

25.1001 Waiver of right to examination of records.

(a) *Policy.* The clause at 52.215-2, Audit and Records-Negotiation, prescribed at 15.209(b), and paragraph (d) of the clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-*Commercial Products and Commercial Services*, prescribed at 12.301(b)(4), implement 10 U.S.C. 3841 and 41 U.S.C. 4706. The basic clauses authorize examination of records by the Comptroller General.

(1) Insert the appropriate basic clause, whenever possible, in negotiated contracts with *foreign contractors*.

(2) The *contracting officer* may use 52.215-2 with its *Alternate III* or 52.212-5 with its *Alternate I* after-

(i) Exhausting all reasonable efforts to include the basic clause;

(ii) Considering factors such as *alternate* sources of supply, additional cost, and time of delivery; and

(iii) The *head of the agency* has executed a determination and findings in accordance with paragraph (b) of this section, with the concurrence of the Comptroller General. However, concurrence of the Comptroller General is not required if the contractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination.

(b) *Determination and findings.* The determination and findings *must-*

(1) Identify the contract and its purpose, and identify if the contract is with a *foreign contractor* or with a foreign government or an agency of a foreign government;

(2) Describe the efforts to include the basic clause;

(3) State the reasons for the contractor's refusal to include the basic clause;

(4) Describe the price and availability of the *supplies* or services from the *United States* and other sources; and

(5) Determine that it will best serve the interest of the *United States* to use the appropriate *alternate* clause in paragraph (a)(2) of this section.

Parent topic: Subpart 25.10 - Additional Foreign Acquisition Regulations