not covered by the Berry Amendment, because the fabric is a component of an end product that is not a textile product (see DFARS 225.7002-2(o)).

Example: A SAPI plate is compliant with the Berry Amendment if the synthetic fiber or yarn is obtained from foreign country X and woven into synthetic fabric in the United States, which is then incorporated into a SAPI plate manufactured in foreign country Y.

(b) Under Secretary of Defense (Acquisition, Technology, and Logistics) memorandum of June 1, 2006, Subject: Berry Amendment Compliance for Specialty Metals, provides guidance on dealing with specialty metal parts that are noncompliant with the requirements of the Berry Amendment (10 U.S.C. 2533a). Also see the DCMA interim instruction addressing noncompliance with the Preference for Domestic Specialty Metals clause, DFARS 252.225-7014, at <http://guidebook.dcmamil/225/instructions.htm>.

PGI 225.7002-2 Exceptions.

(b) *Domestic nonavailability determinations.*

(3) *Defense agencies.*

(A) A defense agency requesting a domestic nonavailability determination must submit the request, including the proposed determination, to—

Director, Defense Procurement and Acquisition Policy
ATTN: OUSD(AT&L)DPAP(CPIC)
3060 Defense Pentagon
Washington, DC 20301-3060.

(B) The Director, Defense Procurement and Acquisition Policy, will forward the request to the Under Secretary of Defense (Acquisition, Technology, and Logistics) as appropriate.

(C) If the domestic nonavailability determination is for the acquisition of titanium or a product containing titanium, the submission shall also include the associated congressional notification letters required by DFARS 225.7002-2(b)(4), for concurrent signature by the Under Secretary of Defense (Acquisition, Technology, and Logistics). The defense agency does not need to take any further action with regard to DFARS 225.7002-2(b)(4).

(4) *Army, Navy, and Air Force.*

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

Send the copy of the congressional notification and the domestic nonavailability determination for the acquisition of titanium or a product containing titanium to—

Director, Defense Procurement and Acquisition Policy
ATTN: OUSD(AT&L)DPAP(CPIC)
3060 Defense Pentagon
Washington, DC 20301-3060.

(5) *Reciprocal use of domestic nonavailability determinations (DNADs).*

(A) The military departments should establish approval authority, policies, and procedures for the reciprocal use of DNADs. General requirements for broad application of DNADs are as follows:

(1) A class DNAD approved by the Under Secretary of Defense (Acquisition, Technology, and Logistics) (USD(AT&L)) or the Secretary of a military department may be used by USD(AT&L) or another military department, provided the same rationale applies and similar circumstances are involved.

(2) DNADs should clearly establish—

(i) Whether the determination is limited or unlimited in duration; and

(ii) If application outside the approving military department is appropriate.

(3) Upon approval of a DNAD, if application outside the approving military department is appropriate, the approving department shall provide a copy of the DNAD, with information about the items covered and the duration of the determination, to DPAP/CPIC at the address provided in paragraph (b)(4) of this section.

(4) Before relying on an existing DNAD, contact the approving office for current guidance as follows:

(i) USD(AT&L): DPAP/CPIC, 703-697-9352.

(ii) Army: ASA/ALT, 703-604-7006.

(iii) Navy: DASN (Acquisition and Logistics Management), 703-614-9600.

(iv) Air Force: AQCK, 703-588-7040.

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(B) DNADs approved by USD(AT&L) are currently available for reciprocal use as provided below.

(1) Contact DPAP/CPIC for information on the following DNADs:

- (i) 210 denier high tenacity nylon fiber.
- (ii) Continuous filament polyester tow, poromeric material.
- (iii) Dual compression molded ethyl vinyl acetate for midsoles and non-marking solid rubber for outsoles of men's and women's running shoes.
- (iv) Rayon yarn for military clothing and textile items.
- (v) Steel toe caps.
- (vi) Straps for ejection seat restraint.
- (vii) Medical and surgical supplies.
- (viii) Modacrylic fiber.

(2) The following DNADs may be used without contacting DPAP/CPIC (see <http://www.dcmil.com/dnad/>):

- (i) Lids and leads for populated circuit card assemblies.
- (ii) Fasteners, including all items in FSCs 5305, 5306, 5307, 5310, 5320, and 5325, or NAICs code 332722 (excluding cotter pins, dowel pins, hose clamps, spring pins, and turnbuckles).

PGI 225.7017 Restriction on Ballistic Missile Defense research, development, test, and evaluation.

PGI 225.7017-3 Exceptions.

(b) Before awarding a contract to a foreign entity for conduct of ballistic missile defense research, development, test, and evaluation (RDT&E), the head of the contracting activity must certify, in writing, that a U.S. firm cannot competently perform a contract for RDT&E at a price equal to or less than the price at which a foreign government or firm would perform the RDT&E. The contracting officer or source selection authority must make a determination that will be the basis for that certification, using the following procedures:

- (i) The determination shall—

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

- (A) Describe the contract effort;
 - (B) State the number of proposals solicited and received from both U.S. and foreign firms;
 - (C) Identify the proposed awardee and the amount of the contract;
 - (D) State that selection of the contractor was based on the evaluation factors contained in the solicitation, or the criteria contained in the broad agency announcement; and
 - (E) State that a U.S. firm cannot competently perform the effort at a price equal to, or less than, the price at which the foreign awardee would perform it.
- (ii) When either a broad agency announcement or program research and development announcement is used, or when the determination is otherwise not based on direct competition between foreign and domestic proposals, use one of the following approaches:
- (A) The determination shall specifically explain its basis, include a description of the method used to determine the competency of U.S. firms, and describe the cost or price analysis performed.
 - (B) Alternately, the determination may contain—
 - (1) A finding, including the basis for such finding, that the proposal was submitted solely in response to the terms of a broad agency announcement, program research and development announcement, or other solicitation document without any technical guidance from the program office; and
 - (2) A finding, including the basis for such finding, that disclosure of the information in the proposal for the purpose of conducting a competitive acquisition is prohibited.
- (iii) Within 30 days after contract award, forward a copy of the certification and supporting documentation to the Missile Defense Agency, ATTN: MDA/DRI, 7100 Defense Pentagon, Washington, DC 20301-7100.

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(Revised May 31, 2007)

PGI 225.72--REPORTING CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES

PGI 225.7203 Contracting officer distribution of reports.

Before contract award, forward a copy of any reports that are submitted with offers in accordance with the provision at 252.225-7003, Report of Intended Performance Outside the United States and Canada—Submission with Offer, to the Deputy Director of Defense Procurement and Acquisition Policy (Contract Policy and International Contracting), OUSD(AT&L)DPAP(CPIC), Washington, DC 20301-3060. This is necessary to satisfy the requirement of 10 U.S.C. 2410g that notifications (or copies) of contract performance outside the United States and Canada be maintained in compiled form for 5 years after the date of submission.

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(Revised May 31, 2007)

PGI 225.74—DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES

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

(a) If the acquisition requires performance of work in a foreign country by contractor personnel other than host country personnel (i.e., host country nationals or personnel ordinarily resident in the host country), or delivery of items to a Unified Combatant Command designated operational area, the contracting officer shall--

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

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

(B) May cause contractor personnel to be wrongly subjected to host country laws;

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

(iii) Follow the procedures at http://www.acq.osd.mil/dpap/contingency/areaof_responsibility.html, at the weblink for the Combatant Command for the area in which the contractor will be performing or delivering items;

(iv) To contact the overseas contracting office, access the link for the Combatant Command for the area in which the contractor will be performing or delivering items. From the Combatant Command website, link to the contracting office supporting the Combatant Command to identify the appropriate point of contact; and

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

CHECKLIST

The contracting officer shall verify that the requiring activity has considered the following, as applicable:

_____ (1) Whether the contemplated acquisition will duplicate or otherwise conflict with existing work being performed or items already provided in the area, and whether

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

economies of scope/schedule can be leveraged if there are already existing contracts in place for similar work or items.

- ____ (2) The applicability of any international agreements to the acquisition. (Some agreements may be classified and must be handled appropriately.)
- ____ (3) Whether there are any security requirements applicable to the area.
- ____ (4) Whether there are any requirements for use of foreign currencies, including applicability of U.S. holdings of excess foreign currencies.
- ____ (5) Information on taxes and duties from which the Government may be exempt.
- ____ (6) If the acquisition requires performance of work in the foreign country, whether there are standards of conduct for the prospective contractor and, if so, the consequences for violation of such standards of conduct.
- ____ (7) If applicable, the availability of logistical support for contractor employees.
- ____ (8) If the contractor will employ foreign workers, whether a waiver of the Defense Base Act will be required (see FAR 28.305).
- ____ (9) Whether contractor personnel will need authorization to carry weapons for the performance of the contract.
- ____ (10) If the contract will include the clause at DFARS 252.225-7040, Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States, the Government official authorized to receive DD Form 93, Record of Emergency Data Card, to enable the contracting officer to provide that information to the contractor, as required by paragraph (g) of the clause.
- ____ (11) Any other requirements of the website for the country in which the contract will be performed or the designated operational area to which deliveries will be made.

The contracting officer shall provide the following information to the applicable overseas contracting office (see PGI 225.7401(a)(iv)):

- ____ (1) The solicitation number, the estimated dollar value of the acquisition, and a brief description of the work to be performed or the items to be delivered.
- ____ (2) Notice of contract award, including contract number, dollar value, and a brief description of the work to be performed or the items to be delivered.

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

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

(c) For work performed in Japan or Korea, U.S.-Japan or U.S.-Korea bilateral agreements govern the status of contractors and employees, criminal jurisdiction, and taxation. U.S. Forces Japan (USFJ) and U.S. Forces Korea (USFK) are sub-unified commands of Pacific Command (PACOM). The PACOM Staff Judge Advocate contact information is available at <http://www.pacom.mil/staff/staff-spec.shtml>. Links to USFJ and USFK websites can be found at the PACOM website at <http://www.pacom.mil> by clicking on “Site Index” and then clicking on “Subordinate Commands”.

(i) For work performed in Japan—

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

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

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

(D) To ensure that the solicitation and resultant contract reflect an accurate description of available logistic support and application of the U.S.-Japan SOFA—

(1) Review the information on Contract Performance in Japan at the USFJ website, <http://www.usfj.mil>; or

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

(ii) For work performed in Korea—

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

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

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

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(D) To ensure that the solicitation and resultant contract reflect an accurate description of available logistic support and application of the U.S.-Korea SOFA, review the SOFA information at the USFK website at <http://www.usfk.mil/org/fkdc-sa/index.html>. Contact information for the Commander is also available at <http://www.usfk.mil/org/leadership/index.html?org/leadership/Contents/cmd.html>.

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

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

PGI 225.7402-3 Government support.

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

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

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(xiv) Laundry; and

(xv) Religious services.

(d) *Letter of Authorization.*

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

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

(iii) Sample LOA:

OFFICE SYMBOL

Date

MEMORANDUM FOR *[insert name and address of military organization with the authority to provide Government-provided support where the contractor employees will be deployed]*

SUBJECT: Contractor Letter of Authorization *[note: much of the information contained within this Memorandum is similar to the information contained in travel orders for Government personnel]*

1. The *[insert appropriate name of Government requiring activity, such as a program management office]*, in its capacity for providing support under Contract Number *[insert contract number]*, *[insert delivery or task order number if applicable]*, awarded *[insert award date]*; authorizes the *[insert company name]* employee identified below to proceed to the locations and for the timeframe indicated below. Travel being performed is necessary and in the public's service.

a. Name: *[insert employee's full name, including middle name. In addition, include the employee's GS grade equivalent].*

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

b. Home Address: *[insert complete street address, city, state, and zip code. Include a CONUS work e-mail address if available].*

c. Date of Birth: *[insert employee's birth date].*

d. Place of Birth: *[insert employee's birth place].*

e. Passport Number/Expiration Date: *[insert contractor employee's passport number and passport expiration date].*

f. Next of Kin: *[insert full name, along with contact information and individual's relationship].*

g. Job Title: *[insert company job title for employee].*

h. Equivalent GS grade: For purposes of determining what level of Government-provided support should be granted to contractor personnel, and for prisoner-of-war status, the individual named herein is equivalent to a *[for contractor non-supervisory positions insert GS-12. For contractor supervisory/managerial positions insert GS-13].*

i. Level of Clearance: *[insert individual's security clearance; if not applicable, insert N/A].*

j. Issuing Agency: *[insert complete name and address of Government contracting organization that awarded the contract for which this work is being performed].*

k. Countries to be visited: *[insert the countries to be visited in support of military operations].*

l. Purpose: *[provide a brief description of the contractor support being provided. This should not exceed three lines. If known, include what military organizations will be supported at the tactical level].*

m. Deployed Performance Period: *[provide the estimated deployed performance dates].*

2. Contractor Privileges: *[Note the following list is provided for sample purposes only. The contracting officer should not state the following list verbatim. Every contracting officer should prepare the LOA in accordance with those specific privileges that may be made available for contractor personnel in performance of the specific contract.]*

Request that this contractor employee be granted, subject to availability, access to or

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

the privileges defined below while temporarily deployed with *[insert military organization supporting]* on Contract Number *[insert contract number]*:

- a. Common Access Card (CAC), Geneva Convention Card (DD Form 489), and ration cards.
- b. *[Insert appropriate exchange name]* Exchange service facilities (includes rationed items).
- c. Military clothing sales for repair and replacement of issued equipment.
- d. Organizational clothing and individual equipment.
- e. Military banking facilities and Finance Accounting Office.
- f. Government transportation (i.e. aircraft, automobile, bus, train) for official Government business.
- g. Commissary (includes rationed items).
- h. Morale and welfare recreational facilities (e.g., clubs, movie theaters, gyms).
- i. Purchase of petroleum and oil products for rental and/or Government vehicles.
- j. Customs exemption.
- k. Emergency medical care.
- l. The following theater-specific immunizations that are not available to the general public: _____.
- m. Mess facilities.
- n. Quarters.
- o. Military postal service.
- p. Phone service.
- q. Laundry services.
- r. Religious services.

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

3. Travel Discount Rates: *[Insert full name of contract employee]*, the bearer of this letter, is an employee of *[insert company name]* which has a contract with this agency under Government contract *[insert contract number]*. During the period of this contract, *[insert performance period relating to deployment]*, and only if the vendor permits, the named bearer is eligible and authorized to use available travel discount rates in accordance with Government contracts and/or agreements. Government Contract City Pair fares are not available to Contractors.

4. Special Notice: Employees, including dependents residing with employees, employed by or accompanying the Armed Forces outside the United States, who engage in conduct outside the United States that would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, may potentially be subject to the criminal jurisdiction of the United States. See the Military Extraterritorial Jurisdiction Act of 2000 (18 U.S.C. 3261 et. seq., as amended by Section 1088 of the National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375)).

5. Points of Contacts (POC):

a. POC at *[insert contracting activity information]* is the undersigned. The undersigned can be reached at:

(1) DSN and Commercial *[insert phone numbers]*.

(2) E-mail *[insert unclassified e-mail address]*.

b. The Government requiring activity POC at *[insert requiring activity information]* is *[insert a requiring activity POC who will be familiar with the work being performed]*. The undersigned can be reached at:

(1) DSN and Commercial *[insert phone numbers]*.

(2) E-mail *[insert unclassified e-mail address]*.

c. Contracting Officer's Representative (COR) POC *[insert primary contract COR information. In addition to the primary COR, there may be a COR in the theater of operations.]*. The COR can be reached at:

(1) DSN and Commercial *[insert phone numbers]*.

(2) E-mail *[insert unclassified e-mail address]*.

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

6. Upon completion of the mission, the employee should make all attempts to return to the deployment processing center point of origin.

[The LOA is typically signed by the procuring contracting officer.]

CF: *[insert applicable addresses (i.e., PM for the individual specified in this order)]*

PGI 225.7402-4 Contract clauses.

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

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

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

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

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

PGI 225.7403 Antiterrorism/force protection.

PGI 225.7403-1 General.

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

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

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

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

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

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

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

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

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(Revised May 31, 2007)

PGI 225.76—SECONDARY ARAB BOYCOTT OF ISRAEL

PGI 225.7604 Waivers.

Forward waiver requests to the Director, Defense Procurement and Acquisition Policy,
ATTN: OUSD(AT&L)DPAP(CPIC), 3060 Defense Pentagon, Washington, DC 20301-3060.

DFARS Procedures, Guidance, and Information

PGI 229—Taxes

(Revised May 31, 2007)

PGI 229.1--GENERAL

PGI 229.101 Resolving tax problems.

(a) For the military departments, the Defense Logistics Agency, and the Defense Contract Management Agency, the members of the DFARS Tax Committee are the designated legal counsel for tax matters within their respective departments/agencies. A list of the members of the DFARS Tax Committee is available at <http://www.acq.osd.mil/dpap/dars/organization/darcommit.htm#Taxes>.

(b) Information on fuel excise taxes, including applicability, exemptions, and refunds, is available as follows:

(i) The Defense Energy Support Center website at www.desc.dla.mil provides information on Federal, State, and local excise taxes.

(ii) Internal Revenue Service Publications 510 and 378, available on the Internal Revenue Service website at www.irs.gov, provide information on Federal excise taxes.

(c) The contracting officer may direct the contractor to litigate the applicability of a particular tax if—

(i) The contract is either a cost-reimbursement type or a fixed-price type with a tax escalation clause such as FAR 52.229-4; and

(ii) The direction is coordinated with the DoD Tax Policy and Advisory Group through the agency-designated legal counsel.

(d)(i) Tax relief agreements between the United States and foreign governments in Europe that exempt the United States from payment of specific taxes on purchases made for common defense purposes are maintained by the United States European Command (USEUCOM). For further information, contact HQ USEUCOM, ATTN: ECLA, Unit 30400, Box 1000, APO AE 09128; Telephone: DSN 430-8001/7263, Commercial 49-0711-680-8001/7263; facsimile: 49-0711-680-5732.

(ii) Other international treaties may exempt the United States from the payment of specific taxes. The Department of State publishes a list of treaties on its website at www.state.gov.

(iii) Tax relief also may be available in countries that have not signed tax relief agreements. The potential for such relief should be explored in accordance with paragraph (d)(iv) of this section.

DFARS Procedures, Guidance, and Information

PGI 229—Taxes

(iv) DoD Directive 5100.64, DoD Foreign Tax Relief Program, defines DoD tax relief policy and requires designation of a military commander as the single point of contact for investigation and resolution of specific matters related to the foreign tax relief program within the country for which the commander is designated. Those military commanders are the same as the ones designated under DoD Directive 5525.1, Status of Forces Policy and Information, and specified in Appendix C of Army Regulation 27-50/SECNAVINST 5820.4G, Status of Forces Policies, Procedures, and Information.

(A) DoD Directive 5100.64 is available at <http://www.dtic.mil/whs/directives/corres/html/510064.htm>.

(B) DoD Directive 5525.1 is available at <http://www.dtic.mil/whs/directives/corres/html/552501.htm>.

(C) Appendix C of Army Regulation 27-50/SECNAVINST 5820.4G is available at http://www.army.mil/usapa/epubs/xml_pubs/r27_50/main.xml#appc.

(v) Also see PGI 229.70 for special procedures for obtaining tax relief and duty-free import privileges when conducting U.S. Government acquisitions in certain foreign countries.

PGI 229.170 Reporting of foreign taxation on U.S. assistance programs.

PGI 229.170-3 Reports.

(1) Upon receipt of a notification under the clause at DFARS 252.229-7011, that a foreign tax has been imposed, submit the following information to the applicable office identified in paragraph (2) of this subsection.

- (i) Contractor name.
- (ii) Contract number.
- (iii) Contractor point of contact (Name, phone number, FAX number, and e-mail address).
- (iv) Amount of foreign taxes assessed by each foreign government.
- (v) Amount of any foreign taxes reimbursed by each foreign government.

(2) Submit the information required by paragraph (1) of this subsection to—

- (i) For Army contracts:

DFARS Procedures, Guidance, and Information

PGI 229—Taxes

Commander, U.S. Army Security Assistance Command
ATTN: AMSAC-SR
5701 21st Street
Fort Belvoir, VA 22060-5940.

(ii) For Navy contracts:

Navy International Programs Office
ATTN: IPO 02C2F
Nebraska Avenue Complex
4255 Mt. Vernon Dr., Suite 17100
Washington, DC 20393-5445.

(iii) For Air Force contracts:

Secretary of the Air Force/International Affairs
ATTN: SAF/IAPC
1080 Air Force, Pentagon
Washington, DC 20330-1080.

(iv) For Marine Corps contracts:

Navy International Programs Office
ATTN: IPO 02C2F
Nebraska Avenue Complex
4255 Mt. Vernon Dr., Suite 17100
Washington, DC 20393-5445.

(v) For all other DoD contracts:

Defense Security Cooperation Agency
ATTN: DBO-CFD
201 12th Street South, Suite 203
Arlington, VA 22202-5408.