

SUBPART 225.11—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

(Revised September 30, 2013)

225.1100 Scope of subpart.

This subpart prescribes the clauses that implement Subparts [225.1](#) through [225.10](#). The clauses that implement Subparts [225.70](#) through [225.75](#) are prescribed within those subparts.

225.1101 Acquisition of supplies.

(1)(i) Use the provision at [252.225-7000](#), Buy American—Balance of Payments Program Certificate, instead of the provision at FAR 52.225-2, Buy American Certificate. Use the provision in any solicitation, including solicitations using FAR part 12 procedures for the acquisition of commercial items, that includes the clause at [252.225-7001](#), Buy American and Balance of Payments Program. If the solicitation includes the provision at FAR 52.204-7, do not separately list the provision [252.225-7000](#) in the solicitation.

(ii) Use the provision with its Alternate I in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, when the acquisition is of end products listed in [225.401-70](#) in support of operations in Afghanistan.

(2)(i) Use the clause at [252.225-7001](#), Buy American and Balance of Payments Program, instead of the clause at FAR 52.225-1, Buy American—Supplies, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, unless—

(A) All line items will be acquired from a particular source or sources under the authority of FAR 6.302-3;

(B) All line items must be domestic or qualifying country end products in accordance with Subpart [225.70](#). (However, the clause may still be required if Subpart [225.70](#) requires manufacture of the end product in the United States or in the United States or Canada, without a corresponding requirement for use of domestic components);

(C) An exception to the Buy American statute or Balance of Payments Program applies (see FAR 25.103, 225.103, and [225.7501](#));

(D) One or both of the following clauses will apply to all line items in the contract:

(1) [252.225-7021](#), Trade Agreements.

(2) [252.225-7036](#), Buy American—Free Trade Agreements—Balance of Payments Program; or

(E) All line items will be acquired using a procedure specified in [225.7703-1\(a\)](#).

(ii) Use the clause with its Alternate I in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, when the acquisition is of end products listed in [225.401-70](#) in support of operations in Afghanistan.

(3) Use the clause at [252.225-7002](#), Qualifying Country Sources as Subcontractors, in solicitations and contracts that include one of the following clauses:

(i) [252.225-7001](#), Buy American and Balance of Payments Program.

(ii) [252.225-7021](#), Trade Agreements.

(iii) [252.225-7036](#), Buy American—Free Trade Agreements—Balance of Payments Program.

(4) Use the clause at [252.225-7013](#), Duty-Free Entry, instead of the clause at FAR 52.225-8. Do not use the clause for acquisitions of supplies that will not enter the customs territory of the United States.

(5)(i) Use the provision at [252.225-7020](#), Trade Agreements Certificate, instead of the provision at FAR 52.225-6, Trade Agreements Certificate, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, that include the clause at [252.225-7021](#), Trade Agreements. If the solicitation includes the provision at FAR 52.204-7, do not separately list the provision [252.225-7020](#) in the solicitation.

(ii) Use the provision with its Alternate I in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, when the acquisition is of end products in support of operations in Afghanistan.

(6)(i) Use the clause at [252.225-7021](#), Trade Agreements, instead of the clause at FAR 52.225-5, Trade Agreements, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, if the World Trade Organization Government Procurement Agreement applies.

(ii) Use the clause with its Alternate II in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, when the acquisition is of end products in support of operations in Afghanistan.

(iii) Do not use the clause if—

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

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

(iv) The acquisition of eligible and noneligible products under the same contract

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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 [252.225-7032](#), 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.

(8) 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.

(9)(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, including solicitations using FAR part 12 procedures for the acquisition of commercial items, that include the clause at [252.225-7036](#), Buy American—Free Trade Agreements—Balance of Payments Program. If the solicitation includes the provision at FAR 52.204-7, do not separately list the provision [252.225-7035](#) in the solicitation.

(ii) Use the provision with its Alternate I in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, when the clause at [252.225-7036](#) is used with its Alternate I.

(iii) Use the provision with its Alternate II in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, when the clause at [252.225-7036](#) is used with its Alternate II.

(iv) Use the provision with its Alternate III in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, when the clause at [252.225-7036](#) is used with its Alternate III.

(v) Use the provision with its Alternate IV in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, when the clause at [252.225-7036](#) is used with its Alternate IV.

(vi) Use the provision with its Alternate V in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, when the clause at [252.225-7036](#) is used with its Alternate V.

(10)(i) Except as provided in paragraph (10)(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, including solicitations and

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contracts using FAR part 12 procedures for the acquisition of commercial items, for the items listed at [225.401-70](#), 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 in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, when the estimated value equals or exceeds \$77,494, except if the acquisition is of end products in support of operations in Afghanistan, use with its Alternate II.

(B) Use the clause with its Alternate I in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, when the estimated value equals or exceeds \$25,000 but is less than \$77,494, except if the acquisition is of end products in support of operations in Afghanistan, use with its Alternate III.

(C) Use the clause with its Alternate IV in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, 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.

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

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(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. If the solicitation includes the provision at FAR 52.204-7, do not separately list the provision [252.225-7042](#) in the solicitation.

(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.