



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-O0014

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 on Procurement of Foreign-Made Unmanned Aircraft
Systems

This class deviation rescinds and supersedes Class Deviation 2020-O0015. Effective immediately, unless an exception applies or a waiver is granted, contracting officers shall not enter into or renew a contract for the procurement of—

- An unmanned aircraft system (UAS), or any related services or equipment, that—
 - Is manufactured in a covered foreign country (i.e., the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea), or by an entity domiciled in a covered foreign country;
 - Uses flight controllers, radios, data transmission devices, cameras, or gimbals manufactured in a covered foreign country, or by an entity domiciled in a covered foreign country;
 - Uses a ground control system or operating software developed in a covered foreign country or by an entity domiciled in a covered foreign country; or
 - Uses network connectivity or data storage located in, or administered by an entity domiciled in, a covered foreign country; or

- A system for the detection or identification of a UAS, or any related services or equipment, that is manufactured in a covered foreign country or by an entity domiciled in a covered foreign country.

On or after October 1, 2024, unless an exception applies or a waiver is granted, contracting officers shall not enter into or renew a contract with an entity that operates, as determined by the Secretary of Defense, equipment from a covered unmanned aircraft system company during performance of a DoD contract. A covered unmanned aircraft system company means any of the following—

- Da-Jiang Innovations, or any subsidiary or affiliate of Da-Jiang Innovations;
- Any entity that produces or provides unmanned aircraft systems and is included on the Consolidated Screening List maintained by the International Trade Administration of the Department of Commerce (<https://www.trade.gov/consolidated-screening-list>); and
- Any entity that produces or provides unmanned aircraft systems and—
 - Is domiciled in a covered foreign country; or
 - Is subject to unmitigated foreign ownership, control, or influence by a covered foreign country, as determined by the Secretary of Defense in accordance with the National Industrial Security Program.

This prohibition does not apply to procurements for the purposes of—

- Counter-UAS surrogate testing and training; or
- Intelligence, electronic warfare, and information warfare operations, testing, analysis, and training.

Contracting officers shall use the solicitation provision and contract clause provided in the attachment, as prescribed. If a waiver (see subsequent paragraph) has been granted for a specific acquisition, the contracting officer shall obtain a copy of the waiver from the requiring activity or program manager prior to making the award. The contracting officer shall include a copy of the approved waiver in the contract file.

This class deviation implements the procurement prohibition under section 848 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116-92) and section 817 of the NDAA for FY 2023 (Pub. L. 117-263). Pursuant to sections 848 and 817 the Secretary of Defense may waive the prohibition on a case-by-case basis by certifying in writing to the congressional defense committees that the procurement is required in the national interest of the United States.

DARS Tracking Number: 2024-O0014
Prohibition on Procurement of Foreign-Made Unmanned Aircraft Systems

This class deviation remains in effect until incorporated in the Defense Federal Acquisition Regulation Supplement or otherwise rescinded. The class deviation point of contact is Mr. Jeff Grover, who is available at (703) 697-6710 or jeffrey.c.grover.civ@mail.mil. Questions related to UAS policy can be submitted at osd.pentagon.ousd-a-s.mbx.cots-uas@mail.mil.

John M. Tenaglia
Principal Director,
Defense Pricing, Contracting, and
Acquisition Policy

Attachment:
As stated

252.225-7973 Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems—Representation. (DEVIATION 2024-O0014)

Use the following provision in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services, unless—

(a) The acquisition is for—

(1) Counter-unmanned aircraft system surrogate testing and training; or

(2) Intelligence, electronic warfare, and information warfare operations, testing, analysis, and training; or

(b) A waiver has been granted by the Secretary of Defense in accordance with section 848 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116-92) and section 817 of the NDAA for FY 2023 (Pub. L. 117-263).

PROHIBITION ON THE PROCUREMENT OF FOREIGN-MADE UNMANNED AIRCRAFT SYSTEMS—REPRESENTATION (AUG 2024) (DEVIATION 2024-O0014)

(a) *Definition.* As used in this provision, “covered foreign country” has the meaning given in the 252.225-7972, Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems (DEVIATION 2024-O0014), clause of this solicitation.

(b) *Prohibition.* Section 848 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116-92) and section 817 of the NDAA for FY 2023 (Pub. L. 117-263) prohibit DoD from—

(1) Using or procuring an unmanned aircraft system (UAS), or any related services or equipment, that—

(i) Is manufactured in a covered foreign country, or by an entity domiciled in a covered foreign country;

(ii) Uses flight controllers, radios, data transmission devices, cameras, or gimbals manufactured in a covered foreign country, or by an entity domiciled in a covered foreign country;

(iii) Uses a ground control system or operating software developed in a covered foreign country, or by an entity domiciled in a covered foreign country; or

(iv) Uses network connectivity or data storage located in, or administered by an entity domiciled in, a covered foreign country;

(2) Using or procuring a system for the detection or identification of a UAS, or any related services or equipment, that is manufactured in a covered foreign country or by an entity domiciled in a covered foreign country; or

(3) On or after October 1, 2024, entering into or renewing a contract with an entity that operates, as determined by the Secretary of Defense, equipment from—

(i) Da-Jiang Innovations (or any subsidiary or affiliate of Da-Jiang Innovations);

(ii) Any entity that produces or provides unmanned aircraft systems and is included on the Consolidated Screening List maintained by the International Trade Administration of the Department of Commerce (<https://www.trade.gov/consolidated-screening-list>); or

(iii) Any entity that produces or provides unmanned aircraft systems and—

(A) Is domiciled in a covered foreign country; or

(B) Is subject to unmitigated foreign ownership, control, or influence by a covered foreign country, as determined by the Secretary of Defense in accordance with the National Industrial Security Program.

(c) *Representations.*

(1) By submission of its offer, the Offeror represents that—

(i) It will not provide or use a UAS, as described in paragraph (b)(1) of this provision, in the performance of any contract, subcontract, or other contractual instrument resulting from this solicitation; and

(ii) It will not provide or use a system for the detection or identification of a UAS, as described in paragraph (b)(2) of this provision, in the performance of any contract, subcontract, or other contractual instrument resulting from this solicitation.

(2) It is not an entity described in paragraph (b)(3) of this provision.

(End of provision)

252.225-7972 Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems. (DEVIATION 2024-O0014)

Use the following clause in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, unless—

(a) The acquisition is for—

- (1) Counter-unmanned aircraft system surrogate testing and training; or
- (2) Intelligence, electronic warfare, and information warfare operations, testing, analysis, and training; or

(b) A waiver has been granted by the Secretary of Defense in accordance with section 848 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116-92) and section 817 of the NDAA for FY 2023 (Pub. L. 117-263).

PROHIBITION ON THE PROCUREMENT OF FOREIGN-MADE UNMANNED AIRCRAFT SYSTEMS (AUG 2024) (DEVIATION 2024-O0014)

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

Covered foreign country means any of the following:

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

(b) *Prohibition.* In accordance with section 848 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 and section 817 of the NDAA for FY 2023, the Contractor shall not—

(1) Provide or use an unmanned aircraft system (UAS), or any related services or equipment, that—

(i) Is manufactured in a covered foreign country, or by an entity domiciled in a covered foreign country;

(ii) Uses flight controllers, radios, data transmission devices, cameras, or gimbals manufactured in a covered foreign country, or by an entity domiciled in a covered foreign country;

(iii) Uses a ground control system or operating software developed in a covered foreign country, or by an entity domiciled in a covered foreign country; or

(iv) Uses network connectivity or data storage located in, or administered by an entity domiciled in, a covered foreign country;

(2) Provide or use a system for the detection or identification of a UAS, or any related services or equipment, that is manufactured in a covered foreign country or by an entity domiciled in a covered foreign country; or

(3) On or after October 1, 2024, be an entity that operates equipment, as determined by the Secretary of Defense, from—

(i) Da-Jiang Innovations, or any subsidiary or affiliate of Da-Jiang Innovations;

(ii) Any entity that produces or provides unmanned aircraft systems and is included on the Consolidated Screening List maintained by the International Trade Administration of the Department of Commerce (<https://www.trade.gov/consolidated-screening-list>); or

(iii) Any entity that produces or provides unmanned aircraft systems and—

(A) Is domiciled in a covered foreign country; or

(B) Is subject to unmitigated foreign ownership, control, or influence by a covered foreign country, as determined by the Secretary of Defense in accordance with the National Industrial Security Program.

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

(End of clause)