

PART 25

FOREIGN ACQUISITION

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SUBPART 25.1 - BUY AMERICAN ACT - SUPPLIES

25.102 Policy.

(b) Prepare nonavailability determinations in Determination and Findings (D&F) form.

(b)(ii) For purposes of determining the approval level, do not add option totals to basic award amounts. Prior to exercising an option, however, a new determination of nonavailability (for the option total only) must be made.

(b)(ii)(D) The authority to approve determinations of nonavailability for acquisitions over \$2 million is delegated to the HCA without redelegation authority. This delegation also applies to the following determinations tied to these approval levels:

(a) Inconsistent with the public interest under the Buy American Act for qualifying countries (DFARS 225.872-4(c));

(b) Nonavailability under the Defense Appropriations Act restrictions on food, clothing, fabrics, and specialty metals (DFARS 225.7002-2(a) and DLAD 25.7002-2(a)); and

(c) Waivers of the restrictions on machine tools (DFARS 225.7004-3(b)) and machines tools and valves (DFARS 225.7004-2(b)(2)) (see 25.7004).

25.102-90 Procedure for submission of waiver requests.

Submit requests for waivers which require approval at levels above the Head of the contracting activity (HCA) or by the Executive Director, Procurement **Management**, as HCA, to HQ DLA, ATTN: MMPPP. Include the rationale for the waiver as well as all relevant facts.

SUBPART 25.3 - BALANCE OF PAYMENTS PROGRAM

25.302 Policy.

(b)(i) Submit requests for determinations by the Executive Director, Procurement **Management**, in the form of a proposed D&F to HQ DLA, ATTN: MMPPP. Include the rationale for the determination as well as all relevant facts. When the request is made under FAR 25.3, include a statement as to the consideration given to foregoing the requirement or providing a domestic substitute.

(b)(ii) For acquisitions estimated not to exceed \$500,000, the authority in DFARS 225.302(b)(i) is delegated to the HCA. This authority may be redelegated to the chiefs of the contracting offices. DSCR may redelegate authority to purchase foreign books and publications not to exceed \$10,000 to the contracting officer. Document all determinations in the contract file.

#### SUBPART 25.6 - CUSTOMS AND DUTIES

25.604 Exempted supplies.

(2) The Commander, DFSC, or designee, is authorized to execute duty-free entry certificates for the supplies in DFARS 225.604(b)(i).

#### SUBPART 25.7 - RESTRICTIONS ON CERTAIN FOREIGN PURCHASES

25.703 Exceptions.

(b) Contracting officer determinations under FAR 25.703(a) shall be in writing and made part of the contract file. For other than small purchases, forward requests for Agency Head approval to HQ DLA, ATTN: MMPPP, and include a full justification, with all pertinent details, for purchasing from a restricted source.

#### SUBPART 25.8 - INTERNATIONAL AGREEMENTS AND COORDINATION

25.870 Contracting with Canadian contractors.

25.870-1 General

(e)(90) See 15.804-3(i)(91) for price analysis and price reasonableness determination requirements for offers from Canadian Commercial Corporation.

#### SUBPART 25.70 - AUTHORIZATION ACTS, APPROPRIATIONS ACTS, AND OTHER STATUTORY RESTRICTIONS ON FOREIGN PURCHASES

25.7002 Restriction on food, clothing, fabrics, and specialty metals.

25.7002-2 Exceptions.

(a) Authority to approve nonavailability determinations is delegated to the same levels that are established in DFARS 225.102(b)(ii) for Buy American Act nonavailability determinations.

25.7002-4 Contract clauses.

(c) Do not use Alternate I of the clause at 252.225-7014, Preference for Domestic Specialty Metals, unless a Military Department specifically indicates that use of the alternate clause is required because the acquisition is being made under one of the enumerated programs.

25.7004 Restriction on machine tools and powered and nonpowered valves.

(1) The following authorities are delegated to the levels specified for Buy American Act nonavailability determinations at DFARS 225.102(b)(ii) and DLAD 25.102(b)(ii)(D):

(a) Approval of nonavailability waivers on the restriction on machine tools at DFARS 225.7004-3(b); and

(b) Approval of waivers to the restriction on machine tools and powered and nonpowered valves at 225.7004-2(b)(2).

(2) Submit requests for waivers which require the approval of the Executive Director, Procurement **Management**, as HCA, to MMPPP in the form of a proposed D&F containing a full explanation of the facts supporting the waiver.

#### SUBPART 25.73 - ACQUISITIONS FOR FOREIGN MILITARY SALES

25.7302-90 Foreign Military Sales (FMS) shipping instructions.

(a) In order to reduce misdirected shipments of FMS materiel, do not place shipping addresses on FMS contracts except as provided in paragraphs (b) and (c) below. Instead, place a notice in the contract requiring the contractor to contact the transportation officer at the contract administration office for shipping instructions. Orders and contracts assigned to DCMC for administration shall include a notice to require the contractor to submit a DD Form 1659, Application for U.S. Government Shipping Documentation/Instructions, to the transportation officer at the contract administration office for shipping instructions. Use a clause substantially the same as that provided at 52.225-9001, FMS Shipping Instructions.

(b) A shipping address may be placed in FMS contracts if complete shipment is anticipated within 120 days of award.

(c) Contracts contemplating the use of the Defense transportation system rather than a freight forwarder may include a firm shipping address.

(d) Additional contract provisions may be appropriate to satisfy unique requirements for requisitions which contain a "Z" or "Y" in card column 46. However, do not list the freight forwarder or embassy addresses in the contract.