

## 25.702-4 Waiver.

(a) The President *may* waive the requirement of subsection 25.702-2 on a case-by-case basis if the President determines and certifies *in writing* to the *appropriate congressional committees* that it is in the national interest to do so.

(b) An agency seeking waiver of the requirement *shall* submit the request to the Administrator of the Office of Federal *Procurement* Policy (OFPP), allowing sufficient time for review and approval. Upon receipt of the waiver request, OFPP *shall* consult with the President's National Security Council, Office of African Affairs, and the Department of State Sudan Office and Sanctions Office to assess foreign policy aspects of making a national interest recommendation.

(c) Agencies *may* request a waiver on an individual or class basis; however, waivers are not indefinite and can be cancelled if warranted.

(1) A class waiver *may* be requested only when the class of *supplies* is not available from any other source and it is in the national interest.

(2) Prior to submitting the waiver request, the request *must* be reviewed and cleared by the *agency head*.

(3) All waiver requests *must* include the following information:

(i) Agency name, complete mailing address, and point of contact name, telephone number, and email address;

(ii) *Offeror's* name, complete mailing address, and point of contact name, telephone number, and email address;

(iii) Description/nature of product or service;

(iv) The total cost and length of the contract;

(v) Justification, with *market research* demonstrating that no other *offeror* can provide the product or service and stating why the product or service *must* be procured from this *offeror*, as well as why it is in the national interest for the President to waive the prohibition on *contracting* with this *offeror* that conducts *restricted business operations* in Sudan, including consideration of foreign policy aspects identified in consultation(s) pursuant to 25.702-4(b);

(vi) Documentation regarding the *offeror's past performance* and integrity (see the Contractor Performance Assessment Reporting System (CPARS) including the Federal Awardee Performance Information and Integrity System at <https://www.cpars.gov> and any other relevant information);

(vii) Information regarding the *offeror's* relationship or connection with other firms that conduct prohibited *business operations* in Sudan; and

(viii) Any humanitarian efforts engaged in by the *offeror*, the human rights impact of doing business with the *offeror* for which the waiver is requested, and the extent of the *offeror's business operations* in Sudan.

(d) The consultation in 25.702-4(b) and the information in 25.702-4(c)(3) will be considered in

determining whether to recommend that the President waive the requirement of subsection 25.702-2. In accordance with section 6(c) of the Sudan Accountability and Divestment Act of 2007, OFPP will semiannually submit a report to Congress, on April 15 th and October 15 th, on the waivers granted.

**Parent topic:** 25.702 Prohibition on contracting with entities that conduct restricted business operations in Sudan.