

Subpart 212.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f)(i) Use one of the following provisions as prescribed in part 225:

(A) 252.225-7000, Buy American Act—Balance of Payments Program Certificate.

(B) 252.225-7020, Trade Agreements Certificate.

(C) 252.225-7035, Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate.

(ii) Use the provision at 252.212-7000, Offeror Representations and Certifications—Commercial Items, in all solicitations for commercial items exceeding the simplified acquisition threshold. If an exception to 10 U.S.C. 2410i applies to a solicitation exceeding the simplified acquisition threshold (see 225.7603), indicate on an addendum that “The certification in paragraph (b) of the provision at 252.212-7000 does not apply to this solicitation.”

(iii) Use the clause at 252.212-7001, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items, in all solicitations and contracts for commercial items, completing paragraphs (a) and (b), as appropriate.

(iv) Use the provision at 252.209-7001, Disclosure of Ownership or Control by the Government of a Terrorist Country, as prescribed in 209.104-70(a).

(v) Use the clause at 252.232-7009, Mandatory Payment by Government-wide Commercial Purchase Card, as prescribed in 232.1110.

(vi) Use the clause at 252.211-7003, Item Identification, as prescribed at 211.274-4.

(vii) Use the clause at 252.225-7040, Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States, as prescribed in 225.7402-4.

(viii) Use the clause at 252.225-7043, Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States, in solicitations and con-

tracts that include the clause at 252.225-7040.

(ix) Use the clause at 252.211-7006, Radio Frequency Identification, as prescribed in 211.275-3.

[60 FR 61595, Nov. 30, 1995, as amended at 61 FR 50452, Sept. 26, 1996; 62 FR 34122, June 24, 1997; 63 FR 11528, Mar. 9, 1998; 63 FR 15317, Mar. 31, 1998; 64 FR 8728, Feb. 23, 1999; 64 FR 43101, Aug. 9, 1999; 65 FR 46625, July 31, 2000; 66 FR 49861, Oct. 1, 2001; 66 FR 55122, 55123, Nov. 1, 2001; 68 FR 7439, Feb. 14, 2003; 68 FR 15618, Mar. 31, 2003; 68 FR 58633, Oct. 10, 2003; 68 FR 75200, Dec. 30, 2003; 68 FR 64558, Nov. 14, 2003; 69 FR 1927, Jan. 13, 2004; 70 FR 20836, Apr. 22, 2005; 70 FR 23801, May 5, 2005; 70 FR 53968, Sept. 13, 2005; 71 FR 9269, Feb. 23, 2006; 71 FR 34828, June 16, 2006; 71 FR 39006, July 11, 2006]

212.302 Tailoring of provisions and clauses for the acquisition of commercial items.

(c) *Tailoring inconsistent with customary commercial practice.* The head of the contracting activity is the approval authority within the DoD for waivers under FAR 12.302(c).

Subpart 212.5—Applicability of Certain Laws to the Acquisition of Commercial Items

212.503 Applicability of certain laws to Executive agency contracts for the acquisition of commercial items.

(a) The following laws are not applicable to contracts for the acquisition of commercial items:

(i) Section 806, Public Law 102-190 (10 U.S.C. 2301 (repealed) note), Payment Protections for Subcontractors and Suppliers.

(ii) 10 U.S.C. 2306(b), Prohibition on Contingent Fees.

(iii) 10 U.S.C. 2324, Allowable Costs Under Defense Contracts.

(iv) 10 U.S.C. 2384(b), Requirement to Identify Suppliers.

(v) 10 U.S.C. 2397(a)(1), Reports by Employees or Former Employees of Defense Contractors.

(vi) 10 U.S.C. 2397b(f), Limits on Employment for Former DoD Officials.

(vii) 10 U.S.C. 2397c, Defense Contractor Requirements Concerning Former DoD Officials.

(viii) 10 U.S.C. 2408(a), Prohibition on Persons Convicted of Defense Related Felonies.