

# DFARS Procedures, Guidance, and Information

## PGI 225--Foreign Acquisition

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*(Revised November 9, 2006)*

### PGI 225.8--OTHER INTERNATIONAL AGREEMENTS AND COORDINATION

#### PGI 225.802 Procedures.

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

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

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

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

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

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

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

#### PGI 225.870 Contracting with Canadian contractors.

##### PGI 225.870-1 General.

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

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

(A) Contract administration services, including—

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

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

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

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

### **PGI 225.870-5 Contract administration.**

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

DFAS Columbus Center  
DFAS-CO/North Entitlement Operations

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PO Box 182266  
Columbus, OH 43218-2266.

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

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

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

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

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

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

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

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

### **PGI 225.870-7 Acceptance of Canadian supplies.**

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

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

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

#### **PGI 225.871-4 Statutory waivers.**

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

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

### PGI 225.871-5 Directed subcontracting.

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

### PGI 225.872 Contracting with qualifying country sources.

#### PGI 225.872-4 Individual determinations.

(1) Obtain signature of the determination and findings—

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

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

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

#### SERVICE OR AGENCY

Exemption of the Buy American Act and Balance of Payments Program

#### Determination and Findings

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

#### Findings

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

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

### Determination

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

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(Date)

### PGI 225.872-5 Contract administration.

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

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

### PGI 225.872-6 Audit.

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

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

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

### PGI 225.873 Waiver of United Kingdom commercial exploitation levies.

#### PGI 225.873-2 Procedures.

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

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

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

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### 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.

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(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—

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

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



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- (2) For work performed in Korea—
- (i) U.S.-Korea bilateral agreements govern the status of contractors and employees, criminal jurisdiction, and taxation;
  - (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.usfk.mil/org/fkdc-sa/index.html>. Contact information for the Commander is also available at <http://www.usfk.mil/org/leadership/index.html?/org/leadership/Contents/cmd.html>.

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

Also see PGI 207.105(b)(19)(C) for special considerations for acquisition planning for crisis situations outside the United States.

#### **PGI 225.7402-3 Government support.**

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

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- (8) Emergency medical care;
- (9) Mess operations;
- (10) Quarters;
- (11) Postal service;
- (12) Phone service;
- (13) Emergency notification;
- (14) Laundry; and
- (15) Religious services.

(d) *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]*

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

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

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

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].*

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

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

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

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

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

m. Mess facilities.

n. Quarters.

o. Military postal service.

p. Phone service.

q. Laundry services.

r. Religious services.

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]*.

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

- (1) DSN and Commercial *[insert phone numbers]*.
- (2) E-mail *[insert unclassified e-mail address]*.

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

- (1) DSN and Commercial *[insert phone numbers]*.
- (2) E-mail *[insert unclassified e-mail address]*.

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

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

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

#### **PGI 225.7402-4 Contract clauses.**

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

(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.

(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.

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

#### **PGI 225.7403 Antiterrorism/force protection.**

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

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

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

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

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

(f) 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.

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## PGI 242—Contract Administration and Audit Services

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*(Revised November 9, 2006)*

### PGI 242.74—TECHNICAL REPRESENTATION AT CONTRACTOR FACILITIES

#### PGI 242.7401 Procedures.

(1) When the program, project, or system manager determines that a technical representative is required, the manager shall issue a letter of intent to the contract administration office commander listing the assignment location, starting and ending assignment dates, technical duties assigned, delegated authority, and support required from the contract administration office. Any issues regarding the assignment of a technical representative should be resolved promptly. However, final decision on the assignment remains with the program manager. Issues regarding the assignment of technical duties that cannot be resolved between the program office and the on-site DoD contract administration office will be elevated.

(2) The program, project, or system manager will furnish the designated technical representative a letter of assignment of delegated technical duties, with copies to the contract administration office, the contracting officer, and the contractor, at least 30 days before the assignment date (or termination date). Any changes to the requirements of the assignment letter will be made by a new letter of intent and processed in accordance with paragraph (1) of this section.

(3) The contract administration office normally provides the technical representative with office space, equipment, supplies, and part-time clerical support. The program, project, or system manager provides supervision, technical direction, administrative services (e.g., pay, travel, maintenance of personnel records), and, when required, full-time clerical support.

(4) The program manager or designee and the contract administration office, at the local level, shall negotiate a memorandum of agreement (MOA) delineating their functional administrative interrelationships, with annual updates as necessary. The agreements may be included in an existing MOA, if one exists, or as a separate MOA.

(5) The technical representative shall keep the contract administration office commander fully informed of matters discussed with the contractor. The contract administration office shall also keep the technical representative fully informed of contractor discussions that relate to technical matters within the purview of the technical representative's assigned duties.



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## PGI 244—Subcontracting Policies and Procedures

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*(Revised November 9, 2006)*

### PGI 244.3—CONTRACTORS' PURCHASING SYSTEMS REVIEWS

#### PGI 244.304 Surveillance.

(b) Weaknesses—

(i) May arise because of—

(A) Major changes in the contractor's purchasing policies, procedures, or key personnel; or

(B) Changes in plant workload or type of work; and

(ii) May be discovered—

(A) During reviews of subcontracts submitted under advance notification and consent (FAR Subpart 44.2); or

(B) From information provided by Government personnel.