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AUTHORITY: 42 U.S.C. 7101 et seq. and 50 U.S.C. 2401 et seq.

SOURCE: 49 FR 12003, Mar. 28, 1984, unless otherwise noted.

**Subpart 925.1—Buy American  
Act—Supplies**

**925.103 Exceptions.**

(a) Contracting officers may make the determination required by FAR 25.103(a), provided such determination is factually supported in writing. If the contract is estimated to exceed \$1 million, the Head of the Contracting Activity shall approve the determination.

[74 FR 36366, July 22, 2009]

**Subpart 925.2—Buy American  
Act—Construction Materials**

**925.202 Policy.**

(b) Contracting officers may make the determination required by FAR 25.202(a)(3). If the cost of the materials is expected to exceed \$100,000, the Head of the Contracting Activity shall approve the determination.

**Subpart 925.7—Prohibited Sources**

**925.701–70 Prohibited sources.**

No contract may be awarded to a company owned by an entity controlled by a foreign government if performance of the contract will require access

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to proscribed information. See subpart 904.71 for additional guidance.

[74 FR 36366, July 22, 2009]

**Subpart 925.9—Additional Foreign  
Acquisition Clauses**

**925.901 Omission of the audit clause.**

(c) Conditions for omission.

Any proposed determinations and any reports mentioned at (FAR) 48 CFR 25.901 shall be forwarded to the Director, Office of Contract Management, within the Headquarters procurement organization.

[59 FR 9106, Feb. 25, 1994, as amended at 61 FR 21977, May 13, 1996; 67 FR 14871, Mar. 28, 2002]

**Subpart 925.70—Acquisition of  
Nuclear Hot Cell Services**

SOURCE: 58 FR 8910, Feb. 18, 1993, unless otherwise noted.

**925.7000 Scope of subpart.**

This subpart prescribes policies for selection for contract award of nuclear hot cell services when one of the competitors is a foreign company. This subpart does not apply to the acquisition and use of nuclear hot cell facilities on-site at a DOE-owned or -leased facility.

**925.7001 Definitions.**

*Costs related to the decommissioning of nuclear facilities*, as used in this subpart, means any cost associated with the compliance with regulatory requirements governing the decommissioning of nuclear facilities licensed by the Nuclear Regulatory Commission. Such costs for foreign facilities and for Department of Energy facilities are costs of decommissioning associated with the compliance with foreign regulatory requirements or the Department's own requirements.

*Costs related to the storage and disposal of nuclear waste*, as used in this subpart, means any costs, whether required by regulation or incurred as a matter of prudent business practice, associated with the storage or disposal of nuclear waste.

*Foreign company*, as used in this subpart, means a company which offers to perform nuclear hot cell services at a facility which is not subject to the laws and regulations of the United States, its agencies, and its political subdivisions.

*Nuclear hot cell services*, as used in this subpart, means services related to the examination of, or performance of various operations on, nuclear fuel rods, control assemblies, or other components that are emitting large quantities of ionizing radiation, after discharge from nuclear reactors, which are performed in specialized facilities located away from commercial nuclear power plants, generally referred to in the industry as “hot cells.”

*Nuclear waste*, as used in this subpart, means any radioactive waste material subject to regulation by the Nuclear Regulatory Commission or the Department of Energy, or in the case of foreign offers, by comparable foreign organizations.

*United States company*, as used in this subpart, means a company which offers to perform nuclear hot cell services at a facility subject to the laws and regulations of the United States, its agencies, and its political subdivisions.

[58 FR 8910, Feb. 18, 1993, as amended at 74 FR 36366, July 22, 2009]

**925.7002 Policy.**

In selecting offer(s) for award of contracts for nuclear hot cell services, costs related to the decommissioning of nuclear facilities and storage and disposal of nuclear waste are to be considered in a way which affords United States and foreign companies an equal competition in accordance with 925.7003. Upon determining that no offer from a foreign firm has a reasonable chance of being selected for award, the requirements of this subpart will not apply.

**925.7003 Requirements.**

(a) For the acquisition of nuclear hot cell services under the conditions in paragraph (b) of this section, the selection official in evaluating competitive offers for selection purposes only shall—

(1) Consider neither costs related to the decommissioning of nuclear waste

facilities nor costs related to the storage and disposal of nuclear waste; or

(2) Add these costs to offers of foreign companies.

(b) The requirements of this section apply under the following circumstances—

(1) One or more of the offers is submitted by a United States company and includes costs related to the decommissioning of nuclear facilities and costs related to the storage and disposal of nuclear waste because it is subject to such costs; and

(2) One or more of the offers is submitted by a foreign company and does not include these types of costs. (A foreign company might not be subject to such costs or might not have to include these types of costs in its offer if the firm is subsidized in decommissioning activity or storage and disposal of nuclear waste, or a foreign government is performing the activities below the actual cost of the activity.)

[58 FR 8910, Feb. 18, 1993, as amended at 74 FR 36366, July 22, 2009]

**925.7004 Contract clause.**

The contracting officer shall insert the clause at 952.225-70, Subcontracting for Nuclear Hot Cell Services, in solicitations and contracts involving nuclear hot cell services. This clause does not flow down to second-tier subcontracts.

**PART 926—OTHER SOCIOECONOMIC PROGRAMS**

**Subpart 926.70—Implementation of Section 3021 of the Energy Policy Act of 1992**

- Sec.
- 926.7001 Policy.
- 926.7002 Responsibilities.
- 926.7003 Review of the procurement request.
- 926.7004 Size standard for Energy Policy Act procurements.
- 926.7005 Preferences under the Energy Policy Act.
- 926.7006 Goal measurement and reporting requirements.
- 926.7007 Solicitation provisions and contract clauses.

**Subpart 926.71—Implementation of Section 3161 of the National Defense Authorization Act for Fiscal Year 1993**

- 926.7101 Policy.
- 926.7102 Definition.