



ACQUISITION  
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

In reply refer to  
DARS Tracking Number: 2020-O0006

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
COMMANDER, UNITED STATES TRANSPORTATION  
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COMMANDER, UNITED STATES CYBER  
COMMAND (ATTN: ACQUISITION EXECUTIVE)  
INSPECTOR GENERAL OF THE DEPARTMENT OF  
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(PROCUREMENT)  
DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(ACQUISITION & PROCUREMENT)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING)  
DIRECTORS, DEFENSE AGENCIES  
DIRECTORS, DEFENSE FIELD ACTIVITIES

SUBJECT: Class Deviation—Restriction on Acquisition of Tantalum

Effective immediately, contracting officers shall use the clause provided in the attachment to this class deviation, in lieu of DFARS clause 252.225-7052, Restriction on the Acquisition of Certain Magnets and Tungsten.

This class deviation implements section 849 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92). Section 849 adds tantalum to the definition of covered materials in 10 U.S.C. 2533c. With some exceptions, 10 U.S.C. 2533c prohibits the acquisition of any covered material melted or produced in any covered country (North Korea, China, Russia, or Iran), or any end item, manufactured in any covered country, that contains a covered material. "Covered material" also includes samarium-cobalt magnets, neodymium-iron-boron magnets, tungsten metal powder, and tungsten heavy alloy or any finished or semi-finished components containing tungsten heavy alloy.

This class deviation remains in effect until it is incorporated in the Defense Federal Acquisition Regulation Supplement, or until it is otherwise rescinded. My point of contact is Ms. Patricia Foley, who is available at [patricia.g.foley.civ@mail.mil](mailto:patricia.g.foley.civ@mail.mil).

Kim Herrington  
Acting Principal Director,  
Defense Pricing and Contracting

**252.225-7052 Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten. (DEVIATION 2020-O0006)**

Unless acquiring items outside the United States for use outside the United States or a nonavailability determination has been made in accordance with 225.7018, use the following clause in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that exceed the simplified acquisition threshold:

**RESTRICTION ON THE ACQUISITION OF CERTAIN MAGNETS, TANTALUM,  
AND TUNGSTEN (DEVIATION 2020-O0006) (FEB 2020)**

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

“Assembly” means an item forming a portion of a system or subsystem that—

- (1) Can be provisioned and replaced as an entity; and
- (2) Incorporates multiple, replaceable parts.

“Commercially available off-the-shelf item”—

(1) Means any item of supply that is—

(i) A commercial item (as defined in paragraph (1) of the definition of “commercial item” in section 2.101 of the Federal Acquisition Regulation);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under this contract or a subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

“Component” means any item supplied to the Government as part of an end item or of another component.

“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 material” means—

- (1) Samarium-cobalt magnets;
- (2) Neodymium-iron-boron magnets;
- (3) Tantalum metal and alloy;
- (4) Tungsten metal powder; and
- (5) Tungsten heavy alloy or any finished or semi-finished component containing tungsten heavy alloy.

“Electronic device” means an item that operates by controlling the flow of electrons or other electrically charged particles in circuits, using interconnections such as resistors, inductors, capacitors, diodes, switches, transistors, or integrated circuits.

“End item” means the final production product when assembled or completed and ready for delivery under a line item of this contract.

“Subsystem” means a functional grouping of items that combine to perform a major function within an end item, such as electrical power, attitude control, and propulsion.

“Tungsten heavy alloy” means a tungsten base pseudo alloy that—

- (1) Meets the specifications of ASTM B777 or SAE-AMS-T-21014 for a particular class of tungsten heavy alloy; or
- (2) Contains at least 90 percent tungsten in a matrix of other metals (such as nickel-iron or nickel-copper) and has density of at least 16.5 g/cm<sup>3</sup>).

(b) *Restriction.*

(1) Except as provided in paragraph (c) of this clause, the Contractor shall not deliver under this contract any covered material melted or produced in any

covered country, or any end item, manufactured in any covered country, that contains a covered material (10 U.S.C. 2533c).

(2)(i) For samarium-cobalt magnets and neodymium iron-boron magnets, this restriction includes—

(A) Melting samarium with cobalt to produce the samarium-cobalt alloy or melting neodymium with iron and boron to produce the neodymium-iron-boron alloy; and

(B) All subsequent phases of production of the magnets, such as powder formation, pressing, sintering or bonding, and magnetization.

(ii) The restriction on melting and producing of samarium-cobalt magnets is in addition to any applicable restrictions on melting of specialty metals if the clause at 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals, is included in the contract.

(3) For production of tantalum metal and alloys, this restriction includes the reduction of tantalum chemicals such as oxides, chlorides, or potassium salts, to metal powder and all subsequent phases of production of tantalum metal and alloys, such as consolidation of metal powders and melting.

(4) For production of tungsten metal powder and tungsten heavy alloy, this restriction includes—

(i) Atomization;

(ii) Calcination and reduction into powder;

(iii) Final consolidation of non-melt derived metal powders; and

(iv) All subsequent phases of production of tungsten metal powder, tungsten heavy alloy, or any finished or semi-finished component containing tungsten heavy alloy.

(c) *Exceptions.* This clause does not apply—

(1) To an end item that is—

(i) A commercially available off-the-shelf item, other than—

(A) A commercially available off-the-shelf item that is 50 percent or

more tungsten by weight; or

(B) A tantalum metal, tantalum alloy, or tungsten heavy alloy mill product, such as bar, billet, slab, wire, cube, sphere, block, blank, plate, or sheet, that has not been incorporated into an end item, subsystem, assembly, or component;

(ii) An electronic device, unless otherwise specified in the contract; or

(iii) A neodymium-iron-boron magnet manufactured from recycled material if the milling of the recycled material and sintering of the final magnet takes place in the United States.

(2) If the authorized agency official concerned has made a nonavailability determination, in accordance with section 225.7018-4 of the Defense Federal Acquisition Regulation Supplement, that compliant covered materials of satisfactory quality and quantity, in the required form, cannot be procured as and when needed at a reasonable price.

(i) For tantalum metal, tantalum alloy, and tungsten heavy alloy, the term “required form” refers to the form of the mill product, such as bar, billet, wire, slab, plate, or sheet, in the grade appropriate for the production of a finished end item to be delivered to the Government under this contract; or a finished component assembled into an end item to be delivered to the Government under the contract.

(ii) For samarium-cobalt magnets or neodymium-iron-boron magnets, the term “required form” refers to the form and properties of the magnets.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in subcontracts and other contractual instruments that are for items containing a covered material, including subcontracts and other contractual instruments for commercial items, unless an exception in paragraph (c) of this clause applies. The Contractor shall not alter this clause other than to identify the appropriate parties.

(End of clause)

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