

(B) The clause at 252.225-7026, Acquisition Restricted to Products or Services from Iraq or Afghanistan, is included in the solicitation and contract.

(v) The acquisition of eligible and noneligible products under the same contract may result in the application of trade agreements to only some of the items acquired. In such case, indicate in the Schedule those items covered by the Trade Agreements clause.

(7) Use the provision at 252.225-7022, Trade Agreements Certificate—Inclusion of Iraqi End Products, instead of the provision at FAR 52.225-6, Trade Agreements Certificate, in solicitations that include the clause at 252.225-7021, Trade Agreements, with its Alternate I.

(8) Use the provision at 252.225-7032, Waiver of United Kingdom Levies—Evaluation of Offers, in solicitations if a U.K. firm is expected to—

(i) Submit an offer; or

(ii) Receive a subcontract exceeding \$1 million.

(9) Use the clause at 252.225-7033, Waiver of United Kingdom Levies, in solicitations and contracts if a U.K. firm is expected to—

(i) Submit an offer; or

(ii) Receive a subcontract exceeding \$1 million.

(10)(i) Use the provision at 252.225-7035, Buy American —Free Trade Agreements—Balance of Payments Program Certificate, instead of the provision at FAR 52.225-4, Buy American —Free Trade Agreements—Israeli Trade Act Certificate, in solicitations that include the clause at 252.225-7036, Buy American —Free Trade Agreements—Balance of Payments Program.

(ii) Use the provision with its Alternate I when the clause at 252.225-7036 is used with its Alternate I.

(iii) Use the provision with its alternate II when the clause at 252.225-7036 is used with its Alternate II.

(iv) Use the provision with its Alternate III when the clause at 252.225-7036 is used with its Alternate III.

(v) Use the provision with its Alternate IV when the clause at 252.225-7036 is used with its Alternate IV.

(vi) Use the provision with its Alternate V when the clause at 252.225-7036 is used with its Alternate V.

(11)(i) Except as provided in paragraph (11)(ii) of this section, use the clause at 252.225-7036, Buy American —Free Trade Agreements—Balance of Payments Program, instead of the clause at FAR 52.225-3, Buy American —Free Trade Agreements—Israeli Trade Act, in solicitations and contracts for the items listed at 225.401-70, including acquisitions of commercial items or components, when the estimated value equals or exceeds \$25,000, but is less than \$202,000, and a Free Trade Agreement applies to the acquisition.

(A) Use the basic clause when the estimated value equals or exceeds \$100,000.

(B) Use the clause with its Alternate I when the estimated value equals or exceeds \$25,000 but is less than \$77,494.

(C) Use the clause with its Alternate IV when the estimated value equals or exceeds \$77,494 but is less than \$100,000, except if the acquisition is of end products in support of operations in Afghanistan, use with its Alternate V.

(ii) Do not use the clause if—

(A) Purchase from foreign sources is restricted (see 225.401(a)(2)), unless the contracting officer anticipates a waiver of the restriction;

(B) Acquiring information technology that is a commercial item, using fiscal year 2004 or subsequent funds (Section 535 of Division F of the Consolidated Appropriations Act, 2004 (Pub. L. 108-199), and the same provision in subsequent appropriations acts); or

(C) Using a procedure specified in 225.7703-1(a).

(iii) The acquisition of eligible and noneligible products under the same contract may result in the application of a Free Trade Agreement to only some of the items acquired. In such case, indicate in the Schedule those items covered by the Buy American —Free Trade Agreements—Balance of Payments Program clause.

[75 FR 81916, Dec. 29, 2010, as amended at 77 FR 4630, Jan. 30, 2012; 77 FR 30357, May 22, 2012; 77 FR 35880, June 15, 2012]

225.1103 Other provisions and clauses.

(1) Unless the contracting officer knows that the prospective contractor is not a domestic concern, use the

clause at 252.225-7005, Identification of Expenditures in the United States, in solicitations and contracts that—

(i) Exceed the simplified acquisition threshold; and

(ii) Are for the acquisition of—

(A) Supplies for use outside the United States;

(B) Construction to be performed outside the United States; or

(C) Services to be performed primarily outside the United States.

(2) Use the clause at 252.225-7041, Correspondence in English, in solicitations and contracts when contract performance will be wholly or in part in a foreign country.

(3) Use the provision at 252.225-7042, Authorization to Perform, in solicitations when contract performance will be wholly or in part in a foreign country.

(4) Unless an exception in 225.770-3 applies, use the clause at 252.225-7007, Prohibition on Acquisition of United States Munitions List Items from Communist Chinese Military Companies, in solicitations and contracts involving the delivery of items covered by the United States Munitions List.

[68 FR 16526, Mar. 31, 2003, as amended at 71 FR 39006, July 11, 2006; 71 FR 53046, Sept. 8, 2006]

Subpart 225.70—Authorization Acts, Appropriations Acts, and Other Statutory Restrictions on Foreign Acquisition

225.7000 Scope of subpart.

(a) This subpart contains restrictions on the acquisition of foreign products and services, imposed by DoD appropriations and authorization acts and other statutes. Refer to the acts to verify current applicability of the restrictions.

(b) Nothing in this subpart affects the applicability of the Buy American statute or the Balance of Payments Program.

[56 FR 36367, July 31, 1991, as amended at 62 FR 2856, Jan. 17, 1997; 68 FR 15627, Mar. 31, 2003; 77 FR 35880, June 15, 2012]

225.7001 Definitions.

As used in this subpart—

(a) *Bearing components* is defined in the clause at 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings.

(b) “Component” is defined in the clauses at 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals; 252.225-7012, Preference for Certain Domestic Commodities, and 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings, except that for use in 225.7007, the term has the meaning given in the clause at 252.225-7019, Restriction on Acquisition of Anchor and Mooring Chain.

(c) “End product” is defined in the clause at 252.225-7012, Preference for Certain Domestic Commodities.

(d) *Hand or measuring tools* means those tools listed in Federal supply classifications 51 and 52, respectively.

(e) *Structural component of a tent* is defined in the clause at 252.225-7012, Preference for Certain Domestic Commodities.

[61 FR 10899, Mar. 18, 1996, as amended at 61 FR 50453, Sept. 26, 1996; 67 FR 20697, Apr. 26, 2002; 71 FR 14111, Mar. 21, 2006; 74 FR 37636, July 29, 2009; 74 FR 68383, Dec. 24, 2009; 77 FR 38736, June 29, 2012]

225.7002 Restrictions on food, clothing, fabrics, and hand or measuring tools.

225.7002-1 Restrictions.

The following restrictions implement 10 U.S.C. 2533a (the “Berry Amendment”). Except as provided in subsection 225.7002-2, do not acquire—

(a) Any of the following items, either as end products or components, unless the items have been grown, reprocessed, reused, or produced in the United States:

(1) Food.

(2) Clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing and the materials and components thereof. Clothing includes items such as outerwear, headwear, underwear, nightwear, footwear, hosiery, handwear, belts, badges, and insignia. For additional guidance and examples, see PGI 225.7002-1(a)(2).