

207.471

(2) The terms of the contract provide for a substantial termination liability as defined in 10 U.S.C. 2401(d)(2). Also see PGI 207.470.

(b) *Limitation on contracts with terms of 18 months or more.* As required by 10 U.S.C. 2401a, the contracting officer shall not enter into any contract for any vessel, aircraft, or vehicle, through a lease, charter, or similar agreement with a term of 18 months or more, or extend or renew any such contract for a term of 18 months or more, unless the head of the contracting activity has—

(1) Considered all costs of such a contract (including estimated termination liability); and

(2) Determined in writing that the contract is in the best interest of the Government.

(c) *Leasing of commercial vehicles and associated equipment.* Except as provided in paragraphs (a) and (b) of this section, the contracting officer may use leasing in the acquisition of commercial vehicles and associated equipment whenever the contracting officer determines that leasing of such vehicles is practicable and efficient (10 U.S.C. 2401a).

[61 FR 16879, Apr. 18, 1996, as amended at 61 FR 50451, Sept. 26, 1996; 74 FR 34266, July 15, 2009]

207.471 Funding requirements.

(a) Fund leases in accordance with DoD Financial Management Regulation (FMR) 7000.14-R, Volume 2A, Chapter 1.

(b) DoD leases are either capital leases or operating leases. See FMR 7000.14-R, Volume 4, Chapter 7, Section 070207.

(c) Use procurement funds for capital leases, as these are essentially installment purchases of property.

[64 FR 31732, June 14, 1999, as amended at 66 FR 55121, Nov. 1, 2001; 71 FR 53045, Sept. 8, 2006]

Subpart 207.5—Inherently Governmental Functions

SOURCE: 70 FR 14573, Mar. 23, 2005, unless otherwise noted.

48 CFR Ch. 2 (10–1–11 Edition)

207.500 Scope of subpart.

This subpart also implements 10 U.S.C. 2383.

207.503 Policy.

(e) The written determination required by FAR 7.503(e), that none of the functions to be performed by contract are inherently governmental—

(i) Shall be prepared using DoD Instruction 1100.22, Guidance for Determining Workforce Mix; and

(ii) Shall include a determination that none of the functions to be performed are exempt from private sector performance, as addressed in DoD Instruction 1100.22.

(S-70) *Contracts for acquisition functions.*

(1) In accordance with 10 U.S.C. 2383, the head of an agency may enter into a contract for performance of the acquisition functions closely associated with inherently governmental functions that are listed at FAR 7.503(d) only if—

(i) The contracting officer determines that appropriate military or civilian DoD personnel—

(A) Cannot reasonably be made available to perform the functions;

(B) Will oversee contractor performance of the contract; and

(C) Will perform all inherently governmental functions associated with the functions to be performed under the contract; and

(ii) The contracting officer ensures that the agency addresses any potential organizational conflict of interest of the contractor in the performance of the functions under the contract (see FAR Subpart 9.5).

(2) See related information at PGI 207.503(S-70).

[70 FR 14573, Mar. 23, 2005, as amended at 71 FR 14101, Mar. 21, 2006; 73 FR 1826, Jan. 10, 2008]

Subpart 207.70—Buy-to-Budget—Additional Quantities of End Items

SOURCE: 68 FR 43331, July 22, 2003, unless otherwise noted.

207.7001 Definition.

End item, as used in this subpart, means a production product assembled,

completed, and ready for issue or deployment.

207.7002 Authority to acquire additional quantities of end items.

10 U.S.C. 2308 authorizes DoD to use funds available for the acquisition of an end item to acquire a higher quantity of the end item than the quantity specified in a law providing for the funding of that acquisition, if the head of an agency determines that—

(a) The agency has an established requirement for the end item that is expected to remain substantially unchanged throughout the period of the acquisition;

(b) It is possible to acquire the higher quantity of the end item without additional funding because of production efficiencies or other cost reductions;

(c) The amount of funds used for the acquisition of the higher quantity of the end item will not exceed the amount provided under that law for the acquisition of the end item; and

(d) The amount provided under that law for the acquisition of the end item is sufficient to ensure that each unit of the end item acquired within the higher quantity is fully funded as a complete end item.

207.7003 Limitation.

For noncompetitive acquisitions, the acquisition of additional quantities is limited to not more than 10 percent of the quantity approved in the justification and approval prepared in accordance with FAR part 6 for the acquisition of the end item.

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Sec.

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AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

SOURCE: 56 FR 36306, July 31, 1991, unless otherwise noted.