

DFARS Procedures, Guidance, and Information

PGI 201—Federal Acquisition Regulations System

(Added June 26, 2015)

PGI 201.3—AGENCY ACQUISITION REGULATIONS

PGI 201.301 Policy.

(b)(i) Contract clauses and solicitation provisions developed by departments and agencies (local clauses) that constitute a significant revision, as defined at FAR 1.501-1, shall be—

(A) Published for public comment in the Federal Register in accordance with FAR 1.501 and DFARS [201.501](#); and

(B) Approved in accordance with DFARS [201.304](#).

(ii) A local clause is considered a significant revision, as defined at FAR 1.501-1, if the clause—

(A) Contains a new certification requirement for contractors or offerors that is not imposed by statute (see FAR 1.107 and DFARS [201.107](#) and [201.304\(2\)](#));

(B) Constitutes a deviation (as defined at FAR 1.401) from the parts and subparts identified at DFARS [201.402\(1\)](#); or

(C) Will be used on a repetitive basis; and

(1) Imposes a new requirement for the collection of information from 10 or more members of the public (see FAR 1.106); or

(2) Has any cost or administrative impact on contractors or offerors beyond that contained in the FAR or DFARS.

(iii) A local clause is not considered a significant revision as defined at FAR 1.501-1, if the clause—

(A) Is for a single-use intended to meet the needs of an individual acquisition (e.g. a clause developed as a result of negotiations and documented in the business clearance or similar document), except for clauses that constitute a deviation (as defined at FAR 1.401) from the parts and subparts identified at DFARS [201.402\(1\)](#); or

(B) May be used on a repetitive basis and has no new or additional cost or administrative impact on contractors or offerors beyond any cost or administrative impact contained in existing FAR or DFARS coverage.

PGI 201.304 Agency control and compliance procedures.

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(4) Plans for controlling the use of clauses or provisions other than those prescribed by the FAR or DFARS (local clauses), as required by DFARS [201.304](#)(4), shall include procedures to ensure, prior to use in solicitations or contracts, that a local clause—

(A) Is evaluated to determine whether the local clause constitutes a significant revision (see [201.301](#)(b));

(B) Is numbered in accordance with FAR 52.1 and DFARS [252.1](#) (see [252.103](#));

(C) Is accompanied by a prescription in the appropriate part and subpart of the department or agency FAR supplement where the subject matter of the clause receives its primary treatment; and

(D) If a local clause constitutes a significant revision—

(1) Is published for public comment in the Federal Register in accordance with FAR 1.501 and DFARS [201.501](#);

(2) Complies with the Paperwork Reduction Act 1980 (44 USC chapter 35), in accordance with FAR 1.106 and 1.301;

(3) Complies with the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), in accordance with FAR 1.301; and

(4) Is approved in accordance with DFARS [201.304](#).

(5)(A) Prior to publication for public comment in the Federal Register of a local clause that constitutes a significant revision (see [201.301](#)(b)), departments and agencies shall submit, in accordance with agency procedures, the following information to the Director, Defense Acquisition Regulation (DAR) Council:

(1) The name of the requesting department or agency.

(2) The name, email address and phone number of the point of contract for the local clause and the department or agency clause control point of contact.

(3) A detailed rationale for the request, to include—

(i) Why existing FAR or DFARS clauses or provisions do not satisfy, or could not be tailored to meet, the department or agency's needs;

(ii) What contracting problem or situation will be avoided, corrected, or improved if the local clause is approved; and

(iii) Identification of other DoD Components that have expressed interest in use of the clause for consideration for incorporation into the DFARS.

(4) The draft rule to be published in the Federal Register to solicit public comments on the proposal to amend the department and agency's chapter of Title 48 of the Code of Federal Regulations (CFR) to incorporate the local clause.

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(5) The initial regulatory flexibility analysis. For additional information on the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) see Appendix 8 of the FAR Operating Guide accessible via the Defense Acquisition Regulation System (DARS) website at <http://www.acq.osd.mil/dpap/dars/about.html>.

(6) If applicable, the request package to be submitted to the Office of Management and Budget for any new information collection requirement imposed by the local clause. For additional information on the Paperwork Reduction Act (44 USC Chapter 35) see Appendix 9 of the FAR Operating Guide accessible via the DARS website at <http://www.acq.osd.mil/dpap/dars/about.html>.

(7) Evidence of coordination with the department or agency's legal counsel.

(8) Evidence of coordination with the appropriate stakeholders (e.g., Chief Information Officer, Office of Small Business Programs, etc.).

(B) The Director, DAR Council, shall—

(1) Determine whether the local clause unnecessarily duplicates coverage currently contained within the FAR or DFARS;

(2) Determine whether the local clause constitutes a deviation from the FAR or DFARS (see FAR 1.401) and requires approval in accordance with DFARS [201.4](#);

(3) Coordinate the local clause with the appropriate stakeholders;

(4) Coordinate local clauses, as appropriate, with the DAR Council for consideration of the local clause for incorporation in the DFARS; and

(5) Provide recommendations regarding the local clause package.

(C) Requests for Director, Defense Procurement and Acquisition Policy (DPAP), approval of local clauses that have been published for public comment in the Federal Register, submitted through the Director, DAR Council, in accordance with DFARS [201.301\(b\)](#), shall include the following:

(1) A memorandum requesting Director, DPAP, approval of the local clause.

(2) A copy of the notice of the rule published in the Federal Register.

(3) A copy of all public comments received in response to the Federal Register notice.

(4) An analysis of, and responses to, any public comments received.

(5) The draft final rule to be published in the Federal Register to amend the department or agency's chapter of Title 48 of the CFR to incorporate the local clause.

(6) The final regulatory flexibility analysis. For additional information on the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) see Appendix 8 of the FAR Operating Guide accessible via the DARS website at <http://www.acq.osd.mil/dpap/dars/about.html>.

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(7) If applicable, a copy of the Office of Management and Budget's approval of any new information collection requirement imposed by the local clause. For additional information on the Paperwork Reduction Act (44 USC chapter 35) see Appendix 9 of the FAR Operating Guide accessible via the DARS website at <http://www.acq.osd.mil/dpap/dars/about.html>.

(8) Evidence of coordination with the department or agency's legal counsel.

(9) Evidence of coordination with the appropriate stakeholders (e.g., Chief Information Officer, Office of Small Business Programs, etc.).

(10) A copy of any initial recommendations received from the Director, DAR Council on the proposed rule.

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PGI 207.1—ACQUISITION PLANS

PGI 207.103 Agency-head responsibilities.

(h) Submit acquisition plans for procurement of conventional ammunition to—

Program Executive Officer, Ammunition
ATTN: SFAE-AMO
Building 171
Picatinny Arsenal, NJ 07806-5000

Telephone: Commercial (973) 724-7101; DSN 880-7101.

PGI 207.105 Contents of written acquisition plans.

For acquisitions covered by DFARS [207.103](#)(d)(i)(A) and (B), correlate the plan to the DoD Future Years Defense Program, applicable budget submissions, and the decision coordinating paper/program memorandum, as appropriate. It is incumbent upon the planner to coordinate the plan with all those who have a responsibility for the development, management, or administration of the acquisition. The acquisition plan should be provided to the contract administration organization to facilitate resource allocation and planning for the evaluation, identification, and management of contractor performance risk.

(a) *Acquisition background and objectives.*

(1) *Statement of need.* Include—

(A) Applicability of an acquisition decision document, a milestone decision review, or a service review, as appropriate.

(B) The date approval for operational use has been or will be obtained. If waivers are requested, describe the need for the waivers.

(C) A milestone chart depicting the acquisition objectives.

(D) Milestones for updating the acquisition plan. Indicate when the plan will be updated. Program managers should schedule updates to coincide with DAB reviews and the transition from one phase to another (e.g., system development and demonstration to production and deployment).

(E) *Supplies and services.* To determine if acquisitions for supplies or services are covered by DFARS [208.7](#), acquisition officials shall use the AbilityOne

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Program Procurement List published by the Committee for Purchase From People Who Are Blind or Severely Disabled at http://www.abilityone.gov/procurement_list/index.html (see FAR Part 8.7).

(3)(i) Life-cycle cost. When acquiring tents or other temporary structures, consider total life-cycle costs in accordance with DFARS [215.101](#).

(8) *Acquisition streamlining*. See DoDD 5000.1, The Defense Acquisition System, and the Defense Acquisition Guidebook at <http://akss.dau.mil/dag/>.

(b) *Plan of action*.

(2) *Competition*. For information on various approaches that may be used to competitively fulfill DoD requirements, see the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics [Guidelines for Creating and Maintaining a Competitive Environment for Supplies and Services in the Department of Defense](#).

(4) *Acquisition considerations*. When supplies or services will be acquired by placing an order under a non-DoD contract (e.g., a Federal Supply Schedule contract), regardless of whether the order is placed by DoD or by another agency on behalf of DoD, address the method of ensuring that the order will be consistent with DoD statutory and regulatory requirements applicable to the acquisition and the requirements for use of DoD appropriated funds.

(5) *Budgeting and funding*. Include specific references to budget line items and program elements, where applicable, estimated production unit cost, and the total cost for remaining production.

(6) *Product or service descriptions*. For development acquisitions, describe the market research undertaken to identify commercial items, commercial items with modifications, or nondevelopmental items (see FAR Part 10) that could satisfy the acquisition objectives.

(13) *Logistics considerations*.

(i) Describe the extent of integrated logistics support planning, including total life cycle system management and performance-based logistics. Reference approved plans.

(ii) Discuss the mission profile, reliability, and maintainability (R&M) program plan, R&M predictions, redundancy, qualified parts lists, parts and material qualification, R&M requirements imposed on vendors, failure analysis, corrective action and feedback, and R&M design reviews and trade-off studies. Also discuss corrosion prevention and mitigation plans.

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(iii) For all acquisitions, see Subpart [227.71](#) regarding technical data and associated license rights, and Subpart [227.72](#) regarding computer software and associated license rights. For acquisitions involving major weapon systems and subsystems of major weapon systems, see the additional requirements at DFARS [207.106](#)(S-70).

(iv) See DoD 4120.24-M, Defense Standardization Program (DSP) Policies and Procedures.

(S-70) Describe the extent of Computer-Aided Acquisition and Logistics Support (CALs) implementation (see MIL-STD-1840C, Automated Interchange of Technical Information).

(16) *Environmental and energy conservation objectives.*

(i) Discuss actions taken to ensure either elimination of or authorization to use class I ozone-depleting chemicals and substances (see DFARS Subpart [223.8](#)).

(ii) Ensure compliance with DoDI 4715.4, Pollution Prevention.

(20) *Other considerations.*

(A) National Technology and Industrial Base. For major defense acquisition programs, address the following (10 U.S.C. 2506)—

(1) An analysis of the capabilities of the national technology and industrial base to develop, produce, maintain, and support such program, including consideration of the following factors related to foreign dependency (10 U.S.C. 2505)—

(i) The availability of essential raw materials, special alloys, composite materials, components, tooling, and production test equipment for the sustained production of systems fully capable of meeting the performance objectives established for those systems; the uninterrupted maintenance and repair of such systems; and the sustained operation of such systems.

(ii) The identification of items specified in paragraph (b)(19)(A)(1)(i) of this section that are available only from sources outside the national technology and industrial base.

(iii) The availability of alternatives for obtaining such items from within the national technology and industrial base if such items become unavailable from sources outside the national technology and industrial base; and an analysis of any military vulnerability that could result from the lack of reasonable alternatives.

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(iv) The effects on the national technology and industrial base that result from foreign acquisition of firms in the United States.

(2) Consideration of requirements for efficient manufacture during the design and production of the systems to be procured under the program.

(3) The use of advanced manufacturing technology, processes, and systems during the research and development phase and the production phase of the program.

(4) To the maximum extent practicable, the use of contract solicitations that encourage competing offerors to acquire, for use in the performance of the contract, modern technology, production equipment, and production systems (including hardware and software) that increase the productivity of the offerors and reduce the life-cycle costs.

(5) Methods to encourage investment by U.S. domestic sources in advanced manufacturing technology production equipment and processes through—

(i) Recognition of the contractor's investment in advanced manufacturing technology production equipment, processes, and organization of work systems that build on workers' skill and experience, and work force skill development in the development of the contract objective; and

(ii) Increased emphasis in source selection on the efficiency of production.

(6) Expanded use of commercial manufacturing processes rather than processes specified by DoD.

(7) Elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under DoD contracts.

(8) Expanded use of commercial items, commercial items with modifications, or to the extent commercial items are not available, nondevelopmental items (see FAR Part 10).

(9) Acquisition of major weapon systems as commercial items (see DFARS Subpart [234.70](#)).

(B) Industrial Capability (IC).

(1) Provide the program's IC strategy that assesses the capability of the U.S. industrial base to achieve identified surge and mobilization goals. If no IC strategy has been developed, provide supporting rationale for this position.

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(2) If, in the IC strategy, the development of a detailed IC plan was determined to be applicable, include the plan by text or by reference. If the development of the IC plan was determined not to be applicable, summarize the details of the analysis forming the basis of this decision.

(3) If the program involves peacetime and wartime hardware configurations that are supported by logistics support plans, identify their impact on the IC plan.

(C) Special considerations for acquisition planning for crisis situations. Ensure that the requirements of DoD Instruction 1100.22, Policy and Procedures for Determining Workforce Mix, are addressed. Also—

(1) Acquisition planning must consider whether a contract is likely to be performed in crisis situations outside the United States and must develop appropriately detailed measures for inclusion in the contract. Combatant commanders establish operational plans identifying essential services that must continue during crisis. DoDI 1100.22 requires Combatant Commanders to develop contingency plans if they have a reasonable doubt that a contractor will continue to provide essential services during a mobilization or crisis. When planning the acquisition, consider these operational plans and the resources available to carry out these plans.

(2) During acquisition planning, identify which services have been declared so essential that they must continue during a crisis situation. A best practice is to create a separate section, paragraph, line, or other designation in the contract for these essential services so they can be tracked to an option or separate contract line item.

(3) The requirements for the contractor written plan for continuity of essential services and the criteria for assessing the sufficiency of the plan will be determined/tailored for each acquisition of essential services by the contracting officer in coordination with the functional manager. The contractor's written plan, including prices/cost, shall be considered and evaluated in conjunction with the technical evaluation of offers.

(4) Operational-specific contractor policies and requirements resulting from combatant commander “integrated planning” will be described in operation plans (OPLAN), operation orders (OPORD) or separate annexes, and must be incorporated into applicable contracts. The plans may include rules for theater entry, country clearance, use of weapons, living on-base, etc. Therefore, the requiring activity is responsible for obtaining pertinent OPLANS, OPORDs, and annexes (or unclassified extracts) from the affected combatant command or military service element or component and for ensuring that the contract is consistent with the theater OPLAN and OPORD.

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(5) Ask the requiring activity to confirm that the appropriate personnel department has determined that inherently Governmental functions are not included in the contract requirements. If contract services will become inherently Governmental during a time of crisis, ensure that the contract states that work will be removed from the contract (temporarily or permanently) upon the occurrence of a triggering event (specified in the contract) or upon notice from the contracting officer that informs the contractor when its responsibility to perform affected duties will stop or restart. The contract should require the contractor to have a plan for restarting performance after the crisis ends.

(6) If the combatant commander's contingency plan requires military members to replace contractor employees during a crisis or contingency, acquisition planning must consider whether the contract should require the contractor to train military members to do that.

(7) For acquisitions that have or may have some portion of delivery of items or performance in a foreign country, address considerations and requirements set forth in DFARS [225.370](#), Contracts requiring performance or delivery in a foreign country; [225.371](#), Contractor personnel supporting U.S. Armed Forces deployed outside the United States; [225.372](#), Antiterrorism/force protection, and [225.373](#), Contract administration in support of contingency operations.

(8) Contract administration planning considerations for contracts in support of contingency operations.

(i) When delegation of contract administration services to a contracting officer located in a different geographic area to support a contract for the delivery of items or performance in a joint operations area will or may occur, address the resourcing of contract administration and oversight personnel, including administrative contracting officers, quality assurance specialists, contract administrators, property administrators, and contracting officers' representatives.

(ii) If contract delivery of items or performance in support of contingency operations will or may occur in an austere, uncertain, or hostile environment, address the need for logistics support of contract administration and oversight personnel.

(iii) When some portion of contract delivery of items or performance may take place in a contingency area, address pertinent combatant commander or joint force commander requirements and considerations for contract administration. Such requirements will be maintained on the particular combatant commander operational contract support website, http://www.acq.osd.mil/dpap/pacc/cc/areas_of_responsibility.html.

(iv) When contracts are awarded for performance in a contingency area, the head of the contracting activity is responsible for planning to ensure that contingency contracts will be closed in a timely manner considering personnel turnover and

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preaward, contract administration, and other contracting workload. A plan for reachback support of contract closeouts should be included, if required.

(9) For contracts that will incorporate the clause at DFARS [252.225-7040](#), Contractor Personnel Supporting U.S. Armed Forces Deployed Outside the United States, in accordance with DFARS [225.371-5\(a\)](#), or otherwise require accountability for contractor personnel, consider the requirements and resources necessary for both the Government and contractor to keep the Synchronized Predeployment and Operational Tracker (SPOT) current in accordance with the SPOT business rules available at the website provided at <http://www.acq.osd.mil/log/PS/spot.html>.

(10) For contracts that will incorporate the clause at FAR 52.222-50, Combating Trafficking in Persons, consider the requirements and resources necessary for both the Government and contractor to implement and maintain compliance with Federal and DoD trafficking in persons requirements, including [PGI 222.1703](#).

(D) CONUS Antiterrorism Considerations. For acquisitions that require services to be delivered to or performed on a DoD installation, DoD occupied space, ship, or aircraft, ensure that the requirements of DoD Instruction 2000.16, DoD Antiterrorism Standards, are addressed. DoD Instruction 2000.16 is available at the Washington Headquarters Services website at <http://www.dtic.mil/whs/directives/>.

(1) Acquisition planning must consider antiterrorism (AT) measures when the effort to be contracted could affect the security of operating forces, particularly in-transit forces. Contracting officers must work closely with Antiterrorism Officers (ATOs) and legal advisors to ensure that AT security considerations are properly and legally incorporated into the acquisition planning process. Consider AT performance as an evaluation factor for award (past performance and proposed performance under the instant contract), and as a performance metric under the resultant contract.

(2) The geographic Combatant Commander's AT policies take precedence over all AT policies or programs of any DoD component operating or existing in that command's area of responsibility. These policies, in conjunction with area specific AT security guidance, form the core of AT security criteria which shall be applied to all contracts as a baseline. The ATO has access to the Joint Staff's Antiterrorism Enterprise Portal on the NIPRNET, <https://atep.dtic.mil/portal/site/atep/> a password-protected integrated interface for current and planned AT tools. Coordinate with the ATO to incorporate AT security considerations into the contracting process, including suggestions for specific AT security measures that should be employed. At a minimum—

(i) Consider AT Risk Assessment results when developing alternative solutions to contract requirements that will mitigate security risks. The impact of local security measures on contract performance and possible contract performance outcomes

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that could improve or leverage local security measures should be considered when selecting among alternative contract performance requirements.

(ii) Antiterrorism procedures incorporate random schedules, access, and/or search requirements. There also may be frequent changes in the local threat level. Consider the impact of these practices when developing performance work statements and special contracting requirements, especially those related to site access controls.

(iii) Consider the need for contractor personnel screening requirements to be met prior to commencing work under the contract. The contracting officer should notify the ATO prior to the start of contract performance to ensure all required AT security measures are in place.

(iv) Performance work statements should be written with the understanding that the need for and level of AT measures may change during contract performance. Performance work statements should provide for the conduct of periodic inspections to ensure adherence to access control procedures. Consider the need for reviewing contract AT measures if the local threat changes and/or if contract terms or requirements change.

(E) Software and software maintenance. When acquiring software or software maintenance, see DFARS [212.212](#).

(F) *Procurement Support for Theater Security Cooperation Efforts*. When planning procurement support for theater security cooperation efforts (e.g., military exercises/training, base operations, weapons procurement, aviation fuels, construction, or the President's Emergency Plan for Aids Relief projects), planners should be aware that Department of State (DoS) missions (embassies and consulates) do not provide such contracting support; however, these missions can provide support for routine, non-complex services and supplies used by U.S. Government personnel, even if funded with foreign-military-sales case money (see DFARS [PGI 225.78](#)). Planners shall take the following steps:

(1) Become familiar with DoS Cable 11 STATE 030953, "Procurement Roles and Responsibilities – General Services Officer and DoD Personnel" (see also DFARS [PGI 225.78](#)).

(2) Request general guidance from the combatant-command coordinator on past practices in the particular location for which procurement support is to be requested;

(3) Contact the Defense Attaché Office and/or General Services Officer (normally the embassy/consulate contracting officer) at the DoS mission at least 60 days prior to the requirement, or as soon as practicable, to obtain information on—

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(i) Availability of, and procedures associated with, requesting DoS mission procurement support;

(ii) Local sources of supplies and services; and

(iii) Business payment practices to support DoD procurement of specific theater security cooperation procurement requirements.

(4) Ascertain whether payment support is available from the DoS mission.

(5) When DoS contracting support is determined to be unavailable or not allowed, ensure the party of DoD military and/or civilians deploying to support the particular Theater Security Cooperation effort either pre-arranges DoD contracting support through reach-back, if possible, or if necessary, includes a warranted contracting officer, field-ordering officer, or credit-card holder, and, if necessary, a paying agent.

PGI 207.171 Component breakout.

PGI 207.171-4 Procedures.

(1) *Responsibility.*

(i) Agencies are responsible for ensuring that—

(A) Breakout reviews are performed on components meeting the criteria in DFARS [207.171-3](#)(a) and (b);

(B) Components susceptible to breakout are earmarked for consideration in future acquisitions;

(C) Components earmarked for breakout are considered during requirements determination and appropriate decisions are made; and

(D) Components are broken out when required.

(ii) The program manager or other official responsible for the material program concerned is responsible for breakout selection, review, and decision.

(iii) The contracting officer or buyer and other specialists (e.g., small business specialist, engineering, production, logistics, and maintenance) support the program manager in implementing the breakout program.

(2) *Breakout review and decision.*

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(i) A breakout review and decision includes—

(A) An assessment of the potential risks to the end item from possibilities such as delayed delivery and reduced reliability of the component;

(B) A calculation of estimated net cost savings (i.e., estimated acquisition savings less any offsetting costs); and

(C) An analysis of the technical, operational, logistics, and administrative factors involved.

(ii) The decision must be supported by adequate explanatory information, including an assessment by the end item contractor when feasible.

(iii) The following questions should be used in the decision process:

(A) Is the end item contractor likely to do further design or engineering effort on the component?

(B) Is a suitable data package available with rights to use it for Government acquisition? (Note that breakout may be warranted even though competitive acquisition is not possible.)

(C) Can any quality control and reliability problems of the component be resolved without requiring effort by the end item contractor?

(D) Will the component require further technical support (e.g., development of specifications, testing requirements, or quality assurance requirements)? If so, does the Government have the resources (manpower, technical competence, facilities, etc.) to provide such support? Or, can the support be obtained from the end item contractor (even though the component is broken out) or other source?

(E) Will breakout impair logistics support (e.g., by jeopardizing standardization of components)?

(F) Will breakout unduly fragment administration, management, or performance of the end item contract (e.g., by complicating production scheduling or preventing identification of responsibility for end item failure caused by a defective component)?

(G) Can breakout be accomplished without jeopardizing delivery requirements of the end item?

(H) If a decision is made to break out a component, can advance acquisition funds be made available to provide the new source any necessary additional lead time?

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(I) Is there a source other than the present manufacturer capable of supplying the component?

(J) Has the component been (or is it going to be) acquired directly by the Government as a support item in the supply system or as Government-furnished equipment in other end items?

(K) Will the financial risks and other responsibilities assumed by the Government after breakout be acceptable?

(L) Will breakout result in substantial net cost savings? Develop estimates of probable savings in cost considering all offsetting costs such as increases in the cost of requirements determination and control, contracting, contract administration, data package purchase, material inspection, qualification or preproduction testing, ground support and test equipment, transportation, security, storage, distribution, and technical support.

(iv) If answers to the questions reveal conditions unfavorable to breakout, the program manager should explore whether the unfavorable conditions can be eliminated. For example, where adequate technical support is not available from Government resources, consider contracting for the necessary services from the end item contractor or other qualified source.

(3) *Records.*

(i) The contracting activity shall maintain records on components reviewed for breakout. Records should evidence whether the components—

(A) Have no potential for breakout;

(B) Have been earmarked as potential breakout candidates; or

(C) Have been, or will be, broken out.

(ii) The program manager or other designated official must sign the records.

(iii) Records must reflect the facts and conditions of the case, including any assessment by the contractor, and the basis for the decision. The records must contain the assessments, calculations, and analyses discussed in paragraph 2 of this section, including the trade-off analysis between savings and increased risk to the Government because of responsibility for Government-furnished equipment.

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PGI 218—Emergency Acquisitions

(Revised June 26, 2015)

PGI 218.2—EMERGENCY ACQUISITION FLEXIBILITIES

PGI 218.272 Use of electronic business tools.

(a) Use of electronic business (e-business) acquisition tools greatly enhances the efficacy of the contracting process in a contingency business environment (CBE). The CBE involves specific tools, policies, roles and responsibilities, and processes necessary to streamline delivery of goods and services to the end user and to implement an e-business program with the capabilities necessary to support an end-to-end electronic acquisition process in order to quickly obtain goods and services for the warfighter in an operational area. For information and procedures to effectively utilize CBE e-business tools, and additional policy references supporting use of the e-business tools, see the DoD CBE Guidebook at http://www.acq.osd.mil/dpap/pacc/cc/docs/CBE_Guidebook.docx.

(b) Use of the following CBE e-business tools is mandatory when supporting a contingency or humanitarian or peacekeeping operation as defined in FAR 2.101:

(1) The 3in1 Tool. The 3in1 Tool automates the field order, receipt, and purchase processes previously executed manually using the paper Standard Form (SF) 44. The 3in1 handheld device records and transmits cash and carry type purchases and payment data to the prime database for remote reconciliation and review, when conducting on-the-spot, over-the-counter field purchases where use of the Government Purchase Card is appropriate, but not feasible. The 3in1 database may be accessed on the Joint Contingency Contracting Systems (JCCS) website at <https://www.jccs.gov/olvr/>.

(2) The Acquisition Cross-Servicing Agreements (ACSA) Global Automated Tracking and Reporting System (AGATRS). AGATRS is an automated tool that tracks and provides visibility into worldwide ACSAs that may satisfy a requirement through support from the host nation or other nations supporting the contingency. ACSA transactions that are used in support of contingency or humanitarian or peacekeeping operations are required to be documented and tracked in AGATRS as required by the Chairman of the Joint Chiefs of Staff Instruction 2120.01C, Acquisition Cross Servicing Agreements (http://dtic.mil/cjcs_directives/cdata/unlimit/2120_01.pdf). AGATRS is accessible on the JCCS website at <https://www.jccs.gov/olvr/>.

(c) No other electronic tools may be used to fulfill the same capabilities as 3in1 and AGATRS.

(d) See [PGI 225.370](#)(a)(ii) regarding use of the Theater Business Clearance CBE e-business tool.

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PGI 222—Labor Laws

(Revised June 26, 2015)

PGI 222.17—COMBATING TRAFFICKING IN PERSONS

For a sample checklist for auditing compliance with Combating Trafficking in Persons policy, click [here](#).

PGI 222.1703 Policy.

(1) The Office of the Under Secretary of Defense for Personnel and Readiness(OUSDP&R)) is responsible for developing overall guidance on personnel policy issues relating to Combating Trafficking in Persons (CTIP). The DoD CTIP website is <http://ctip.defense.gov/>. The website includes DoD policy on CTIP, CTIP training information, and links to the National TIP hotline, the DoD IG website, the Department of State Office to Monitor and Combat Trafficking in Persons, and other Government and non-Government organization websites.

(2) Department of Defense Instruction 2200.01, reissued September 15, 2010, entitled Combating Trafficking in Persons, (located at <http://www.dtic.mil/whs/directives/corres/pdf/220001p.pdf>), requires the incorporation of terms and conditions in contracts performed either inside or outside the United States that—

(i) Prohibit any activities on the part of contractor employees that support or promote trafficking in persons; and

(ii) Impose suitable penalties on contractors who fail to monitor the conduct of their employees.

(3) DoD Instruction 5525.11, Criminal Jurisdiction Over Civilians Employed By or Accompanying the Armed Forces Outside the United States, Certain Service Members, and Former Service Members, dated March 3, 2005, located at <http://www.dtic.mil/whs/directives/corres/pdf/552511p.pdf>, and as supplemented by Directive-Type Memorandum 09-015 at <http://www.dtic.mil/whs/directives/corres/pdf/DTM-09-015.pdf>, implements policies and procedures, and assigns responsibilities, under the Military Extraterritorial Jurisdiction Act of 2000, as amended by section 1088 of the National Defense Authorization Act for Fiscal Year 2005, for exercising extraterritorial criminal jurisdiction over certain current and former members of the U.S. Armed Forces, and over civilians employed by or accompanying the U.S. Armed Forces outside the United States.

(4) Quality assurance surveillance plans (QASPs) that are developed in accordance with DFARS [237.172](#) should appropriately describe how the contracting officer's representative will monitor the contractor's performance regarding trafficking in

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persons such that non-compliance with FAR clause 52.222-50, Combating Trafficking in Persons, is brought to the immediate attention of the contracting officer.

(5) PD2 users shall not use system overrides or other administrative methods of developing clauses for use in PD2-generated contracts to avoid the inclusion of the clause at FAR 52.222-50, with its Alternate I, if appropriate, in solicitations and contracts.

(6) The contracting officer shall rely on the requiring activity to ascertain the existence of any additional Geographic Combatant Commander's (GCC's)/Subordinate Joint Force Commander, Trafficking In Persons, Directives or Notices, as required under [PGI 225.370](#), checklist item #12, that would require the use of Alternate I with the clause at FAR 52.222-50, Combating Trafficking in Persons, as required by FAR 22.1705 for contracts performed outside the United States. The webpage is provided at http://www.acq.osd.mil/dpap/pacc/cc/areas_of_responsibility.html and by clicking on the pertinent GCC Area of Responsibility.

PGI 222.1704 Violations and remedies.

(1) If the contracting officer receives information indicating that the contractor, a contractor employee, a subcontractor, or a subcontractor employee has failed to comply with the requirements of the clause at FAR 52.222-50, the contracting officer shall—

(i) Through the contracting officer's local commander or other designated representative, immediately notify the Combatant Commander responsible for the geographical area in which the incident has occurred; and

(ii) Provide information for any investigation and enforcement to—

Program Manager
DoD CTIP Policy and Programs Support
OUSD(P&R) DHRA
4800 Mark Center Dr. Suite 06J25-01
Alexandria, VA 22350-4000

(2) Reports may be made to the DoD Inspector General Hotline at <http://www.dodig.mil/hotline/> or 800-424-9098, first and foremost.

(3) Reports also may be made to the Program Manager on-line at <http://ctip.defense.gov/> or by e-mail to ctipreports@osd.pentagon.mil.

(4) Reports also may be made to the National CTIP Hotline at 1-888-373-7888 or to the CTIP Hotline website at <http://www.polarisproject.org/>.

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(Added June 26, 2015)

225.3 CONTRACTS PERFORMED OUTSIDE THE UNITED STATES

PGI 225.370 Contracts requiring performance or delivery in a foreign country.

(a) If the acquisition requires the performance of services or delivery of supplies in an area outside the United States, 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 a contract that does not reflect the respective support relationships between the contractor and the Government, ultimately affecting the ability of the contractor to fulfill the contract terms and conditions;

(B) May result in unplanned support burdens being placed on the Government in a theater of operations;

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

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

(ii) Comply with any theater business clearance and contract administration delegation requirements set forth in memorandum ([click here](#)) entitled Theater Business Clearance/Contract Administration Delegation Update—Integration of TBC with the Joint Contingency Contracting System Platform (which must be consistent with the combat support agency's established functions and responsibilities) and set forth by the geographic combatant commander during declared contingency operations for all solicitations and contracts that relate to the delivery of supplies and services to the designated area(s) of operation.

(A) Theater business clearance ensures—

(1) Contracted effort to be accomplished in designated area(s) of operations, along with any associated contractor personnel, is visible to the combatant commander;

(2) Contracted effort is in consonance with in-country commanders' plans;

(3) Solicitations and contracts contain appropriate terms and conditions;

(4) Contracted effort will be properly overseen in designated area(s) of operation;

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(5) Any Government-furnished support requirements associated with contractor personnel are properly addressed in the contract terms and conditions.

(B) Contract administration delegation—

(1) Allows the combatant commander to exercise control over the assignment of contract administration (which must be consistent with the combat support agency's established functions and responsibilities) for that portion of contracted effort that relates to performance in, or delivery to, designated area(s) of operation.

(2) Allows the combatant commander to exercise oversight to ensure the contractor's compliance with combatant commander and subordinate task force commander policies, directives, and terms and conditions;

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

(iv) Follow specific guidance for the combatant command in whose area the contractor will be performing services or delivering supplies. This guidance is contained on the respective combatant commander's operational contract support webpage, which is linked to the procedures at http://www.acq.osd.mil/dpap/pacc/cc/areas_of_responsibility.html, at the weblink for the combatant command for the area in which the contractor will be performing services or delivering items. These pages list prevailing regulations, policies, requirements, host nation laws, orders/fragmentary orders, combatant commander's directives, unique clauses, and other considerations necessary for soliciting and awarding a contract for performance in, or delivery of items to, that combatant commander's area of responsibility;

(v) To determine the appropriate point(s) of contact for contracting matters within the combatant commander's area of responsibility, contact the overseas contracting office by accessing the link for the combatant command in whose area of responsibility the contractor will be performing services 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

(vi) 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 when building its requirements package, 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 economies of scope/schedule can be leveraged if there are already existing contracts in place for similar work or items.

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____ (2) The availability of technically qualified and properly trained Government civilian and/or military personnel to oversee the performance of the contract in the combatant commander's area of responsibility (e.g., contracting officer's representatives, quality assurance representatives, and property administrators).

____ (3) The applicability of any international agreements to the acquisition. (Some agreements may be classified and must be handled appropriately.)

____ (4) Compliance with area-specific, anti-terrorism security guidance set forth by the command anti-terrorism officer, to include soliciting anti-terrorism officer guidance on the particular requirement and the location of delivery and/or execution of services, and incorporating recommended security measures into the requirements package.

____ (5) Whether there are any requirements for use of foreign currencies, including applicability of U.S. holdings of excess foreign currencies.

____ (6) Information on taxes and duties from which the Government may be exempt.

____ (7) 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.

____ (8) The availability of logistical and other Government-furnished support and equipment for contractor personnel. This includes, but is not limited to: berthing and messing; intra-theater transportation; medical support; morale, welfare, and recreation support; postal support; force protection support; organizational clothing and personal protective gear (e.g., body armor and gas masks.)

____ (9) If the contractor will employ foreign workers, whether a waiver of the Defense Base Act will be required (see FAR 28.305).

____ (10) Whether contractor personnel will need authorization to carry weapons for the performance of the contract.

____ (11) If the contract will include the clause at DFARS [252.225-7040](#), Contractor Personnel Supporting 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.

____ (12) Ascertain the existence of and detail any Geographic Combatant Commander's (GCC's)/Subordinate Joint Force Commander Combating Trafficking in Persons Directives or Notices applying to Combating Trafficking in Persons (as required by FAR 22.1705 for contracts performed outside the United States) that would require the contracting officer to use Alternate I of the clause at FAR 52.222-50 detailing these requirements. This information can be ascertained from review of content on the cognizant Geographic Combatant Command Operational Contract Support webpage referred to in (a)(iv) of this PGI section.

____ (13) Other requirements associated with contractor personnel to include deployment -related training, accountability (registration in Synchronized Pre-

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deployment and Operational Tracker), medical and dental qualifications, theater entrance and country clearance requirements.

____ (14) 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 225.370\(a\)\(v\)](#)):

____ (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.

____ (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/web/Site_Pages/Staff%20Directory/J0/J0.shtml or by clicking on Staff Directory/Special Staff on the PACOM website. Links to USFJ and USFK websites can be found at the PACOM website at <http://www.pacom.mil> by clicking on “Regional Resources - Links”.

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

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(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 logistics 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

(D) To ensure that the solicitation and resultant contract reflect an accurate description of available logistics support and application of the U.S.-Korea SOFA, review the SOFA information found at the USFK website at <http://www.usfk.mil/usfk/> under “Publications”, or at <http://www.usfk.mil/usfk/sofadocuments.aspx>. Contact information for the Commander is also available at <http://www.usfk.mil/usfk/leadership.aspx>; and

(E) Additional applicable directives and regulations are available at <http://www.usfk.mil/usfk/>, click on the drop down menu for “Publications”.

(d) For work performed in specified countries in the USCENTCOM area of responsibility, follow theater business clearance/ contract administration delegation policy as set forth in OSD policy letters linked to this PGI, and specific theater business clearance/contract administration delegation instructions as implemented by USCENTCOM’s Joint Theater Support Contracting Command and found under contracting guidance at http://www.acq.osd.mil/dpap/pacc/cc/areas_of_responsibility.html (click on CENTCOM area of responsibility).

PGI 225.371 Contractor personnel supporting U.S. Armed Forces deployed outside the United States.

(1) DoDI 3020.41, Operational Contract Support (OCS), establishes policy, assigns responsibilities and provides procedures for OCS, including OCS Program Management, contract support integration, and integration of defense contractor personnel into contingency operations outside the United States. This instruction serves as a comprehensive source of DoD policy and procedures concerning DoD contractor and subcontractor personnel supporting the U.S. Armed Forces deployed outside the United States.

(2) Also see [PGI 207.105\(b\)\(20\)\(C\)\(9\)](#) for special considerations for acquisition planning for crisis situations outside the United States.

PGI 225.371-2 Definitions.

“Designated operational areas” include, but are not limited to, such descriptors as theater of war, theater of operations, joint operations area, amphibious objective area, joint special operations area, and area of operations. See DoD Joint Publication 3-0, Joint Operations, Chapter IV, Paragraph 2, “Understanding the Operational Environment,” at http://www.dtic.mil/doctrine/new_pubs/jp3_0.pdf.

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PGI 225.371-3 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;
- (xiv) Laundry; and
- (xv) Religious services.

(d) *Medical support of contractor personnel.*

(1) Contractors are required to ensure that the Government is reimbursed for any costs associated with medical or dental care provided to contractor employees accompanying the forces (see [252.225-7040\(c\)\(2\)](#)).

(2) If questions arise concerning Defense Finance and Accounting Services (DFAS) billing to contractors for medical or dental care provided, contracting officers may refer the individual to any of the following resources:

(i) For in-patient and out-patient billing rates, go to <http://comptroller.defense.gov/FinancialManagement/Reports/rates2013.aspx>, click on

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the appropriate fiscal year, and select Deployed/Non-Fixed Medical Facility Billing Rates.

(ii) For Military Service-appointed points of contact (POCs) responsible for resolving medical billing disputes, see the POCs listed in the [memoranda of agreements between DFAS and the military services](#).

(iii) For general information on medical support of deployed contractor personnel in applicable contingency operations, see DoDI 3020.41.

(3) Contracting officers are not responsible for adjudicating DFAS bills to contractors for such medical or dental reimbursement. However, contracting officers are required to assist the Military Service POCs in resolving billing disputes.

(e) *Letter of authorization.*

(i) If authorized by the contracting officer, a contracting officer's representative may approve a SPOT-generated LOA. 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) Approved, standard DoD format for LOA: (See sample LOA, Business Rules for the Synchronized Predeployment and Operational Tracker, at <http://www.acq.osd.mil/log/PS/spot.html>).

PGI 225.371-5 Contract clauses.

“Performance,” as used in [Class Deviation 2015-00009](#), Contractor Personnel Performing in the United States Central Command Area of Responsibility, means performance of a service or construction, as required by the contract. For supply contracts, production of the supplies or associated overhead functions are not covered by the Class Deviation, but services associated with the acquisition of the supplies are covered (e.g., installation or maintenance).

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

(i) The clause at DFARS [252.225-7043](#), Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States, as prescribed at DFARS [225.372-2](#).

(ii) 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).

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

(iv) The clause at DFARS [252.228-7003](#), Capture and Detention, as prescribed at DFARS [228.370](#)(d).

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

(vi) The clause at FAR 52.249-14, Excusable Delays, as prescribed at FAR 49.505(b).

(vii) 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](#). See also Class Deviation [2013-O0012](#), Authorization for Contractors to Use Government Supply Sources in Support of Operation Enduring Freedom.

PGI 225.372 Antiterrorism/force protection.

PGI 225.372-1 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.

(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.

PGI 225.373 Contract administration in support of contingency operations.

(1) In accordance with Joint Publication 1, Doctrine for the Armed Forces of the United States, at http://www.apexnet.org/docs/Joint_Publication_1.pdf, the geographic combatant commander or subordinate joint force commander, through his command authority to exercise operational control, has the authority to exercise control over the

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assignment of contract administration during contingency operations, consistent with the combat support agency's established mission functions, responsibilities, and core competencies, for contracts requiring delivery of items or performance within the area of operations.

(2) In certain contingency operations, the combatant commander or joint force commander may promulgate theater or joint operations area guidance for contracting that may include establishing—

- (i) A contracting command and control structure;
- (ii) Head of contracting activity responsibilities, specific orders, and policies, including local clauses;
- (iii) Roles and responsibilities of DoD components and supporting agencies in contract formation and execution; and
- (iv) Procedures and requirements for contract clearance and contract administration of contracts requiring delivery of items and performance within the area of operations.

(3) When a combat support agency is tasked by the combatant commander to provide contingency contract administration services in support of contingency operations and such support will be required for a long duration, the combat support agency shall initiate a memorandum of agreement with the combatant commander or joint force commander. This agreement shall clearly delineate the purpose of the support, respective responsibilities of the combat support agency and the joint, lead service, or service contracting activity requesting the support, combat support agency support parameters, and a resolution process for resolving support issues.

(i) The memorandum of agreement should focus on maximizing the combat support agency's core competencies to address the more critical, complex, high-risk, and specialized oversight requirements.

(ii) The memorandum of agreement should take into consideration the combat support agency's core competencies, workload priorities, and contract administration services support parameters for accepting requests for contract administration services support.

(iii) A combat support agency shall not be assigned to perform tasks outside its mission functions, responsibilities, or core competencies.

(iv) Contracting officers contemplating requesting contract administration support in a contingency area from a combat support agency should first ascertain whether such a memorandum of agreement exists by contacting their combat support agency point of contact and/or checking the combatant commander operational contract support website (referenced in DFARS [PGI 225.370](#)).

(v) The following is a notional format for a memorandum of agreement for contract administration services support;

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(A) Purpose: Outline formal procedures for requesting contract administration services support, describe objectives associated with combat support agency providing such support.

(B) Reference: Key documents or reference(s) associated with the execution of the contract administration services support.

(C) Clearing-house functions performed by the designated joint or lead component contracting activity in the operational area—

(1) Contract clearance parameters – when required;

(2) Contract delegation parameters – when required.

(D) Contract administration services support parameters—

(1) Acceptable for delegation - contract types that will be accepted by the combat support agency based on risk, dollar threshold, geographic dispersion of performance, service type, criticality of acceptance, or other criteria;

(2) Generally not be delegated – below-threshold contract types;

(3) Will not be delegated – no agency expertise to oversee.

(E) Delegation process – process for accepting and assigning contract administration services tasks within the combat support agency.

(F) Joint resolution process – procedures in the event of disagreement on actions to be supported by the combat support agency.

(G) Term of the Agreement and Modification - length of time the agreement will be in effect and procedures for the parties to modify or terminate it.

(4) Disputes regarding requested support should be resolved at the lowest management level possible, through a predetermined resolution process. When support issues arise that affect the ability of a combat support agency to provide contract administration support that cannot be resolved at lower management levels, follow procedures set forth in DoDI 3000.06, Combat Support Agencies, paragraphs 5.6.8 and 5.6.9, (<http://www.dtic.mil/whs/directives/corres/pdf/300006p.pdf>).

(5) Responsibilities of the head of the contracting activity for contingency contract closeout are addressed at DFARS [204.804](#)(2). See also planning considerations at [PGI 207.105](#)(b)(20)(C)(8).

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(Revised June 26, 2015)

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

PGI 225.7002 Restrictions on food, clothing, fabrics, 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 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\(m\)](#)).

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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) *Hand or measuring tools.*

(1) As applied to hand or measuring tools, “produced in the United States” means that the hand or measuring tool was assembled in the United States out of components, or otherwise made from raw materials into the finished product that is to be provided to the Government.

(2) If a hand or measuring tool was assembled in a country other than the United States, then disassembled and reassembled in the United States, the hand or measuring tool was not produced in the United States.

(3) The requirement to buy hand or measuring tools produced in the United States does not impose any restriction on the source of the components of the hand or measuring tools. This is unlike the Berry Amendment restriction on clothing (see [225.7002-1\(a\)\(2\)](#)), which explicitly requires domestic source for the materials and components of clothing (other than unusual components such as sensors or electronics), as well as the additional separate restrictions on various types of fibers and fabrics that might be components of the clothing.

(4) If the acquisition of the hand or measuring tools is also subject to the Buy American statute (see FAR subpart 25.1), then in order to qualify as a domestic end product, the cost of the components mined, produced, or manufactured in the United States or a qualifying country, must exceed 50 percent of the cost of all the components of the hand or measuring tool.

PGI 225.7002-2 Exceptions.

(b) *Domestic nonavailability determinations.*

(3) *Defense agencies other than the Defense Logistics Agency.*

(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) (USD(AT&L)) as appropriate.

PGI 225.7003 Restrictions on acquisition of specialty metals.

PGI 225.7003-2 Restrictions.

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(a)(i) This restriction applies to the item containing the specialty metal, not just the specialty metal, as was true when the restriction was part of 10 U.S.C. 2533a. The previous practice of withholding payment while conditionally accepting noncompliant items is not permissible for—

(A) Contracts entered into on or after November 16, 2006; or

(B) New procurements or out-of-scope changes accomplished on or after November 16, 2006, through the use of bilateral modifications to contracts originally awarded prior to November 16, 2006.

(ii) Consistent with the definition of “component” in the clause at DFARS [252.225-7009](#), a component is any item supplied to the Government as part of an end item or of another component. Items that are not incorporated into any of the items listed in DFARS [225.7003-2\(a\)](#) are not components of those items. For example, test equipment, ground support equipment, or shipping containers are not components of the missile system.

PGI 225.7003-3 Exceptions.

(b)(2) *Report of COTS items.*

If a department or agency uses the exception at DFARS [225.7003-3\(b\)\(2\)](#) for an acquisition of COTS end items valued at \$5 million or more per item, the department or agency shall address use of the exception in a year-end report, to be prepared and submitted as follows:

(A) Entitle the report “COTS Specialty Metal Exceptions Granted During Fiscal Year _____.”

(B) For each excepted COTS item purchased during the fiscal year, include in the report, at a minimum, the applicable—

- (1) Contract number and any applicable delivery order number;
- (2) Dollar value; and
- (3) Item description.

(C) Submit the report by October 31 of each year to:

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

(b)(5) Domestic specialty metals nonavailable as and when needed.

(A) Determining availability.

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(1) FAR 15.402 requires that contracting officers purchase supplies and services at fair and reasonable prices. Thus, contracting officers must determine whether any increase in contract price that results from providing compliant specialty metal is fair and reasonable, given the circumstances of the particular situation. In those cases where the contracting officer determines that the price would not be fair and reasonable, the Secretary of the military department concerned may use that information in determining whether the unreasonable price causes the compliant metal to be effectively “nonavailable.” Where these “reasonableness” limits should be drawn is a case-by-case decision.

(2) A similar approach may be used to determine whether delays associated with incorporating compliant specialty metals into items being acquired results in the metals being effectively nonavailable.

(C)(1) A department or agency requesting a determination or approval from USD(AT&L) in accordance with DFARS [225.7003-3\(b\)\(5\)](#) shall 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.

(2) The Director, Defense Procurement and Acquisition Policy, will forward the request to USD(AT&L) as appropriate.

(b)(6) *Application of specialty metals restrictions to magnets.*

HPM = High performance magnet
COTS = Commercially available off-the-shelf

Magnet made of specialty metal is:	Commercially available, HPM	NOT Commercially available, HPM	COTS, NOT HPM	NOT COTS, NOT HPM
Incorporated into COTS assembly or COTS end item	NOT restricted	*	NOT restricted	*
NOT incorporated into COTS assembly or COTS end item	Restricted	Restricted	NOT restricted	Restricted
Included in 2 percent minimum content?	Cannot be included in 2 percent minimum content	Cannot be included in 2 percent minimum content	NOT restricted	Can be included in 2 percent minimum content

* By definition, COTS assemblies and COTS end items will not include a HPM that is not

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commercially available or any other magnet that is not COTS.

(c) Compliance for commercial derivative military articles.

(i) A department or agency requesting a determination or approval from USD(AT&L) in accordance with DFARS [225.7003-3](#)(c) shall 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.

(ii) The Director, Defense Procurement and Acquisition Policy, will forward the request to USD(AT&L) as appropriate.

(d) National security waiver.

(i) A department or agency shall request a national security waiver from USD(AT&L) in accordance with DFARS [225.7003-3](#)(d) in a timely manner after discovering or being informed of a specialty metals noncompliance in an item, or component thereof, listed at [225.7003-2](#)(a). The department or agency shall submit the request, via the chain of command, including the draft determination and draft letters of notification to the congressional defense committees, as follows:

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

(ii) The request shall include—

(A) The quantity of end items to which the waiver would apply;

(B) The time period that the waiver will cover;

(C) How and when the noncompliance was discovered—

(1) By the subcontractor(s);

(2) By the contractor; and

(3) By the department or agency;

(D) A complete description of all of the items or systems containing noncompliant specialty metals;

(E) The contract number(s), date(s), duration, and subcontractor(s) associated with the noncompliance;

(F) The manufacturer and country of origin of the noncompliant material, if

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known;

(G) Whether the contractor flowed down the DFARS clause to the subcontractors and in what format (e.g., exact quote or substantially the same?);

(H) A technical description of the affected parts, their role in the larger assembly, and their function in the end item;

(I) Estimated cost and schedule to replace noncompliant parts if a national security waiver is not granted;

(J) Operational and safety implications;

(K) Other national security considerations (such as how the requested waiver will contribute to national security policy or operational security);

(L) A description of the contractor's efforts to develop and implement a corrective plan to ensure future compliance; and

(M) Information helpful to a determination as to whether any noncompliance was knowing and willful.

(iii) The Director, Defense Procurement and Acquisition Policy, will forward the request to USD(AT&L) as appropriate.

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(Removed June 26, 2015)

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PGI 252—Solicitation Provisions and Contract Clauses

(Added June 26, 2015)

PGI 252.1—INSTRUCTIONS FOR USING PROVISIONS AND CLAUSES

PGI 252.103 Identification of provisions and clauses.

(c) Local provisions and clauses developed by departments and agencies for a single-use intended to meet the needs of an individual acquisition (see [201.301\(b\)\(iii\)\(A\)](#)) shall be identified by the title, date, and name of the department or agency that developed the local clause. For example, if “X” Agency negotiated a single-use clause for use of special government facilities during discussions, such clause would be identified in the contract as follows:

“Special Use of Government Facilities (DATE) X Agency”

(d)(1)(A) Local provisions and clauses that will be used on a repetitive basis and constitute a significant revision to the FAR or DFARS (see [201.301\(b\)\(ii\)](#)) shall be identified by—

(1) The chapter assigned to the department or agency under Title 48 of the Code of Federal Regulations (CFR);

(2) FAR subpart “52.2”;

(3) The applicable FAR part;

(4) A four-digit sequential number in the 9000 series for the suffix (see DFARS [252.101\(b\)\(2\)\(ii\)\(B\)](#)); and

(5) Title; and

(6) Date.

(B) For example, if “Y” Agency is assigned a CFR chapter number 99, and has developed a provision regarding an evaluation factor for past performance to be used on a repetitive basis in negotiated acquisitions, such provision would be identified as follows:

“9952.215-9XXX Past Performance Evaluation Factor (DATE)”

(2)(A) Local provisions and clauses that will be used on a repetitive basis and do not constitute a significant revision to the FAR or DFARS (see [201.301\(b\)\(iii\)\(B\)](#)), may be identified by using—

(1) The format identified at [252.103\(d\)\(1\)](#) if the department or agency has been assigned a chapter under Title 48 of the CFR; or

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(2) The following format—

(i) FAR subpart “52.2”;

(ii) The applicable FAR part;

(iii) A four-digit sequential number in the 9000 series for the suffix (see DFARS [252.101](#)(b)(2)(ii)(B));

(iv) Title;

(v) Date; and

(vi) Agency name.

(B) For example, if “Z” Agency is assigned a CFR chapter number 98 and has a repetitive-use clause with point of contact information for the agency’s task and delivery order ombudsman, such clause may be identified, in accordance with agency procedures, in the solicitation in one of the following formats—

“9852.216-9XXX Task and Delivery Order Ombudsman (DATE)”

OR

“52.216-9XXX Task and Delivery Order Ombudsman (DATE) Z Agency”