

SUBPART 212.71—PILOT PROGRAM FOR ACQUISITION OF MILITARY-PURPOSE NONDEVELOPMENTAL ITEMS

(Added June 29, 2011)

212.7100 Scope.

This subpart establishes the pilot program authorized by section 866 of the National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111-383).

212.7101 Definitions.

“Military-purpose nondevelopmental item,” “Nondevelopmental item,” and “Nontraditional defense contractor,” as used in this subpart, are defined in the provision at [252.212-7002](#).

212.7102 Pilot program.

212.7102-1 Contracts under the program.

The contracting officer may enter into contracts with nontraditional defense contractors for the acquisition of military-purpose nondevelopmental items. See PGI [212.7102](#) for file documentation requirements. Each contract entered into under the pilot program shall—

- (a) Be awarded using competitive procedures;
- (b) Be a firm-fixed-price contract, or a fixed-price contract with an economic price adjustment clause;
- (c) Be in an amount not in excess of \$50 million;
- (d) Provide—
 - (1) For the delivery of an initial lot of production quantities of completed items not later than nine months after the date of the award of such contract; and
 - (2) That failure to make delivery as provided for under paragraph (d)(1) may result in termination for cause; and
- (e) Be—
 - (1) Exempt from the requirement to submit certified cost or pricing data;
 - (2) Exempt from the cost accounting standards under section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 1502); and
 - (3) Subject to the requirement to provide data other than certified cost or pricing data for the purpose of price reasonableness determinations.

212.7102-2 Reporting requirements.

Departments and agencies shall prepare a consolidated annual report to provide information about contracts awarded under this pilot authority. The report shall be submitted to the Office of the Deputy Director, Defense Procurement and Acquisition

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Policy (Contract Policy and International Contracting), by October 31 each year in accordance with the procedures at PGI [212.7102](#). See PGI [212.7102](#) for annual reporting format.

212.7102-3 Sunset of the pilot authority.

(a) The authority to carry out the pilot program described in this subpart expires on January 6, 2016.

(b) The expiration under paragraph (a) of this section of the authority to carry out the pilot program will not affect the validity of any contract awarded under the pilot program before the expiration of the pilot program under that paragraph.

212.7103 Solicitation provision.

Use the provision at [252.212-7002](#), Pilot Program for Acquisition of Military-Purpose Nondevelopmental Items, in all solicitations that meet the applicability criteria of [212.7102-1](#) for this pilot program.