

## 225.7502

Supply Group 70 or 74 that is substantially transformed in the United States; or

(iv) Is a nonqualifying country end product, but application of the Balance of Payments Program evaluation factor would not result in award on a domestic offer; or

(2) The construction material is designated country construction material or NAFTA country construction material, and the acquisition is subject to the Trade Agreements Act or NAFTA respectively; or

(c) At any time during the acquisition process, the head of the agency determines that it is not in the public interest to apply the restrictions of the Balance of Payments Program to the end product or construction material.

### 225.7502 Procedures.

(a) *Solicitation of offers.* Identify, in the solicitation, supplies and construction material known in advance to be exempt from the Balance of Payments Program.

(b) *Evaluation of offers.* (1) *Supplies.* Unless the entire acquisition is exempt from the Balance of Payments Program, evaluate offers for supplies that are subject to the Balance of Payments Program using the evaluation procedures in subpart 225.5. However, treatment of duty may differ when delivery is overseas.

(i) Duty may not be applicable to nonqualifying country offers.

(ii) The U.S. Government cannot guarantee the exemption of duty for components or end products imported into foreign countries.

(iii) Foreign governments may impose duties. Evaluate offers including such duties as offered.

(2) *Construction.* Because the contracting officer evaluates the estimated cost of foreign and domestic construction material in accordance with 225.7501(a)(5)(iv) before issuing the solicitation, no special procedures are required for evaluation of construction offers.

(c) *Postaward.* For construction contracts, the procedures at FAR 25.206, for noncompliance under the Buy American Act, also apply to noncompliance under the Balance of Payments Program.

## 48 CFR Ch. 2 (10-1-02 Edition)

### 225.7503 Contract clauses.

Unless the entire acquisition is exempt from the Balance of Payments Program—

(a) Use the clause at 252.225-7044, Balance of Payments Program—Construction Material, in solicitations and contracts for construction to be performed outside the United States with a value greater than the simplified acquisition threshold but less than \$6,481,000.

(b) Use the clause at 252.225-7045, Balance of Payments Program—Construction Material Under Trade Agreements, in solicitations and contracts for construction to be performed outside the United States with a value of \$6,481,000 or more. For acquisitions with a value of \$6,481,000 or more, but less than \$7,304,733, use the clause with its Alternate I.

[67 FR 20694, Apr. 26, 2002, as amended at 67 FR 49256, July 30, 2002]

## PART 226—OTHER SOCIOECONOMIC PROGRAMS

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