

Federal Acquisition Regulation

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or more, that could directly and significantly contribute to the enhancement of Iran's ability to import refined petroleum products, including—

(A) Certain insurance or reinsurance, underwriting, financing, or brokering for the sale, lease, or provision of such items, or

(B) Providing ships or shipping services to deliver refined petroleum products to Iran.

(v) Exporting, transferring, or otherwise providing to Iran any goods, services, technology or other items knowing that it would contribute materially to the ability of Iran to acquire or develop chemical, biological, or nuclear weapons or related technologies, or acquire or develop destabilizing numbers and types of advanced conventional weapons.

(b) *Remedies.* Upon the determination of a false certification under paragraph (a) of this subsection, the agency shall take one or more of the following actions:

(1) The contracting officer may terminate the contract in accordance with procedures in part 49, or for commercial items, 12.403.

(2) The suspending official may suspend the contractor in accordance with the procedures in subpart 9.4.

(3) The debarring official may debar the contractor for a period not to exceed 3 years in accordance with the procedures in subpart 9.4.

(c) *Exception for trade agreements.* The certification requirements of paragraph (a) of this subsection do not apply with respect to the procurement of eligible products, as defined in section 308(4) of the Trade Agreements Act of 1974 (19 U.S.C. 2518(4)), of any foreign country or instrumentality designated under section 301(b) of that Act (19 U.S.C. 2511(b)) (see subpart 25.4).

[75 FR 60256, Sept. 29, 2010, as amended at 76 FR 68030, Nov. 2, 2011]

25.703-3 Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, section 106.

(a) The head of an Executive agency may not enter into or extend a contract for the procurement of goods or services with a person that exports certain sensitive technology to Iran, as determined by the President and listed

on the Excluded Parties List System via <https://www.acquisition.gov>.

(b) Each offeror must represent that it does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran.

(c) *Exception for trade agreements.* The representation requirement of paragraph (b) of this subsection does not apply with respect to the procurement of eligible products, as defined in section 308(4) of the Trade Agreements Act of 1974 (19 U.S.C. 2518(4)), of any foreign country or instrumentality designated under section 301(b) of that Act (19 U.S.C. 2511(b)) (see subpart 25.4).

[76 FR 68031, Nov. 2, 2011, as amended at 77 FR 188, Jan. 3, 2012]

25.703-4 Waiver.

(a) An agency or contractor seeking a waiver of these requirements, consistent with section 6(b)(5) of the Iran Sanctions Act or section 401(b) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111-195), and the Presidential Memorandum of September 23, 2010 (75 FR 67025), shall submit the request to the Office of Federal Procurement Policy, allowing sufficient time for review and approval.

(b) Agencies may request a waiver on an individual or class basis; however, waivers are not indefinite and can be cancelled, if warranted.

(1) A class waiver may be requested only when the class of supplies or equipment is not available from any other source and it is in the national interest.

(2) Prior to submitting the waiver request, the request must be reviewed and cleared by the agency head.

(c) In general, all waiver requests should include the following information:

(1) Agency name, complete mailing address, and point of contact name, telephone number, and email address.

(2) Offeror's name, complete mailing address, and point of contact name, telephone number, and email address.

(3) Description/nature of product or service.

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(4) The total cost and length of the contract.

(5) Justification, with market research demonstrating that no other offeror can provide the product or service and stating why the product or service must be procured from this offeror, as well as why it is in the national interest for the President to waive the prohibition on contracting with this offeror that—

(i) Conducts activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; or

(ii) Exports sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran.

(6) Documentation regarding the offeror's past performance and integrity (see the Past Performance Information Retrieval System and the Federal Awardee Performance Information and Integrity System at <http://www.ppirs.gov>, and any other relevant information).

(7) Information regarding the offeror's relationship or connection with other firms that—

(i) Conduct activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; or

(ii) Export sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran.

(8) Describe—

(i) The activities in which the offeror is engaged for which sanctions may be imposed under section 5 of the Iran Sanctions Act; or

(ii) The sensitive technology and the entity or individual to which it was exported (*i.e.*, the government of Iran or an entity or individual owned or controlled by, or acting on behalf or at the direction of, the government of Iran).

[76 FR 68031, Nov. 2, 2011]

Subpart 25.8—Other International Agreements and Coordination

25.801 General.

Treaties and agreements between the United States and foreign governments affect the evaluation of offers from for-

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foreign entities and the performance of contracts in foreign countries.

25.802 Procedures.

(a) When placing contracts with contractors located outside the United States, for performance outside the United States, contracting officers must—

(1) Determine the existence and applicability of any international agreements and ensure compliance with these agreements; and

(2) Conduct the necessary advance acquisition planning and coordination between the appropriate U.S. executive agencies and foreign interests as required by these agreements.

(b) The Department of State publishes many international agreements in the “United States Treaties and Other International Agreements” series. Copies of this publication normally are available in overseas legal offices and U.S. diplomatic missions.

(c) Contracting officers must award all contracts with Taiwanese firms or organizations through the American Institute of Taiwan (AIT). AIT is under contract to the Department of State.

Subpart 25.9—Customs and Duties

25.900 Scope of subpart.

This subpart provides policies and procedures for exempting from import duties certain supplies purchased under Government contracts.

25.901 Policy.

United States laws impose duties on foreign supplies imported into the customs territory of the United States. Certain exemptions from these duties are available to Government agencies. Agencies must use these exemptions when the anticipated savings to appropriated funds will outweigh the administrative costs associated with processing required documentation.

25.902 Procedures.

For regulations governing importations and duties, see the Customs Regulations issued by the U.S. Customs Service, Department of the Treasury (19 CFR Chapter 1). Except as provided elsewhere in the Customs Regulations