

1825.903 Exempted supplies.

(a) Through delegation from the Assistant Administrator for Procurement, procurement officers are authorized to certify duty free entry for articles imported into the United States, if those articles are procured by NASA or by other U.S. Government agencies, or by U.S. Government contractors or subcontractors when title to the articles is or will be vested in the U.S. Government in accordance with the terms of the contract or subcontract. Procurement officers shall complete the certification set forth in 14 CFR 1217.104(a) or 1217.104(c) (<http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html#page1>). Upon arrival of foreign supplies at a port of entry, the consignee, generally the commercial carrier or its agent (import broker), will file Customs Form 7501, Entry Summary. This form is available from Service Ports (<http://www.customs.ustreas.gov/location/ports/index.htm>) or from NASA Headquarters' forms library (https://extranet.hq.nasa.gov/nef/user/form_search.cfm). All duty-free certificates must be coordinated with the center Chief Counsel. Procurement officers must maintain a record of each certification and make this record available for periodic review by NASA Headquarters and the U.S. Customs Service.

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Subpart 1825.10—Additional Foreign Acquisition Regulations

1825.1001 Waiver of right to examination of records.

(b) The Administrator is the approval authority for waivers. The contracting officer must submit the waiver request, consisting of the determination and findings prescribed in FAR 25.1001(b) and any relevant supporting information, to the Headquarters Office of Procurement (Code HS).

1825.1002 Use of foreign currency.

(a) The NASA Headquarters Comptroller (Code B) is the designated official for making the determination of the feasibility of using excess or near-excess currency.

Subpart 1825.11—Solicitation Provisions and Contract Clauses

1825.1101 Acquisition of supplies.

(e) The contracting officer must add paragraph (k) as set forth in 1852.225-8, Duty-Free Entry of Space Articles, in solicitations and contracts when the supplies that will be accorded duty-free entry are identifiable before award. Insert the supplies determined in accordance with FAR subpart 25.9 and 1825.903.

1825.1103 Other provisions and clauses.**1825.1103-70 Export control.**

(a) Background. (1) NASA contractors and subcontractors are subject to U.S. export control laws and regulations, including the International Traffic in Arms Regulations (ITAR), 22 CFR parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR parts 730 through 799. The contractor is responsible for obtaining the appropriate licenses or other approvals from the Department of State or the Department of Commerce when it exports hardware, technical data, or software, or provides technical assistance to a foreign destination or "foreign person", as defined in 22 CFR 120.16, and there are no applicable or available exemptions/exceptions to the ITAR/EAR, respectively. A person who is lawfully admitted for permanent residence in the United States is not a "foreign person". (See 22 CFR 120.16 and 15 CFR 734.2(b)(2)(ii))

(2) The exemption at 22 CFR 125.4(b)(3) of the ITAR provides that a contractor may export technical data without a license if the contract between the agency and the exporter provides for the export of the data. The clause at 1852.225-70, Alternate I, provides contractual authority for the exemption, but the exemption is available only after the contracting officer, or designated representative, provides written authorization or direction enabling its use. It is NASA policy that the exemption at 22 CFR 125.4(b)(3) may only be used when technical data (including software) is exchanged with a NASA foreign partner pursuant to