

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(Revised June 16, 2006)

PGI 225.74—DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES

PGI 225.7401 General.

(a) If the acquisition requires performance of work in a foreign country by U.S. personnel or a third country contractor, the contracting officer must ensure that the solicitation and contract include unique host country performance considerations. Failure to obtain such information may result in contractor personnel performing in violation of host country laws or may cause contractor personnel to be wrongly subjected to host country laws.

(1) Coordinate with the applicable Headquarters Staff Judge Advocate for the Combatant Commander responsible for the area in which the contractor will be performing. The Unified Combatant Command website at <http://www.defenselink.mil/specials/unifiedcommand/> identifies each command's area of responsibility and provides contact information for the Combatant Commander and/or the Staff Judge Advocate.

(2) Request the following information from the Combatant Commander:

(i) The applicability of any international agreements to the acquisition. (Some agreements may be classified and must be handled appropriately.)

(ii) Security requirements applicable to the area.

(iii) The standards of conduct for the prospective contractor and its employees and any consequences for violation of the standards of conduct.

(iv) Requirements for use of foreign currencies, including applicability of U.S. holdings of excess foreign currencies.

(v) Availability of logistical support for contractor employees.

(vi) Information on taxes and duties from which the Government may be exempt.

(3) Furnish the following information to the Combatant Commander and, for contracts administered by the Defense Contract Management Agency, send a copy to the cognizant contract administration office:

(i) A synopsis of the work to be performed and, if practical, a copy of the solicitation.

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(ii) Any contractor logistical support desired in support of U.S. or foreign military sale requirements.

(iii) Contract performance period and estimated contract value.

(iv) Number and nationality of contractor employees and date of planned arrival of contractor personnel.

(v) Contract security requirements.

(vi) Other pertinent information to effect complete coordination and cooperation.

(4) Consider requesting waiver of the Defense Base Act if the contractor will employ foreign workers (see FAR 28.305).

(c) For work performed in Japan or Korea, U.S.-Japan or U.S.-Korea bilateral agreements govern the status of contractors and employees, criminal jurisdiction, and taxation. U.S. Forces Japan (USFJ) and U.S. Forces Korea (USFK) are sub-unified commands of Pacific Command (PACOM). The PACOM Staff Judge Advocate contact information is available at <http://www.pacom.mil/staff/staff-spec.shtml>. Links to USFJ and USFK websites can be found at the PACOM website at <http://www.pacom.mil> by clicking on “Site Index” and then clicking on “Subordinate Commands”.

(1) For work performed in Japan—

(i) U.S.-Japan bilateral agreements govern the status of contractors and employees, criminal jurisdiction, and taxation;

(ii) USFJ and component policy, as well as U.S.-Japan bilateral agreements, govern logistic support and base privileges of contractor employees;

(iii) The Commander, USFJ, is primarily responsible for interpreting the Status of Forces Agreement (SOFA) and local laws applicable to U.S. Forces in Japan and for requirements in support of USFJ; and

(iv) To ensure that the solicitation and resultant contract reflect an accurate description of available logistic support and application of the U.S.-Japan SOFA—

(A) Review the information on Contract Performance in Japan at the USFJ website, <http://usfj.mil>; or

(B) Contact the Staff Judge Advocate at (commercial) 011-81-3117-55-7717, or DSN 315-225-7717.

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(2) For work performed in Korea—

(i) U.S.-Korea bilateral agreements govern the status of contractors and employees, criminal jurisdiction, and taxation;

(ii) USFK and component policy, as well as U.S.-Korea bilateral agreements, govern logistic support and base privileges of contractor employees;

(iii) The Commander, USFK, is primarily responsible for interpreting the SOFA and local laws applicable to U.S. Forces in Korea and for requirements in support of USFK; and

((iv) To ensure that the solicitation and resultant contract reflect an accurate description of available logistic support and application of the U.S.-Korea SOFA, review the SOFA information at the USFK website at <http://www.korea.army.mil>. Contact information for the Commander is also available at <http://www.korea.army.mil/org/index.htm>.

PGI 225.7402 Contractor personnel authorized to accompany U.S. Armed Forces deployed outside the United States.

PGI 225.7402-3 Government support.

(a) Support that may be authorized or required when contractor personnel are deployed with or otherwise provide support in the theater of operations to U.S. military forces deployed outside the United States may include, but are not limited to—

- (1) Deployment in-processing centers;
- (2) Training;
- (3) Transportation to operation area;
- (4) Transportation within operation area;
- (5) Physical security;
- (6) Force protection;
- (7) Organizational clothing and individual equipment;
- (8) Emergency medical care;
- (9) Mess operations;

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- (10) Quarters;
- (11) Postal service;
- (12) Phone service;
- (13) Emergency notification;
- (14) Laundry; and
- (15) Religious services.

(d) *Letter of Authorization.*

(1) A Letter of Authorization (LOA) is necessary to enable a contractor employee to process through a deployment processing center, to travel to, from, and within the theater of operations, and to identify any additional authorizations and privileges. If authorized by the contracting officer, a contracting officer's representative may approve a Letter of Authorization. Contractor travel orders will be prepared by the supporting installation.

(2) The LOA will state the intended length of assignment in the theater of operations and will identify planned use of Government facilities and privileges in the theater of operations, as authorized by the contract. Authorizations may include such privileges as access to the exchange facilities and the commissary, and use of Government messing and billeting. The LOA must include the name of the approving Government official.

(3) Sample LOA:

OFFICE SYMBOL

Date

MEMORANDUM FOR *[insert name and address of military organization with the authority to provide Government-provided support where the contractor employees will be deployed]*

SUBJECT: Contractor Letter of Authorization *[note: much of the information contained within this Memorandum is similar to the information contained in travel orders for Government personnel]*

1. The *[insert appropriate name of Government requiring activity, such as a program management office]*, in its capacity for providing support under Contract Number *[insert*

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contract number], [insert delivery or task order number if applicable], awarded [insert award date]; authorizes the [insert company name] employee identified below to proceed to the locations and for the timeframe indicated below. Travel being performed is necessary and in the public's service.

- a. Name: *[insert employee's full name, including middle name. In addition, include the employee's GS grade equivalent].*
- b. Home Address: *[insert complete street address, city, state, and zip code. Include a CONUS work e-mail address if available].*
- c. Date of Birth: *[insert employee's birth date].*
- d. Place of Birth: *[insert employee's birth place].*
- e. Passport Number/Expiration Date: *[insert contractor employee's passport number and passport expiration date].*
- f. Next of Kin: *[insert full name, along with contact information and individual's relationship].*
- g. Job Title: *[insert company job title for employee].*
- h. Equivalent GS grade: *For purposes of determining what level of Government-provided support should be granted to contractor personnel, and for prisoner-of-war status, the individual named herein is equivalent to a [for contractor non-supervisory positions insert GS-12. For contractor supervisory/managerial positions insert GS-13].*
- i. Level of Clearance: *[insert individual's security clearance; if not applicable, insert N/A].*
- j. Issuing Agency: *[insert complete name and address of Government contracting organization that awarded the contract for which this work is being performed].*
- k. Countries to be visited: *[insert the countries to be visited in support of military operations].*
- l. Purpose: *[provide a brief description of the contractor support being provided. This should not exceed three lines. If known, include what military organizations will be supported at the tactical level].*

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m. Deployed Performance Period: *[provide the estimated deployed performance dates]*.

2. Contractor Privileges: *[Note the following list is provided for sample purposes only. The contracting officer should not state the following list verbatim. Every contracting officer should prepare the LOA in accordance with those specific privileges that may be made available for contractor personnel in performance of the specific contract.]*

Request that this contractor employee be granted, subject to availability, access to or the privileges defined below while temporarily deployed with *[insert military organization supporting]* on Contract Number *[insert contract number]*:

a. Common Access Card (CAC), Geneva Convention Card (DD Form 489), and ration cards.

b. *[Insert appropriate exchange name]* Exchange service facilities (includes rationed items).

c. Military clothing sales for repair and replacement of issued equipment.

d. Organizational clothing and individual equipment.

e. Military banking facilities and Finance Accounting Office.

f. Government transportation (i.e. aircraft, automobile, bus, train) for official Government business.

g. Commissary (includes rationed items).

h. Morale and welfare recreational facilities (e.g., clubs, movie theaters, gyms).

i. Purchase of petroleum and oil products for rental and/or Government vehicles.

j. Customs exemption.

k. Emergency medical care.

l. The following theater-specific immunizations that are not available to the general public: _____.

m. Mess facilities.

n. Quarters.

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- o. Military postal service.
- p. Phone service.
- q. Laundry services.
- r. Religious services.

3. Travel Discount Rates: *[Insert full name of contract employee]*, the bearer of this letter, is an employee of *[insert company name]* which has a contract with this agency under Government contract *[insert contract number]*. During the period of this contract, *[insert performance period relating to deployment]*, and only if the vendor permits, the named bearer is eligible and authorized to use available travel discount rates in accordance with Government contracts and/or agreements. Government Contract City Pair fares are not available to Contractors.

4. Special Notice: Employees, including dependents residing with employees, employed by or accompanying the Armed Forces outside the United States, who engage in conduct outside the United States that would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, may potentially be subject to the criminal jurisdiction of the United States. See the Military Extraterritorial Jurisdiction Act of 2000 (18 U.S.C. 3261 et. seq., as amended by Section 1088 of the National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375)).

5. Points of Contacts (POC):

a. POC at *[insert contracting activity information]* is the undersigned. The undersigned can be reached at:

- (1) DSN and Commercial *[insert phone numbers]*.
- (2) E-mail *[insert unclassified e-mail address]*.

b. The Government requiring activity POC at *[insert requiring activity information]* is *[insert a requiring activity POC who will be familiar with the work being performed]*. The undersigned can be reached at:

- (1) DSN and Commercial *[insert phone numbers]*.
- (2) E-mail *[insert unclassified e-mail address]*.

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c. Contracting Officer's Representative (COR) POC *[insert primary contract COR information. In addition to the primary COR, there may be a COR in the theater of operations.]*. The COR can be reached at:

(1) DSN and Commercial *[insert phone numbers]*.

(2) E-mail *[insert unclassified e-mail address]*.

6. Upon completion of the mission, the employee should make all attempts to return to the deployment processing center point of origin.

[The LOA is typically signed by the procuring contracting officer.]

CF: *[insert applicable addresses (i.e., PM for the individual specified in this order)]*

PGI 225.7402-4 Contract clauses.

(b) When using the clause at DFARS 252.225-7040, Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States, consider the applicability of the following clauses:

(1) Either the clause at FAR 52.228-3, Workers' Compensation Insurance (Defense Base Act), or the clause at FAR 52.228-4, Workers' Compensation and War-Hazard Insurance Overseas, as prescribed at FAR 28.309(a) and (b).

(2) The clause at FAR 52.228-7, Insurance—Liability to Third Persons, in cost-reimbursement contracts as prescribed at DFARS 228.311-1.

(3) The clauses at FAR 52.251-1, Government Supply Sources, as prescribed at FAR 51.107, and DFARS 252.251-7000, Ordering from Government Supply Sources, as prescribed at DFARS 251.107.

(4) The clause at DFARS 252.237-7019, Training for Contractor Personnel Interacting with Detainees, as prescribed at DFARS 237.171-4.

PGI 225.7403-1 General.

Information and guidance pertaining to DoD antiterrorism/force protection policy for contracts that require performance or travel outside the United States can be obtained from the following offices:

(a) For Navy contracts: Naval Criminal Investigative Service (NCIS), Code 24; telephone, DSN 228-9113 or commercial (202) 433-9113.

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(b) For Army contracts: HQDA (DAMO-ODL)/ODCSOP; telephone, DSN 225-8491 or commercial (703) 695-8491.

(c) For Marine Corps contracts: CMC Code POS-10; telephone, DSN 224-4177 or commercial (703) 614-4177.

(d) For Air Force contracts: HQ AFSFC/SFPA; telephone, DSN 945-7035/36 or commercial (210) 925-7035/36.

(e) For Combatant Command contracts: The appropriate Antiterrorism Force Protection Office at the Command Headquarters.

(f) For defense agency contracts: The appropriate agency security office.

(g) For additional information: Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, ASD(SOLIC); telephone, DSN 255-0044 or commercial (703) 695-0044.