

DFARS Procedures, Guidance, and Information

PGI 222—Labor Laws

(Added April 12, 2006)

PGI 222.1--BASIC LABOR POLICIES

PGI 222.101 Labor relations.

PGI 222.101-1 General.

Contracting offices shall—

(1) Obtain departmental approval before contacting a national office of a labor organization, a Government agency headquarters, or any other organization on a labor relations matter;

(2) Notify departmental headquarters as required in departmental procedures when contacted by the national office of any labor organization or Government agency headquarters;

(3) Obtain the approval of the agency head on major policy decisions regarding labor relations matters such as recommendations for plant seizure or injunctive action relating to potential or actual work stoppages; and

(4) Submit questions involving FAR Part 22 or other contractor labor relations matters to the labor advisor.

PGI 222.101-3 Reporting labor disputes.

The contract administration office shall—

(1) Notify the labor advisor, the contracting officer, and the head of the contracting activity when interference is likely; and

(2) Disseminate information on labor disputes in accordance with departmental procedures.

PGI 222.101-3-70 Impact of labor disputes on defense programs.

(a) In determining the degree of impact of labor disputes on programs and requirements, consider, for example—

(i) Whether the dispute involves a product, project (including construction), or service that must be obtained in order to meet schedules for urgently needed military programs or requirements; and

DFARS Procedures, Guidance, and Information

PGI 222—Labor Laws

(ii) Whether alternative sources of supply for the product, project, or service are reasonably available to fulfill the requirement or program in time to maintain essential military schedules.

(b)(i) The report to the labor advisor must be in narrative form and must include—

(A) Location of dispute and name of contractor or subcontractor involved;

(B) A description of the impact, including how the specific items or services affect the specific programs or requirements;

(C) Identity of alternate sources available to furnish the supply or service within the time required; and

(D) A description of any action taken to reduce the impact.

(ii) The head of the contracting activity shall submit impact reports to the agency head when—

(A) Specifically requested; or

(B) The department or agency considers the impact to be of sufficient urgency to warrant the attention of the agency head.

(iii) The labor advisor will expand the report submitted under paragraph (b)(ii) of this subsection by addressing the following, as appropriate:

(A) *Description of military program, project, or service.* Identify item, project, or service that will be or is being affected by the work stoppage. Describe its normal use and current functions in combat, combat support, or deterrent operations. For components or raw materials, identify the end item(s) for which they are used.

(B) *Requirements and assets.* Identify requirements and assets in appropriate detail in terms commonly used by the DoD component.

(1) For production programs, include requirements for each using military service. Where applicable, state in detail production schedule, inventory objectives, assets against these objectives, and critical shortages. For spares and highly expendable items, such as ground and air ammunition, show usage (consumption) rates and assets in absolute terms and in terms of daily, weekly, or monthly supplies. For components, include requirements for spares.

(2) For projects, describe the potential adverse effects of a delay in meeting schedules, and its impact on the national security.

DFARS Procedures, Guidance, and Information

PGI 222—Labor Laws

(3) For services, describe how a loss or interruption affects the ability to support Defense operations in terms of traffic requirements, assets, testing programs, etc.

(C) *Possible measures to minimize strike impact.* Describe—

(1) Capabilities, if any, to substitute items or to use alternate sources and indicate the number of other facilities available and the relative capabilities of such facilities in meeting total requirements;

(2) How much time would be required to replace the loss of the facilities or service affected by a work stoppage; and

(3) The feasibility of transferring assets from theater to theater to relieve deficits in some areas of urgency.

(D) *Conclusion.*

(1) Describe the impact on operations of a 15-30, 30-60, and a 60-90 day work stoppage.

(2) Project the degree of criticality of a program, project, or service resulting from a work stoppage on a calendar basis, indicating the increased impact, if any, as the stoppage lengthens. Criticality is measured by the number of days required for the work stoppage to have an effect on operational capability. This time must be stated in terms of days.

PGI 222.101-4 Removal of items from contractors' facilities affected by work stoppages.

(a)(ii) Include the following information in the request:

(1) Contract number.

(2) A statement as to the urgency and criticality of the item needed.

(3) A description of the items to be moved (nature of the item, amount, approximate weight and cubic feet, item number, etc.).

(4) Mode of transportation by which the items are to be moved, if different than in the contract, and whether by Government or commercial bill of lading.

(5) Destination of the material, if different from that specified in the contract.

DFARS Procedures, Guidance, and Information

PGI 222—Labor Laws

(Added April 12, 2006)

PGI 222.4--LABOR STANDARDS FOR CONTRACTS INVOLVING CONSTRUCTION

PGI 222.404 Davis-Bacon Act wage determinations.

PGI 222.406-8 Investigations.

(a) The following guidance and procedures apply to investigations conducted by the contracting activity:

(i) *Beginning of the investigation.* The investigator shall—

(A) Verify the exact legal name of the contractor, its address, and the names and titles of its principal officers;

(B) Inform the contractor that the names of the employees to be interviewed will not be divulged to the contractor; and

(C) When requested, provide a letter from the contracting officer verifying the investigator's authority.

(ii) *Conduct of the investigation.*

(A) Review of the contract.

(1) Verify that all required labor standards and clauses and the wage determination are included in the contract.

(2) Review the following items in the contract file, if applicable:

(i) List of subcontractors.

(ii) Payroll statements for the contractor and subcontractors.

(iii) Approvals of additional classifications.

22.406-4. (iv) Data regarding apprentices and trainees as required by FAR

(v) Daily inspector's report or other inspection reports.

(vi) Employee interview statements.

DFARS Procedures, Guidance, and Information

PGI 222—Labor Laws

(vii) Standard Form (SF) 1413, Statement and Acknowledgement.

(B) Interview of the complainant. Interview the complainant except when this is impractical. The interview shall cover all aspects of the complaint to ensure that all pertinent information is obtained. Whenever an investigation does not include an interview of the complainant, explain such omission in the investigator's report.

(C) Interview of employees and former employees.

(1) Interview a sufficient number of employees or former employees, who represent all classifications, to develop information regarding the method and amount of payments, deductions, hours worked, and the type of work performed.

(2) Interview employees at the job site if the interviews can be conducted privately and in such a manner so as to cause the least inconvenience to the employer and employees.

(3) Former employees may be interviewed elsewhere.

(4) Do not disclose to any employee any information, finding, recommendation, or conclusion relating to the investigation except to the extent necessary to obtain required information.

(5) Do not disclose any employee's statement to anyone, except a Government representative working on the case, without the employee's written permission.

(6) Obtain information by mail when personal interviews are impractical.

(7) Use SF 1445, Labor Standards Interview, for employee interviews.

(8) Ask employees to sign their statements and to initial any changes.

(9) Provide an evaluation of each employee's credibility.

(D) Interview of foremen. Interview foremen to obtain information concerning the contractor's compliance with the labor standards provisions with respect to employees under the foreman's supervision and the correctness of the foreman's classification as a supervisory employee. All procedures established for the conduct of employee interviews, and the recording and use of information obtained, apply to foremen interviews.

(E) Interview of the contractor.

(1) Interview the contractor whenever the investigation indicates the possibility of a violation.

DFARS Procedures, Guidance, and Information

PGI 222—Labor Laws

(2) Inform the contractor that—

(i) The interview does not mean that a violation has been found or that a requirement for corrective action exists; and

(ii) The purpose of the interview is to obtain only such data as the contractor may desire to present in connection with the investigation.

(3) Do not disclose the identity of any individual who filed a complaint or was interviewed.

(F) Review of contractor and subcontractor records.

(1) Review contractor and subcontractor records such as basic time cards, books, cancelled payroll checks, fringe benefits, and payment records. Compare them with submitted payrolls. When discrepancies are found, include pertinent excerpts or copies of the records in the investigation report with a statement of the discrepancy and any explanation the investigator obtains. When wages include contributions or anticipated costs for fringe payments requiring approval of the Secretary of Labor, examine the contractor records to ensure such approval has been obtained and that any requirements specified in the approval have been met. (See FAR 22.406-2(a)(3).)

(2) Review contractor's and subcontractor's weekly payrolls and payroll statements for completeness and accuracy regarding the following:

(i) Identification of employees, payroll amount, the contract, contractor, subcontractor, and payroll period.

(ii) Inclusion of only job classifications and wage rates specified in the contract specifications, or otherwise established for the contract or subcontract.

(iii) Computation of daily and weekly hours.

(iv) Computation of time-and-one half for work in excess of 40 hours per week in accordance with FAR 22.406-2(c).

(v) Gross weekly wages.

(vi) Deductions.

(vii) Computation of net weekly wages paid to each employee.

DFARS Procedures, Guidance, and Information

PGI 222—Labor Laws

(viii) Ratio of helpers, apprentices, and trainees to laborers and mechanics.

(ix) Apprenticeship and trainee registration and ratios.

(x) Computation of fringe benefits payments.

(3) Transcribe the contractor's records whenever they contain information at variance with payrolls or other submitted documents.

(i) Make the transcriptions in sufficient detail to permit them to be used to check computations of restitution and to determine amounts to be withheld from the contractor.

(ii) Follow the form used by the contractor.

(iii) Place comments or explanations concerning the transcriptions on separate memoranda or in the narrative report.

(iv) Determine whether the wage determination, any modifications of the determination, and any additional classifications are posted as required.

(iii) *Submission of the report of investigation.* The investigator shall submit a report of the investigation in accordance with agency procedures. Each report shall include at least—

(A) The basis for the investigation, including the name of the complainant;

(B) Names and addresses of prime contractors and subcontractors involved, and names and titles of their principal officers;

(C) Contract number, date, dollar value of prime contract, and date and number of wage determination included in the contract;

(D) Description of the contract and subcontract work involved;

(E) Summary of the findings with respect to each of the items listed in PGI 222.406-8(a)(ii);

(F) Concluding statement concerning—

(1) The types of violations, including the amount of kickbacks under the Copeland Act, underpayments of basic hourly rates and fringe benefits under the Davis-

DFARS Procedures, Guidance, and Information

PGI 222—Labor Laws

Bacon Act, or underpayments and liquidated damages under the Contract Work Hours and Safety Standards Act;

(2) Whether violations are considered to be willful or due to the negligence of the contractor or its agent;

(3) The amount of funds withheld from the contractor; and

(4) Other violations found; and

(G) Exhibits indexed and appropriately tabbed, including copies of the following, when applicable—

(1) Complaint letter;

(2) Contract wage determination;

(3) Preconstruction letter and memorandum of preconstruction conference;

(4) Payrolls and statements indicating violations;

(5) Transcripts of pertinent records of the contractor, and approvals of fringe benefit payments;

(6) Employee interview statements;

(7) Foreman interview statements;

(8) Statements of others interviewed, including Government personnel;

(9) Detailed computations showing kickbacks, underpayments, and liquidated damages;

(10) Summary of all payments due to each employee or to a fund plan or program, and liquidated damages; and

(11) Receipts and cancelled checks.

(d) *Contracting officer's report.* In accordance with agency procedures, the contracting officer shall forward a detailed enforcement report or summary report in duplicate. These reports shall include at least--

(i) SF 1446, Labor Standards Investigation Summary Sheet;

DFARS Procedures, Guidance, and Information

PGI 222—Labor Laws

- (ii) Contracting officer's findings;
- (iii) Statement as to the disposition of any contractor rebuttal to the findings;
- (iv) Statement as to whether the contractor has accepted the findings and has paid any restitution or liquidated damages;
- (v) Statement as to the disposition of funds available;
- (vi) Recommendations as to disposition or further handling of the case (when appropriate, include recommendations as to the reduction, waiver, or assessment of liquidated damages, whether the contractor should be debarred, and whether the file should be referred for possible criminal prosecution); and
- (vii) When applicable the following exhibits:
 - (A) Investigator's report.
 - (B) Copy of the contractor's written rebuttal or a summary of the contractor's oral rebuttal of the contracting officer's findings.
 - (C) Copies of correspondence between the contractor and contracting officer, including a statement of specific violations found, corrective action requested, and the contractor's letter of acceptance or rejection.
 - (D) Evidence of the contractor's payment of restitution or liquidated damages (copies of receipts, cancelled checks, or supplemental payrolls).
 - (E) Letter from the contractor requesting relief from the liquidated damage provisions of the Contract Work Hours and Safety Standards Act.

DFARS Procedures, Guidance, and Information

PGI 222—Labor Laws

(Added April 12, 2006)

PGI 222.8--EQUAL EMPLOYMENT OPPORTUNITY

PGI 222.807 Exemptions.

(c) Submit the request for exemption with a justification through contracting channels to the labor advisor who will forward them to the agency head. If the request is submitted under FAR 22.807(a)(1), the agency head shall act on the request. If the exemption is granted, the agency head shall notify the Director, OFCCP of such action within 30 days. If the request is submitted under FAR 22.807(a)(2) or (b)(5), the agency head will forward it to the Director, OFCCP for action.

DFARS Procedures, Guidance, and Information

PGI 222—Labor Laws

(Added April 12, 2006)

PGI 222.10--SERVICE CONTRACT ACT OF 1965, AS AMENDED

PGI 222.1008-2 Preparation of SF 98a.

(1) The contracting officer shall secure the assistance of cognizant customer/technical personnel to ensure maximum use of the Service Contract Act Directory of Occupations (Directory) and incorporation of all service employee classes (Directory and nondirectory) expected to be utilized.

(2) When the statement of work job title, for which there is a Directory equivalent, differs from the Directory job title, make a written cross-reference either directly on the SF 98a file copy or on an attached sheet to the SF 98a file copy.

(3) Include and note as such any classifications and minimum hourly wage rates conformed under any predecessor contract. Where a previously conformed classification is not included in the Directory, attach the job description to the SF 98a.

PGI 222.1014 Delay of acquisition dates over 60 days.

Send update requests in writing directly to the Wage and Hour Division and provide a copy to the labor advisor. The update request shall—

(1) State that one or more dates on the original notice have been delayed more than 60 days;

(2) List the new dates; and

(3) Include a copy of the original notice and SF 98a as enclosures.

DFARS Procedures, Guidance, and Information

PGI 222—Labor Laws

(Added April 12, 2006)

PGI 222.13--SPECIAL DISABLED AND VIETNAM ERA VETERANS

PGI 222.1305 Waivers.

(c) The contracting officer shall submit a waiver request through contracting channels to the labor advisor. If the request is justified, the labor advisor will endorse the request and forward it for action to—

(i) The agency head for waivers under FAR 22.1305(a); or

(ii) The Secretary of Defense, without the power of redelegation, for waivers under FAR 22.1305(b).

DFARS Procedures, Guidance, and Information

PGI 223—Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace

(Revised April 12, 2006)

PGI 223.4—USE OF RECOVERED MATERIALS

PGI 223.405 Procedures.

Departments and agencies must centrally collect information submitted in accordance with the clause at FAR 52.223-9 for reporting to the Office of the Deputy Under Secretary of Defense (Installations and Environment). The information is collected in the contracting office's contract action reporting system (DD Form 350, Individual Contracting Action Report).

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(Revised April 12, 2006)

PGI 225.74—DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES

PGI 225.7401 General.

(a) If the acquisition requires performance of work in a foreign country by U.S. personnel or a third country contractor, the contracting officer must ensure that the solicitation and contract include unique host country performance considerations. Failure to obtain such information may result in contractor personnel performing in violation of host country laws or may cause contractor personnel to be wrongly subjected to host country laws.

(1) Coordinate with the applicable Headquarters Staff Judge Advocate for the Combatant Commander responsible for the area in which the contractor will be performing. The Unified Combatant Command website at <http://www.defenselink.mil/specials/unifiedcommand/> identifies each command's area of responsibility and provides contact information for the Combatant Commander and/or the Staff Judge Advocate.

(2) Request the following information from the Combatant Commander:

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

(ii) Security requirements applicable to the area.

(iii) The standards of conduct for the prospective contractor and its employees and any consequences for violation of the standards of conduct.

(iv) Requirements for use of foreign currencies, including applicability of U.S. holdings of excess foreign currencies.

(v) Availability of logistical support for contractor employees.

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

(3) Furnish the following information to the Combatant Commander and, for contracts administered by the Defense Contract Management Agency, send a copy to the cognizant contract administration office:

(i) A synopsis of the work to be performed and, if practical, a copy of the solicitation.

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(ii) Any contractor logistical support desired in support of U.S. or foreign military sale requirements.

(iii) Contract performance period and estimated contract value.

(iv) Number and nationality of contractor employees and date of planned arrival of contractor personnel.

(v) Contract security requirements.

(vi) Other pertinent information to effect complete coordination and cooperation.

(4) Consider requesting waiver of the Defense Base Act if the contractor will employ foreign workers (see FAR 28.305).

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

(1) For work performed in Japan—

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

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

(iii) 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

(iv) To ensure that the solicitation and resultant contract reflect an accurate description of available logistic support and application of the U.S.-Japan SOFA, contact the Staff Judge Advocate at (commercial) 011-81-3117-55-7717, or DSN 315-225-7717.

(2) For work performed in Korea—

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

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

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

(iii) 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

((iv) To ensure that the solicitation and resultant contract reflect an accurate description of available logistic support and application of the U.S.-Korea SOFA, review the SOFA information at the USFK website at <http://www.korea.army.mil>. Contact information for the Commander is also available at <http://www.korea.army.mil/org/index.htm>.

PGI 225.7402 Contractor personnel supporting a force deployed outside the United States.

PGI 225.7402-3 Government support.

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

- (1) Deployment in-processing centers;
- (2) Training;
- (3) Transportation to operation area;
- (4) Transportation within operation area;
- (5) Physical security;
- (6) Force protection;
- (7) Organizational clothing and individual equipment;
- (8) Emergency medical care;
- (9) Mess operations;
- (10) Quarters;
- (11) Postal service;
- (12) Phone service;

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(13) Emergency notification;

(14) Laundry; and

(15) Religious services.

(c) *Letter of Authorization.*

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

(2) 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.

(3) Sample LOA:

OFFICE SYMBOL

Date

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

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

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

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

- a. Name: *[insert employee's full name, including middle name. In addition, include the employee's GS grade equivalent].*
- b. Home Address: *[insert complete street address, city, state, and zip code. Include a CONUS work e-mail address if available].*
- c. Date of Birth: *[insert employee's birth date].*
- d. Place of Birth: *[insert employee's birth place].*
- e. Passport Number/Expiration Date: *[insert contractor employee's passport number and passport expiration date].*
- f. Next of Kin: *[insert full name, along with contact information and individual's relationship].*
- g. Job Title: *[insert company job title for employee].*
- h. Equivalent GS grade: For purposes of determining what level of Government-provided support should be granted to contractor personnel, and for prisoner-of-war status, the individual named herein is equivalent to a *[for contractor non-supervisory positions insert GS-12. For contractor supervisory/managerial positions insert GS-13].*
- i. Level of Clearance: *[insert individual's security clearance; if not applicable, insert N/A].*
- j. Issuing Agency: *[insert complete name and address of Government contracting organization that awarded the contract for which this work is being performed].*
- k. Countries to be visited: *[insert the countries to be visited in support of military operations].*
- l. Purpose: *[provide a brief description of the contractor support being provided. This should not exceed three lines. If known, include what military organizations will be supported at the tactical level].*
- m. Deployed Performance Period: *[provide the estimated deployed performance dates].*

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

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

made available for contractor personnel in performance of the specific contract.]

Request that this contractor employee be granted, subject to availability, access to or the privileges defined below while temporarily deployed with *[insert military organization supporting]* on Contract Number *[insert contract number]*:

a. Common Access Card (CAC), Geneva Convention Card (DD Form 489), and ration cards.

b. *[Insert appropriate exchange name]* Exchange service facilities (includes rationed items).

c. Military clothing sales for repair and replacement of issued equipment.

d. Organizational clothing and individual equipment.

e. Military banking facilities and Finance Accounting Office.

f. Government transportation (i.e. aircraft, automobile, bus, train) for official Government business.

g. Commissary (includes rationed items).

h. Morale and welfare recreational facilities (e.g., clubs, movie theaters, gyms).

i. Purchase of petroleum and oil products for rental and/or Government vehicles.

j. Customs exemption.

k. Emergency medical care.

l. The following theater-specific immunizations that are not available to the general public: _____.

m. Mess facilities.

n. Quarters.

o. Military postal service.

p. Phone service.

q. Laundry services.

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

r. Religious services.

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

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

5. Points of Contacts (POC):

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

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

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

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

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

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

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

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

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

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

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

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

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

PGI 225.7402-4 Contract clauses.

(b) When using the clause at 252.225-7040, Contractor Personnel Supporting a Force Deployed Outside the United States, consider the applicability of the following clauses:

(1) 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);

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

(3) 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.

PGI 225.7403-1 General.

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

(a) For Navy contracts: Naval Criminal Investigative Service (NCIS), Code 24; telephone, DSN 228-9113 or commercial (202) 433-9113.

(b) For Army contracts: HQDA (DAMO-ODL)/ODCSOP; telephone, DSN 225-8491 or commercial (703) 695-8491.

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

(d) For Air Force contracts: HQ AFSFC/SFPA; telephone, DSN 945-7035/36 or commercial (210) 925-7035/36.

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(e) For Combatant Command contracts: The appropriate Antiterrorism Force Protection Office at the Command Headquarters.

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

(g) For additional information: Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, ASD(SOLIC); telephone, DSN 255-0044 or commercial (703) 695-0044.

DFARS Procedures, Guidance, and Information

PGI 229—Taxes

(Revised April 12, 2006)

PGI 229.1--GENERAL

PGI 229.101 Resolving tax problems.

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

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

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

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

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

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

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

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

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

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

DFARS Procedures, Guidance, and Information

PGI 229—Taxes

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

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

(B) DoD Directive 5525.1 is available at <http://www.dtic.mil/whs/directives/corres/html/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.
- (iii) Contractor point of contact (Name, phone number, FAX number, and e-mail address).
- (iv) Amount of foreign taxes assessed by each foreign government.
- (v) Amount of any foreign taxes reimbursed by each foreign government.

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

- (i) For Army contracts:

DFARS Procedures, Guidance, and Information

PGI 229—Taxes

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

(ii) For Navy contracts:

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

(iii) For Air Force contracts:

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

(iv) For Marine Corps contracts:

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

(v) For all other DoD contracts:

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

DFARS Procedures, Guidance, and Information

PGI 242—Contract Administration and Audit Services

(Revised April 12, 2006)

PGI 242.12—NOVATION AND CHANGE-OF-NAME AGREEMENTS

PGI 242.1203 Processing agreements.

(1) For contracts awarded by the military departments, provide notices to the following addressees instead of individual contracting or contract administration offices:

Army	HQ, U.S. Army Materiel Command ATTN: AMCCC 9301 Chapek Road Fort Belvoir, VA 22060-5527
Navy	Office of the Assistant Secretary of the Navy Research, Development & Acquisition Deputy Assistant Secretary for Acquisition Management 1000 Navy Pentagon, Room BF992 Washington, DC 20350-1000
Air Force	HQ Air Force Materiel Command ATTN: HQ AFMC/PKP 4375 Chidlaw Road, Suite 6 Wright Patterson AFB, OH 45433-5006
National Aeronautics and Space Administration	National Aeronautics and Space Administration Associate Administrator for Procurement ATTN: HS Washington, DC 20546-0001

(2) Lists of affected contracts accompanying a notice of successor in interest should include the information at FAR 42.1204(e)(2).

(3) Lists of affected contracts accompanying a notice of a name change should include the information at FAR 42.1205(a)(3).

(4) On notices sent to the addressees in paragraph (1) of this section, include a consolidated list for all subordinate contracting offices of the addressee.

(5) Before making any substantial alterations or additions to the novation agreement format at FAR 42.1204(i), coordinate with the addressees in paragraph (1) of this section that have contracts with the contractor. Resolve any objections before executing the agreement.

DFARS Procedures, Guidance, and Information

PGI 242—Contract Administration and Audit Services

(6) If the National Aeronautics and Space Administration (NASA) wants a separate agreement with the contractor, continue to process the agreement only for DoD.

(7) In addition to the requirements of FAR 42.1203(g), make distribution to—

(i) The addressees in paragraph (1) of this section - two copies; and

(ii) The appropriate Military Surface Deployment and Distribution Command area command for agreements affecting contracts and basic agreements for storage and related services for personal property of military and civilian personnel — two copies:

Commander
Eastern Area
Military Surface Deployment
and Distribution Command
ATTN: MTE-LO
Bayonne, NJ 07002

Commander
Western Area
Military Surface Deployment
and Distribution Command
Oakland Army Base
ATTN: MTW-LO
Oakland, CA 94626

(8) In addition to the distribution requirements of FAR 42.1203(h)(4)--

(i) Send two copies to the address in paragraph (1) of this section. The list of contracts may be confined to those issued by that department.

(ii) Do not send copies to NASA or the commands in paragraph (7)(ii) of this section. They will issue their own modifications.