



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

In reply refer to
DARS Tracking Number: 2022-O0008

MEMORANDUM FOR COMMANDER, UNITED STATES CYBER
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Class Deviation—Restriction on Acquisition of Personal Protective Equipment and
Certain Other Items from Non-Allied Foreign Nations

Effective immediately, unless an exception applies, contracting officers shall include the attached contract clause 252.225-7968, Restriction on Acquisition of Personal Protective Equipment and Certain Other Items from Non-Allied Foreign Nations, in solicitations and contracts, including solicitations using Federal Acquisition Regulation part 12 procedures for the acquisition of commercial products including commercially available off-the-shelf items and commercial services, that are for the acquisition of covered items of personal protective equipment materials and components, or sanitizing and disinfecting wipes, testing swabs, gauze, or bandages, with an estimated value above \$150,000.

This class deviation implements section 802 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2022 (Pub. L. 117-81). Section 802 adds the prohibition in 10 U.S.C. 2533e that prohibits the acquisition of personal protective equipment covered items and certain other items from non-allied foreign nations: The Democratic People's Republic of North Korea; The People's Republic of China; The Russian Federation; and The Islamic Republic of Iran, subject to exceptions. Section 802 also transfers 10 U.S.C. 2533e to 10 U.S.C. 4875 (section 1870(d) of the NDAA for FY 2021 (Pub. L. 116-283) and amended by section 802 of the NDAA for FY 2022.

“Covered item” is defined as an article or item of—

- Personal protective equipment for use in preventing spread of disease, such as by exposure to infected individuals or contamination or infection by infectious material including—
 - Nitrile and vinyl gloves;

Class Deviation 2022-O0008
Restriction on Acquisition of Personal Protective Equipment and
Certain Other Items from Non-Allied Foreign Nations

- Surgical masks;
- Respirator Masks and powered air purifying respirators and required filters;
- Face shields and protective eyewear;
- Surgical and isolation gowns and head and foot coverings; or
- Clothing; and
- The materials and components thereof; or
- Sanitizing and disinfecting wipes, testing swabs, gauze, and bandages.

The prohibition does not apply to an acquisition—

- For sensors, electronics, or other items added to and not normally associated with such personal protective equipment or clothing; or
- If the head of the contracting activity determines that a covered item of satisfactory quality and quantity, in the required form, cannot be procured as and when needed from nations other than a covered country to meet the requirements at a reasonable price; or an acquisition—
 - Of a covered item for use outside of the United States; or
 - At or below \$150,000.

A copy of any determination shall be included in the contract file.

This class deviation remains in effect until it is incorporated in the Defense Federal Acquisition Regulation Supplement or is otherwise rescinded. My point of contact is Mr. Greg Snyder, DPC/CP who is available at 703-614-0719 or gregory.d.snyder.civ@mail.mil.

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John M. Tenaglia
Principal Director,
Defense Pricing and Contracting

Attachment:
As stated

252.225-7968 Restriction on Acquisition of Personal Protective Equipment and Certain Other Items from Non-Allied Foreign Nations. (DEVIATION 2022-O0008)

Unless an exception applies, use the following contract clause in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products including commercially available off-the-shelf items and commercial services, that are for the acquisition of covered items of personal protective equipment materials and components, or sanitizing and disinfecting wipes, testing swabs, gauze, and bandages, with an estimated value above \$150,000.

**RESTRICTION ON ACQUISITION OF PERSONAL PROTECTIVE EQUIPMENT
AND CERTAIN OTHER ITEMS FROM NON-ALLIED FOREIGN NATIONS
(DEVIATION 2022-O0008) (MAR 2022)**

(a) *Definitions.* As used in this clause—

Covered country means—

- (1) The Democratic People’s Republic of North Korea;
- (2) The People’s Republic of China;
- (3) The Russian Federation; or
- (4) The Islamic Republic of Iran.

Covered item means an article or item of—

(1) Personal protective equipment for use in preventing spread of disease, such as by exposure to infected individuals or contamination or infection by infectious material including—

- (i) Nitrile and vinyl gloves;
- (ii) Surgical masks;
- (iii) Respirator masks and powered air purifying respirators and required filters;
- (iv) Face shields and protective eyewear;
- (v) Surgical and isolation gowns and head and foot coverings; or
- (vi) Clothing; and
- (vii) The materials and components thereof, other than sensors, electronics, or other items added to and not normally associated with such personal protective equipment or clothing; or

Attachment 1
Class Deviation 2022-O0008
Restriction on Acquisition of Personal Protective Equipment and
Certain Other Items from Non-Allied Foreign Nations

(2) Sanitizing and disinfecting wipes, testing swabs, gauze, and bandages.

(b) *Restriction.* Except as provided in paragraph (c) of this clause, the Contractor shall not deliver under this contract a covered item of personal protective equipment or other items, from a covered country, for use in preventing the spread of disease, such as by exposure to infected individuals, or contamination or infection by infectious material (10 U.S.C. 2533e, now 10 U.S.C. 4875).

(c) *Subcontracts.* The Contractor shall insert this clause, including this paragraph (c), without alteration other than to identify the appropriate parties, in subcontracts that are for the acquisition of personal protective equipment and covered items, including subcontracts for commercial products and commercial services including COTS items.

(End of clause)