

Defense Acquisition Regulations System, DoD

225.872-7

Do not impose unusual technical or security requirements solely for the purpose of precluding the acquisition of defense equipment from qualifying countries.

(e) Do not automatically exclude qualifying country sources from submitting offers because their supplies have not been tested and evaluated by the department or agency.

(1) Consider the adequacy of qualifying country service testing on a case-by-case basis. Departments or agencies that must limit solicitations to sources whose items have been tested and evaluated by the department or agency shall consider supplies from qualifying country sources that have been tested and accepted by the qualifying country for service use.

(2) The department or agency may perform a confirmatory test, if necessary.

(3) Apply U.S. test and evaluation standards, policies, and procedures when the department or agency decides that confirmatory tests of qualifying country end products are necessary.

(4) If it appears that these provisions might adversely delay service programs, obtain the concurrence of the Under Secretary of Defense (Acquisition, Technology, and Logistics), before excluding the qualifying country source from consideration.

(f) Permit industry representatives from a qualifying country to attend symposia, program briefings, prebid conferences (see FAR 14.207 and 15.201(c)), and similar meetings that address U.S. defense equipment needs and requirements. When practical, structure these meetings to allow attendance by representatives of qualifying country concerns.

[68 FR 15621, Mar. 31, 2003, as amended at 72 FR 20758, Apr. 26, 2007]

225.872-4 Individual determinations.

If the offer of an end product from a qualifying country source listed in 225.872-1(b), as evaluated, is low or otherwise eligible for award, prepare a determination and findings exempting the acquisition from the Buy American statute and the Balance of Payments Program as inconsistent with the public interest, unless another exception such as the Trade Agreements Act ap-

plies. Follow the procedures at PGI 225.872-4.

[70 FR 73155, Dec. 9, 2005, as amended at 77 FR 35880, June 15, 2012]

225.872-5 Contract administration.

(a) Arrangements exist with some qualifying countries to provide reciprocal contract administration services. Some arrangements are at no cost to either government. To determine whether such an arrangement has been negotiated and what contract administration functions are covered, contact the Deputy Director of Defense Procurement and Acquisition Policy (Contract Policy and International Contracting), ((703) 697-9351, DSN 227-9351).

(b) Follow the contract administration procedures at PGI 225.872-5(b).

(c) Information on quality assurance delegations to foreign governments is in Subpart 246.4, Government Contract Quality Assurance.

[68 FR 15621, Mar. 31, 2003, as amended at 70 FR 73155, Dec. 9, 2005; 72 FR 30278, May 31, 2007]

225.872-6 Audit.

(a) Memoranda of understanding with some qualifying countries contain annexes that provide for reciprocal “no-cost” audits of contracts and subcontracts (pre- and post-award).

(b) To determine if such an annex is applicable to a particular qualifying country, contact the Deputy Director of Defense Procurement and Acquisition Policy (Contract Policy and International Contracting), ((703) 697-9351, DSN 227-9351).

(c) Handle requests for audits in qualifying countries in accordance with 215.404-2(c), but follow the additional procedures at PGI 225.872-6(c).

[68 FR 15621, Mar. 31, 2003, as amended at 70 FR 73155, Dec. 9, 2005; 72 FR 30278, May 31, 2007]

225.872-7 Industrial security for qualifying countries.

The required procedures for safeguarding classified defense information necessary for the performance of contracts awarded to qualifying country sources are in the DoD Industrial Security Regulation DoD 5220.22-R (implemented for the Army by AR 380-49; for

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the Navy by SECNAV Instruction 5510.1H; for the Air Force by AFI 31-601; for the Defense Information Systems Agency by DCA Instruction 240-110-8; and for the National Imagery and Mapping Agency by NIMA Instruction 5220.22).

225.872-8 Subcontracting with qualifying country sources.

In reviewing contractor subcontracting procedures, the contracting officer shall ensure that the contract does not preclude qualifying country sources from competing for subcontracts, except when restricted by national security interest reasons, mobilization base considerations, or applicable U.S. laws or regulations (see the clause at 252.225-7002, Qualifying Country Sources as Subcontractors).

225.873 Waiver of United Kingdom commercial exploitation levies.

225.873-1 Policy.

DoD and the Government of the United Kingdom (U.K.) have agreed to waive U.K. commercial exploitation levies and U.S. nonrecurring cost recoupment charges on a reciprocal basis. For U.K. levies to be waived, the offeror or contractor shall identify the levies and the contracting officer shall request a waiver before award of the contract or subcontract under which the levies are charged.

225.873-2 Procedures.

When an offeror or a contractor identifies a levy included in an offered or contract price, follow the procedures at PGI 225.873-2.

[70 FR 73155, Dec. 9, 2005]

Subpart 225.9—Customs and Duties

SOURCE: 68 FR 15626, Mar. 31, 2003, unless otherwise noted.

225.900-70 Definition.

“Component,” as used in this subpart, means any item supplied to the Government as part of an end product or of another component.

[74 FR 68383, Dec. 24, 2009]

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225.901 Policy.

Unless the supplies are entitled to duty-free treatment under a special category in the Harmonized Tariff Schedule of the United States (*e.g.*, the Caribbean Basin Economic Recovery Act or a Free Trade Agreement), or unless the supplies already have entered into the customs territory of the United States and the contractor already has paid the duty, DoD will issue duty-free entry certificates for—

(1) Qualifying country supplies (end products and components);

(2) Eligible products (end products but not components) under contracts covered by the World Trade Organization Government Procurement Agreement or a Free Trade Agreement; and

(3) Other foreign supplies for which the contractor estimates that duty will exceed \$200 per shipment into the customs territory of the United States.

[68 FR 15626, Mar. 31, 2003, as amended at 69 FR 1928, Jan. 13, 2004; 70 FR 2363, Jan. 13, 2005]

225.902 Procedures.

Follow the entry and release procedures at PGI 225.902.

[70 FR 73155, Dec. 9, 2005]

225.903 Exempted supplies.

(b)(i) For an explanation of the term “supplies,” see PGI 225.903(b)(i).

(ii) The duty-free certificate shall be printed, stamped, or typed on the face of, or attached to, Customs Form 7501. A duly designated officer or civilian official of the appropriate department or agency shall execute the certificate in the format provided at PGI 225.903(b)(ii).

[70 FR 73155, Dec. 9, 2005]

Subpart 225.10—Additional Foreign Acquisition Regulations

225.1070 Clause deviations in overseas contracts.

See 201.403(2) for approval authority for clause deviations in overseas contracts with governments of North Atlantic Treaty Organization (NATO) countries or other allies or with United Nations or NATO organizations.

[65 FR 19856, Apr. 13, 2000]