

DFARS Procedures, Guidance, and Information

PGI 203—Improper Business Practices and Personal Conflicts of Interest

(Revised March 21, 2006)

PGI 203.5--OTHER IMPROPER BUSINESS PRACTICES

PGI 203.570 Prohibition on persons convicted of fraud or other defense-contract-related felonies.

PGI 203.570-1 Scope.

The complete text of 10 U.S.C. 2408, Prohibition on Persons Convicted of Defense-Contract Related Felonies and Related Criminal Penalty on Defense Contractors, is available at <http://uscode.house.gov/> (Select "Search the U.S. Code"; then type "10 USC Sec. 2408" (including the quotation marks) in the search engine window and click on the search button).

PGI 203.570-2 Prohibition period.

(a)(1) The contracting officer shall—

(i) Review any request for waiver; and

(ii) Deny the request if the contracting officer decides the waiver is not required in the interests of national security; or

(iii) Forward the request to the head of the agency or designee for approval if the contracting officer decides the waiver may be in the interest of national security.

(2) The head of the agency or designee shall report all waivers granted, and the reasons for granting the waiver, to the Under Secretary of Defense (Acquisition, Technology, and Logistics), who will forward the report to Congress as required by 10 U.S.C. 2408(a)(3).

(3) Guidance on using the Excluded Parties List System is available at PGI 209.105-1.

(b) Submit a copy of the determination to Bureau of Justice Assistance, U.S. Department of Justice, 810 Seventh Street, NW, Washington, DC 20531.

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PGI 207—Acquisition Planning

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PGI 207.1—ACQUISITION PLANS

PGI 207.105 Contents of written acquisition plans.

(b)(19) *Other considerations.*

(E) *Special considerations for acquisition planning for crisis situations outside the United States.*

(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 3020.37 requires the military departments to develop the resources to carry out these plans. 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) 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.

(4) 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.

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(5) 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.

(F) 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 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

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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.

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.*

(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;

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(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?

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

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(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 208—Required Sources of Supplies and Services

(Revised March 21, 2006)

PGI 208.4—FEDERAL SUPPLY SCHEDULES

PGI 208.405-70 Additional ordering procedures.

(1) Posting of a request for quotations on the General Services Administration's electronic quote system, "e-Buy" (www.gsaAdvantage.gov), is one medium for providing fair notice to all contractors as required by DFARS 208.405-70(c)(2).

(2) Single and multiple blanket purchase agreements (BPAs) may be established under Federal Supply Schedules (see FAR 8.405-3) if the contracting officer--

(i) Follows the procedures in DFARS 208.405-70(b) and (c); and

(ii)(A) For a single BPA, defines the individual tasks to be performed; or

(B) For multiple BPAs, forwards the statement of work and the selection criteria to all multiple BPA holders before placing orders.

PGI 208.406 Ordering activity responsibilities.

PGI 208.406-1 Order placement.

(1) When ordering from schedules, ordering offices—

(i) May use DD Form 1155, Order for Supplies or Services, to place orders for—

(A) Commercial items at or below the simplified acquisition threshold; and

(B) Other than commercial items at any dollar value (see PGI 213.307);

(ii) Shall use SF 1449, Solicitation/Contract/Order for Commercial Items, to place orders for commercial items exceeding the simplified acquisition threshold (see FAR 12.204); and

(iii) May use SF 1449 to place orders for other than commercial items at any dollar value.

(2) Schedule orders may be placed orally if—

(i) The contractor agrees to furnish a delivery ticket for each shipment under the order (in the number of copies required by the ordering office). The ticket must include the—

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- (A) Contract number;
- (B) Order number under the contract;
- (C) Date of order;
- (D) Name and title of person placing the order;
- (E) Itemized listing of supplies or services furnished; and
- (F) Date of delivery or shipment; and

(ii) Invoicing procedures are agreed upon. Optional methods of submitting invoices for payment are permitted, such as—

(A) An individual invoice with a receipted copy of the delivery ticket;

(B) A summarized monthly invoice covering all oral orders made during the month, with receipted copies of the delivery tickets (this option is preferred if there are many oral orders); or

(C) A contracting officer statement that the Government has received the supplies.

(3) For purchases where cash payment is an advantage, the use of imprest funds in accordance with DFARS 213.305 is authorized when—

(i) The order does not exceed the threshold at FAR 13.305-3(a); and

(ii) The contractor agrees to the procedure.

(4) If permitted under the schedule contract, use of the Governmentwide commercial purchase card--

(i) Is mandatory for placement of orders valued at or below the micro-purchase threshold; and

(ii) Is optional for placement of orders valued above the micro-purchase threshold.

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PGI 209—Contractor Qualifications

(Revised March 21, 2006)

PGI 209.1--RESPONSIBLE PROSPECTIVE CONTRACTORS

PGI 209.105-1 Obtaining Information.

GSA's Excluded Parties List System (EPLS), which is available at <http://www.epls.gov>, identifies entities excluded throughout the U.S. Government (unless otherwise noted) from receiving Federal contracts or certain subcontracts and from certain types of Federal financial and non-financial assistance and benefits.

(1) Multiple agencies have the authority to suspend or debar entities from “doing business” with the Government. Presently, there are approximately 71 separate cause and treatment codes under which entities can be suspended or debarred or excluded.

(2) The cause and treatment codes advise readers of the nature of the exclusion, debarment, or suspension and how those listed on the EPLS should be treated. However, the fact that an entity is listed on the EPLS does not necessarily mean the entity is ineligible for contract award. Review of the cause and treatment code is crucial in ensuring that listed entities are not deprived of their “liberty interest” in conducting business with the Government.

(3) When the Department of Justice Bureau of Justice Assistance debars individuals under 10 U.S.C. 2408, they are placed on the EPLS under cause and treatment code FF (Reciprocal). The individuals currently listed under this treatment code can be found on the EPLS website (<http://www.epls.gov> - Click on the “Cause and Treatment Code” under the “Reports Menu” heading at the top of the right side of the web page; then select “Reciprocal” in the “Exclusion Type” search window and click “OK”; finally, select CT code “FF” in the drop-down list and select MS Excel format, then “OK”, to view the information).

(4) A "Public User's Manual" is available on the EPLS website to assist users in navigating the system. Definitions of Procurement, Nonprocurement, and Reciprocal exclusions can be found in Chapter 4 of the manual.

PGI 209.105-2 Determinations and documentation.

(a) The contracting officer shall submit a copy of the determination to the appropriate debarring and suspending official identified in DFARS 209.403.

PGI 209.106 Preaward surveys.

PGI 209.106-1 Conditions for preaward surveys.

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(a) If a preaward survey is requested, include the rationale in Block 23 of the SF 1403, Preaward Survey of Prospective Contractor (General).

PGI 209.106-2 Requests for preaward surveys.

(1) The surveying activity is the cognizant contract administration office as listed in the Federal Directory of Contract Administration Services Components, available at <http://home.dcms.mil/casbook/casbook.htm>. When information is required as part of the survey on the adequacy of the contractor's accounting system or its suitability for administration of the proposed type of contract, the surveying activity will obtain the information from the auditor.

(2) Limited information may be requested by telephone.

(3) The contracting officer may request a formal survey by telephone but must confirm immediately with SF 1403, Preaward Survey of Prospective Contractor (General). For a formal survey, send original and three copies of SF 1403, including necessary drawings and specifications.

(i) List additional factors in Item H, Section III of the SF 1403 and explain them in Block 23. For example—

(A) Information needed to determine a prospective contractor's eligibility under the Walsh-Healey Public Contracts Act. (Note that the Walsh-Healey Public Contracts Act, Block 12 of Section I, only indicates what the contractor has represented its classification to be under Walsh-Healey.)

(B) Evaluation of a contractor as a planned producer when the offered item is or may appear on the Industrial Preparedness Planning List (IPPL). When the preaward survey results in a recommendation for award, ask the office responsible for industrial preparedness planning to consider designating the prospective contractor as a planned producer. If the item is already on the IPPL or the prospective contractor is already a planned producer, note the information in Block 23.

(C) Evaluation of the prospective contractor's performance against small business subcontracting plans.

(4) On base level preaward surveys, technical personnel from the requiring installation should participate when there is concern about the ability of a prospective contractor to perform a base level service or construction contract.

(5) Allow more time for—

(i) Complex items;

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(ii) New or inexperienced DoD contractors; and

(iii) Surveys with time-consuming requirements, e.g., secondary survey, accounting system review, financial capability analysis, or purchasing office participation.

(6) Only request those factors essential to the determination of responsibility. See DFARS 253.209-1(a) for an explanation of the factors in Section III, Blocks 19 and 20 of the SF 1403.

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PGI 209.4--DEBARMENT, SUSPENSION, AND INELIGIBILITY

PGI 209.406 Debarment.

PGI 209.406-3 Procedures.

(a) Use the following format when referring a matter to the agency debarment and suspending official for consideration. To the extent practicable, provide all specified information.

(1) Name, address, and telephone number of the point of contact for the activity making the report.

(2) Name, contractor and Government entity (CAGE) code, DUNS number, and address of the contractor.

(3) Name and addresses of the members of the board, principal officers, partners, owners, and managers.

(4) Name and addresses of all known affiliates, subsidiaries, or parent firms, and the nature of the business relationship.

(5) For each contract affected by the conduct being reported—

(i) The contract number;

(ii) All office identifying numbers or symbols;

(iii) Description of supplies or services;

(iv) The amount;

(v) The percentage of completion;

(vi) The amount paid the contractor;

(vii) Whether the contract is assigned under the Assignment of Claims Act and, if so, to whom;

(viii) The amount due the contractor; and

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(ix) The contract fund citations involved, to expedite accurate return of funds to open accounts and commands, as appropriate.

(6) For any other contracts outstanding with the contractor or any of its affiliates—

(i) The contract number;

(ii) The amount;

(iii) The amounts paid the contractor;

(iv) Whether the contract is assigned under the Assignment of Claims Act and, if so, to whom; and

(v) The amount due the contractor.

(7) A complete summary of all pertinent evidence and the status of any legal proceedings involving the contractor.

(8) An estimate of any damages sustained by the Government as a result of the contractor's action (explain how the estimate was calculated).

(9) If a contracting office initiates the report, the comments and recommendations of the contracting officer and of each higher-level contracting review authority regarding—

(i) Whether to suspend or debar the contractor;

(ii) Whether to apply limitations to the suspension or debarment;

(iii) The period of any recommended debarment; and

(iv) Whether to continue any current contracts with the contractor (or explain why a recommendation regarding current contracts is not included).

(10) When appropriate, as an enclosure to the report—

(i) A copy or pertinent extracts of each pertinent contract;

(ii) Witness statements or affidavits;

(iii) Copies of investigative reports when authorized by the investigative agency;

(iv) Certified copies of indictments, judgments, and sentencing actions;

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(v) A copy of any available determinations of nonresponsibility in accordance with FAR 9.105-2(a)(1); and

(vi) Any other appropriate exhibits or documentation.

(11) To the extent that this information is available through FPDS-NG, provide a list of other agencies that hold current contracts with the subjects.

(b) Send three copies of each report, including enclosures, to the appropriate debarring and suspending official.

(c) If a referral lacks sufficient evidence of a cause for debarment, the debarring and suspending official may initiate a review or investigation, as appropriate, by reporting the referral to the appropriate Government entity, e.g., contracting activity, inspector general, or criminal investigative agency.

(d) Decisionmaking process.

(1) The agency debarring and suspending official may initiate the debarment process by issuing a notice of proposed debarment in accordance with FAR 9.406-3(c) when the debarring and suspending official finds that the administrative record contains sufficient evidence of one or more of the causes for debarment stated in FAR 9.406-2 or DFARS 209.406-2.

(i) The absence of a referral in accordance with DFARS 209.406-3, or the absence of any information specified in the report format in PGI 209.406-3(a), will not preclude the debarring and suspending official from making such a finding.

(ii) The signature of the debarring and suspending official on the notice of proposed debarment is sufficient evidence that the debarring and suspending official has made such a finding.

(2) The agency debarring and suspending official must use the decisionmaking process stated in FAR 9.406-3(b), DFARS Appendix H, and any agency-specific procedures that were provided to the contractor in advance of the decision.

PGI 209.407 Suspension.

PGI 209.407-3 Procedures.

(a) Use the format at PGI 209.406-3(a) when referring a matter to the agency debarring and suspending official for consideration. To the extent practicable, provide all information specified in the format.

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(b) If a referral lacks sufficient evidence of a cause for suspension, the debarring and suspending official may initiate a review or investigation, as appropriate, by reporting the referral to the appropriate Government entity, e.g., contracting activity, inspector general, or criminal investigative agency.

(c) Decisionmaking process.

(1) The agency debarring and suspending official may initiate the suspension process by issuing a notice of suspension in accordance with FAR 9.407-3(c) when the debarring and suspending official finds that the administrative record contains sufficient evidence of one or more of the causes for suspension stated in FAR 9.407-2.

(i) The absence of a referral in accordance with DFARS 209.407-3, or the absence of any information specified in the report format at PGI 209.406-3(a), will not preclude the debarring and suspending official from making such a finding.

(ii) The signature of the debarring and suspending official on the notice of suspension is sufficient evidence that the debarring and suspending official has made such a finding.

(2) In deciding whether to terminate a suspension following a submission of matters in opposition, the agency debarring and suspending official must use the decisionmaking process stated in FAR 9.407-3(b), DFARS Appendix H, and any agency-specific procedures that were provided to the contractor in advance of the decision.

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PGI 216—Types of Contracts

(Added March 21, 2006)

PGI 216.5--INDEFINITE-DELIVERY CONTRACTS

PGI 216.505-70 Orders under multiple award contracts.

(1) *Exception to the fair opportunity process at FAR 16.505(b)(2)(ii) – This exception applies when only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.*

(i) Use of this exception should be rare. Its use is appropriate when—

(A) No other contractor is capable of providing a supply or service of a comparable nature; and

(B) No other type of supplies or services will satisfy agency requirements.

(ii) When using this exception, explain—

(A) What is unique or highly specialized about the supply or service; and

(B) Why only the specified contractor can meet the requirement.

(2) *Exception to the fair opportunity process at FAR 16.505(b)(2)(iii) – This exception applies when the order must be issued on a sole source basis in the interest of economy and efficiency because it is a logical follow-on to an order already under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.*

(i) A follow-on order is a new procurement placed with a particular contractor to continue or augment a specific program or service. When using this exception, the justification should discuss why the specific requirement continues and why it is to the benefit of the Government for the particular contractor to continue this work (see FAR 16.505(b)(4)). Examples include--

(A) Award to any other source would likely result in substantial duplication of cost to the Government that is not expected to be recovered through competition;

(B) Award of the order to a different source would cause unacceptable delays in fulfilling the Government's requirements (lack of advance planning is not valid rationale); or

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(C) A contractor is already at work on a site, and it would not be practical to allow another contractor to work on the same site.

(ii) When using this exception—

(A) Specify how recent the previous competitive order was and the number of times this exception has been used;

(B) Discuss why the specific requirement continues; and

(C) Discuss why it would be of benefit to the Government for the specified contractor to continue this work.

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PGI 217—Special Contracting Methods

(Added March 21, 2006)

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

PGI 217.7802 Policy.

(1) *Reporting requirement.* By December 31, 2005, and December 31, 2006, the military departments and defense agencies must prepare a report identifying the service charges imposed on purchase made for an amount greater than the simplified acquisition threshold, during the preceding fiscal year, through a contract entered into by a non-DoD agency.

(i) Submit the report to--

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

(ii) This reporting requirement—

(A) Complies with subsection 854(d) of the National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375); and

(B) Expires after submission of the report for fiscal year 2006.

(2) *Supplemental information.* The Director, Defense Procurement and Acquisition Policy, maintains a web site at <http://www.acq.osd.mil/dpap/specificpolicy/index.htm>, which contains policy memoranda and additional information on the proper use of non-DoD contracts.

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PGI 229—Taxes

(Revised March 21, 2006)

PGI 229.1--GENERAL

PGI 229.101 Resolving tax problems.

(a) Within their respective agencies, the following are designated legal counsel for tax matters:

(i) DLA: Ms. Louise Hansen, Office of Counsel, Defense Energy Support Center; louise.hansen@dla.mil; (703) 767-5003.

(ii) DCMA: Mr. Kenneth Majewski, DCMA Dallas Office of Counsel; kenneth.majewski@dcma.mil; (214) 670-9241.

(iii) Navy: Ms. Ann Marra, Navy Office of General Counsel; ann.marra@navy.mil; (703) 693-4072.

(iv) Air Force: SAFGCQ.Workflow@pentagon.af.mil.

(v) Army: Ms. Margaret Patterson, Office of the Judge Advocate General; margaret.patterson@hqda.army.mil; (703) 588-6753.

(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

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(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.

(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/55251.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.

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(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:

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

DFARS Procedures, Guidance, and Information

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201 12th Street South, Suite 203
Arlington, VA 22202-5408.