

## Defense Federal Acquisition Regulation Supplement

### Part 252—Solicitation Provisions and Contract Clauses

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(Revised December 15, 2004)

#### **252.212-7000 Offeror Representations and Certifications—Commercial Items.**

As prescribed in 212.301(f)(ii), use the following provision:

##### **OFFEROR REPRESENTATIONS AND CERTIFICATIONS--COMMERCIAL ITEMS (NOV 1995)**

(a) *Definitions.* As used in this clause—

(1) “Foreign person” means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec. 2415).

(2) “United States person” is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) *Certification.* By submitting this offer, the Offeror, if a foreign person, company or entity, certifies that it—

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec. 2407(a) prohibits a United States person from taking.

(c) *Representation of Extent of Transportation by Sea.* (This representation does not apply to solicitations for the direct purchase of ocean transportation services).

(1) The Offeror shall indicate by checking the appropriate blank in paragraph (c)(2) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term “supplies” is defined in the Transportation of Supplies by Sea clause of this solicitation.

(2) Representation. The Offeror represents that it—

\_\_\_\_\_ Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

\_\_\_\_\_ Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

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(3) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense Federal Acquisition Regulation Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

(End of provision)

#### **252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.**

As prescribed in 212.301(f)(iii), use the following clause:

##### **CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (DEC 2004)**

(a) The Contractor agrees to comply with the following Federal Acquisition Regulation (FAR) clause which, if checked, is included in this contract by reference to implement a provision of law applicable to acquisitions of commercial items or components.

\_\_\_\_\_ 52.203-3                      Gratuities (APR 1984) (10 U.S.C. 2207)

(b) The Contractor agrees to comply with any clause that is checked on the following list of Defense FAR Supplement clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items or components.

_____	252.205-7000	Provision of Information to Cooperative Agreement Holders (DEC 1991) (10 U.S.C. 2416).
_____	252.219-7003	Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts) (APR 1996) (15 U.S.C. 637).
_____	252.219-7004	Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (Test Program) (JUN 1997) (15 U.S.C. 637 note).
_____	252.225-7001	Buy American Act and Balance of Payments Program (APR 2003) (41 U.S.C. 10a-10d, E.O. 10582).
_____	252.225-7012	Preference for Certain Domestic Commodities (JUN 2004) (10 U.S.C. 2533a).
_____	252.225-7014	Preference for Domestic Specialty Metals (APR 2003) (10 U.S.C. 2533a).
_____	252.225-7015	Restriction on Acquisition of Hand or Measuring Tools (APR 2003) (10 U.S.C. 2533a).
_____	252.225-7016	Restriction on Acquisition of Ball and Roller Bearings (MAY 2004) (____ Alternate I) (APR 2003) (10 U.S.C. 2534 and Section 8099 of Pub. L. 104-61 and similar sections in subsequent DoD appropriations acts).
_____	252.225-7021	Trade Agreements (DEC 2004) (19 U.S.C. 2501-2518 and 19 U.S.C. 3301 note).
_____	252.225-7027	Restriction on Contingent Fees for Foreign Military Sales (APR 2003) (22 U.S.C. 2779).

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- \_\_\_\_\_ 252.225-7028 Exclusionary Policies and Practices of Foreign Governments (APR 2003) (22 U.S.C. 2755).
- \_\_\_\_\_ 252.225-7036 Buy American Act--Free Trade Agreements--Balance of Payments Program (DEC 2004) (\_\_\_\_ Alternate I) (JAN 2004) (41 U.S.C. 10a-10d and 19 U.S.C. 3301 note).
- \_\_\_\_\_ 252.225-7038 Restriction on Acquisition of Air Circuit Breakers (APR 2003) (10 U.S.C. 2534(a)(3)).
- \_\_\_\_\_ 252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (SEP 2004) (Section 8021 of Pub. L. 107-248 and similar sections in subsequent DoD appropriations acts).
- \_\_\_\_\_ 252.227-7015 Technical Data--Commercial Items (NOV 1995) (10 U.S.C. 2320).
- \_\_\_\_\_ 252.227-7037 Validation of Restrictive Markings on Technical Data (SEP 1999) (10 U.S.C. 2321).
- \_\_\_\_\_ 252.232-7003 Electronic Submission of Payment Requests (JAN 2004) (10 U.S.C. 2227).
- \_\_\_\_\_ 252.243-7002 Requests for Equitable Adjustment (MAR 1998) (10 U.S.C. 2410).
- \_\_\_\_\_ 252.247-7023 Transportation of Supplies by Sea (MAY 2002) (\_\_\_\_ Alternate I) (MAR 2000) (\_\_\_\_ Alternate II) (MAR 2000) (\_\_\_\_ Alternate III) (MAY 2002) (10 U.S.C. 2631).
- \_\_\_\_\_ 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items clause of this contract (FAR 52.212-5), the Contractor shall include the terms of the following clauses, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

- 252.225-7014 Preference for Domestic Specialty Metals, Alternate I (APR 2003) (10 U.S.C. 2533a).
- 252.247-7023 Transportation of Supplies by Sea (MAY 2002) (10 U.S.C. 2631).
- 252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000) (10 U.S.C. 2631).

(End of clause)