

**225.770-4 Identifying USML items.**

(a) Before issuance of a solicitation, the requiring activity shall notify the contracting officer in writing whether the items to be acquired are covered by the USML. The notification shall identify any covered item(s) and shall provide the pertinent USML reference(s) from 22 CFR Part 121.

(b) The USML includes defense articles and defense services that fall into 21 categories. Since not all USML items are themselves munitions (*e.g.*, protective personnel equipment, military training equipment), the requiring activity should consult the USML before concluding that an item is or is not covered by the USML.

[71 FR 53046, Sept. 8, 2006]

**225.770-5 Waiver of prohibition.**

(a) The prohibition in 225.770-2 may be waived, on a case-by-case basis, if an official identified in paragraph (b) of this subsection determines that a waiver is necessary for national security purposes.

(b) The following officials are authorized, without power of delegation, to make the determination specified in paragraph (a) of this subsection:

(1) The Under Secretary of Defense (Acquisition, Technology, and Logistics).

(2) The Secretaries of the military departments.

(3) The Component Acquisition Executive of the Defense Logistics Agency.

(c) The official granting a waiver shall notify the congressional defense committees within 30 days after the date of the waiver.

[71 FR 53046, Sept. 8, 2006]

**Subpart 225.8—Other International Agreements and Coordination**

SOURCE: 68 FR 15621, Mar. 31, 2003, unless otherwise noted.

**225.802 Procedures.**

(b) Information on memoranda of understanding and other international agreements is available at PGI 225.802(b).

[70 FR 73154, Dec. 9, 2005]

**225.802-70 Contracts for performance outside the United States and Canada.**

Follow the procedures at PGI 225.802-70 when placing a contract requiring performance outside the United States and Canada. Also see Subpart 225.74, Defense Contractors Outside the United States.

[70 FR 23801, May 5, 2005]

**225.802-71 End use certificates.**

Contracting officers considering the purchase of an item from a foreign source may encounter a request for the signing of a certificate to indicate that the Armed Forces of the United States is the end user of the item, and that the U.S. Government will not transfer the item to third parties without authorization from the Government of the country selling the item. When encountering this situation, refer to DoD Directive 2040.3, End Use Certificates, for guidance.

**225.870 Contracting with Canadian contractors.**

**225.870-1 General.**

(a) The Canadian Government guarantees to the U.S. Government all commitments, obligations, and covenants of the Canadian Commercial Corporation under any contract or order issued to the Corporation by any contracting office of the U.S. Government. The Canadian Government has waived notice of any change or modification that may be made, from time to time, in these commitments, obligations, or covenants.

(b) For production planning purposes, Canada is part of the defense industrial base (see 225.870-2(b)).

(c) The Canadian Commercial Corporation will award and administer contracts with contractors located in Canada, except for—

(1) Negotiated acquisitions for experimental, developmental, or research work under projects other than the Defense Development Sharing Program;

(2) Acquisitions of unusual or compelling urgency;

(3) Acquisitions at or below the simplified acquisition threshold; or

(4) Acquisitions made by DoD activities located in Canada.