

**225.7102-2 Exceptions.**

The policy in 225.7102-1 does not apply to acquisitions—

- (a) Using simplified acquisition procedures, unless the restricted item is the end item being purchased;
- (b) Overseas for overseas use; or
- (c) When the quantity acquired exceeds the amount needed to maintain the U.S. defense mobilization base (provided the excess quantity is an economical purchase quantity). The requirement for domestic manufacture does not apply to the quantity above that required to maintain the base, in which case, qualifying country sources may compete.

**225.7102-3 Waiver.**

Upon request from a contractor, the contracting officer may waive the requirement for domestic manufacture of the items listed in 225.7102-1.

**225.7102-4 Contract clause.**

Use the clause at 252.225-7025, Restriction on Acquisition of Forgings, in solicitations and contracts, unless—

- (a) The supplies being acquired do not contain any of the items listed in 225.7102-1; or
- (b) An exception in 225.7102-2 applies. If an exception applies to only a portion of the acquisition, specify the excepted portion in the solicitation and contract.

**225.7103 Polyacrylonitrile (PAN) carbon fiber.****225.7103-1 Policy.**

DoD has imposed restrictions on the acquisition of PAN carbon fiber from foreign sources. DoD is phasing out the restrictions over the 5-year period ending May 31, 2005. Contractors with contracts that contain the clause at 252.225-7022 shall use U.S. or Canadian manufacturers or producers for all PAN carbon fiber requirements.

**225.7103-2 Waivers.**

With the approval of the chief of the contracting office, the contracting officer may waive, in whole or in part, the requirement of the clause at 252.225-7022. For example, a waiver may be justified if a qualified U.S. or Canadian source cannot meet scheduling requirements.

**225.7103-3 Contract clause.**

Use the clause at 252.225-7022, Restriction on Acquisition of Polyacrylonitrile (PAN) Carbon Fiber, in solicitations and contracts for major systems as follows:

- (a) In solicitations and contracts issued on or before May 31, 2003, if—
  - (1) The system is not yet in production (milestone C as defined in

DoDI 5000.2, Operation of the Defense Acquisition System); or

- (2) The clause was used in prior program contracts.

(b) In solicitations and contracts issued during the period beginning June 1, 2003, and ending May 31, 2005, if the system is not yet in development and demonstration (milestone B as defined in DoDI 5000.2).

■ 23. Section 225.7200 is revised to read as follows:

**225.7200 Scope of subpart.**

This subpart—

- (a) Prescribes procedures for contractor reporting and DoD monitoring of the volume, type, and nature of contract performance outside the United States; and
- (b) Implements 10 U.S.C. 2410g, which requires offerors and contractors to notify DoD of any intention to perform a DoD contract outside the United States and Canada when the contract could be performed inside the United States or Canada.

■ 24. Sections 225.7202 and 225.7203 are revised to read as follows:

**225.7202 Distribution of reports.**

Forward a copy of reports submitted in accordance with the clause at 252.225-7004, Reporting of Contract Performance Outside the United States, to the Deputy Director of Defense Procurement and Acquisition Policy (Program Acquisition and International Contracting), OUSD(AT&L)DPAP(PAIC), Washington, DC 20301-3060. This is necessary to satisfy the requirement of 10 U.S.C. 2410g that the notifications (or copies) be maintained in compiled form for 5 years after the date of submission.

**225.7203 Solicitation provision and contract clause.**

Except for acquisitions described in 225.7201—

- (a) Use the provision at 252.225-7003, Report of Intended Performance Outside the United States, in solicitations with a value exceeding \$500,000; and
- (b) Use the clause at 252.225-7004, Reporting of Contract Performance Outside the United States, in solicitations and contracts with a value exceeding \$500,000.

■ 25. Section 225.7301 is amended by revising paragraphs (b) through (d) to read as follows:

**225.7301 General.**

\* \* \* \* \*

- (b) Conduct FMS acquisitions under the same acquisition and contract management procedures used for other defense acquisitions.

(c) Separately identify known FMS requirements and the FMS customer in solicitations.

(d) Clearly identify contracts for known FMS requirements by marking “FMS requirement” on the face of the contract along with the FMS customer and the case identifier code.

■ 26. Section 225.7302 is amended as follows:

- a. By revising the introductory text;
- b. In paragraph (a)(1) by removing the period and adding a semicolon in its place; and
- c. By revising paragraph (a)(4). The revised text reads as follows:

**225.7302 Procedures.**

For FMS programs that will require an acquisition, the contracting officer will assist the departmental/agency activity responsible for preparing the LOA by—

(a) \* \* \*

(4) For noncompetitive acquisitions over \$10,000, ask the prospective contractor for information on price, delivery, and other relevant factors. The request for information shall identify the fact that the information is for a potential foreign military sale and shall identify the foreign customer; and

\* \* \* \* \*

**225.7303 [Amended]**

■ 27. Section 225.7303 is amended as follows:

- a. In paragraph (a), in the first sentence, by removing the phrase “as are”;
- b. In paragraph (a), in the second sentence, by removing “Application” and adding in its place “However, application”; and
- c. In paragraph (b), in the first sentence, by removing “must” and adding in its place “shall”.

■ 28. Section 225.7303-2 is amended as follows:

- a. In paragraph (a) introductory text, by revising the last sentence;
- b. By revising paragraph (a)(1);
- c. In paragraph (a)(2)(ii), by adding “or” before “operations/tactics”;
- d. By revising paragraph (c) introductory text; and
- e. In paragraph (c)(1) by removing the period and adding in its place “; and”. The revised text reads as follows:

**225.7303-2 Cost of doing business with a foreign government or an international organization.**

(a) \* \* \* Examples of such costs include, but are not limited to, the following:

- (1) Selling expenses (not otherwise limited by FAR Part 31), such as—
  - (i) Maintaining international sales and service organizations;
  - (ii) Sales commissions and fees in accordance with FAR Subpart 3.4;