



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

In reply refer to
DARS Tracking Number: 2024-O0006

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—Prohibition Regarding Russian Fossil Fuel and Fossil Fuel
Business Operations

Effective immediately, contracting officers shall use the attached provision 252.225-7966, Prohibition Regarding Russian Fossil Fuel Business Operations—Representation, in solicitations that include the attached clause 252.225-7967, Prohibition Regarding Russian Fossil Fuel Business Operations. Contracting officers shall use the clause 252.225-7967 in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, valued above the simplified acquisition threshold, except for contracts that are—

- Jointly determined by the Secretary of Defense and Secretary of State to be—
 - Necessary for purposes of—
 - Providing humanitarian assistance to the people of Russia; or
 - Disaster relief and other urgent lifesaving measures;
 - Vital to the national security interests of the United States; or
 - A business operation with a fossil fuel company in a country other than the Russian Federation that was entered into prior to the date of the effective date of the prohibition;

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- Related to the operation and maintenance of the U.S. Government’s consular offices and diplomatic posts in Russia; or
- Licensed by the Office of Foreign Assets Control of the Department of the Treasury or otherwise authorized to operate in Russian by the U.S. Government.

Contracting officers shall notify Defense Pricing and Contracting, Contract Policy via email at osd.pentagon.ousd-a-s.mbx.dpc-cp@mail.mil, upon entering into a contract on the basis of an exception. Include in the notification a copy of the joint determination made by the Secretary of Defense and the Secretary of State. Include a copy of the joint determination in the contract file.

This class deviation implements section 804 of the National Defense Authorization Act for Fiscal Year 2024 (Pub. L. 118-31). Section 804 prohibits contracting officers from entering into a contract for the procurement of products or services with any entity that is known to be, or that is known to have fossil fuel business operations with an entity that is, not less than 50 percent owned, individually or collectively, by—

- An authority of the government of the Russian Federation; or
- A fossil fuel company that operates in the Russian Federation, except if the fossil fuel company transports oil or gas—
 - Through the Russian Federation for sale outside of the Russian Federation; and
 - That was extracted from a country other than the Russian Federation with respect to the energy sector of which the President has not imposed sanctions as of the date on which the contract is awarded.

This class deviation remains in effect until December 31, 2029, or until incorporated into the Defense Federal Acquisition Regulation Supplement or otherwise rescinded. My point of contact is Mr. Jeffrey Grover, DPC/CP who is available at jeffrey.c.grover.civ@mail.mil.

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John M. Tenaglia
Principal Director,
Defense Pricing and Contracting

252.225-7966 Prohibition Regarding Russian Fossil Fuel Business Operations—Representation (Deviation 2024-O0006).

Use the following provision in solicitations that include the clause at 252.225-7967:

PROHIBITION REGARDING RUSSIAN FOSSIL FUEL BUSINESS OPERATIONS—
REPRESENTATION (FEB 2024)

(a) *Definitions.* The terms *business operations* and *fossil fuel company* have the meanings given in the 252.225-7067 clause of this solicitation.

(b) *Representation.* By submission of an offer, the Offeror represents it is not, or that it does not knowingly have fossil fuel business operations with an entity or individual that is, 50 percent or more owned, individually or collectively, by—

(1) An authority of the government of the Russian Federation; or

(2) A fossil fuel company that operates in the Russian Federation, except if the fossil fuel company transports oil or gas—

(i) Through the Russian Federation for sale outside of the Russian Federation; and

(ii) That was extracted from a country other than the Russian Federation with respect to the energy sector of which the President has not imposed sanctions as of the date on which the contract is awarded.

(End of provision)

252.225-7967 Prohibition Regarding Russian Fossil Fuel Business Operations (Deviation 2024-O0006).

As prescribed in Class Deviation 2024-O0006, use the following clause:

PROHIBITION REGARDING RUSSIAN FOSSIL FUEL OPERATIONS (DEVIATION 2024-O0006) (FEB 2024)

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

“*Business operations*” means knowingly engaging in commerce in any form, including acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other known apparatus of business or commerce. The term does not include—

(1) Any shipment subject to price caps as specified in the—

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Prohibition on Contracting with Russian Energy Fossil Fuel and
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(i) “Statement of the G7 and Australia on a Price Cap for Seaborne Russian-Origin Crude Oil”, issued on December 2, 2022, between member countries of that coalition; or

(ii) “Statement of the G7 and Australia on Price Caps for Seaborne Russian-Origin Petroleum Products Berlin, Brussels, Canberra, London, Ottawa, Paris, Rome, Tokyo, Washington”, issued on February 4, 2023, between such members, if such shipment complies with the applicable price caps; or

(A) Actions taken for the benefit of the country of Ukraine, as determined by the Secretary; or

(B) Actions taken to support the suspension or termination of business operations for commercial activities during the period beginning on the effective date and ending on December 31, 2029, including—

(1) Any action to secure or divest from facilities, property, or equipment;

(2) The provision of products or services provided to reduce or eliminate operations in territory internationally recognized as the Russian Federation or to comply with sanctions relating to the Russian Federation; and;

(3) Activities that are incident to liquidating, dissolving, or winding down a subsidiary or legal entity in Russia.

Fossil fuel company means an entity or individual that—

(1) Carries out oil, gas, or coal exploration, development, or production activities;

(2) Processes or refines oil, gas, or coal; or

(3) Transports, or constructs facilities for the transportation of, Russian oil, gas, or coal.

(b) *Prohibition.* In accordance with section 804 of the National Defense Authorization Act for Fiscal Year 2024 (Pub. L. 118-31), the Contractor is prohibited from entering into a subcontract or other contractual instrument for the procurement of products or services with any entity or individual that is known to be, or that is known to have fossil fuel business operations with an entity or individual that is, not less than 50 percent owned, individually or collectively, by—

(1) An authority of the government of the Russian Federation; or

(2) A fossil fuel company that operates in the Russian Federation, except if the fossil fuel company transports oil or gas—

(i) Through the Russian Federation for sale outside of the Russian Federation; and

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(ii) That was extracted from a country other than the Russian Federation with respect to the energy sector of which the President has not imposed sanctions as of the date on which the contract is awarded.

(c) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts and other contractual instruments, including those for the acquisition of commercial products or commercial services.

(End of clause)