Subpart 5125.70 - Authorization Acts, Appropriations Acts, and Other Statutory Restrictions on Foreign Acquisitions

Parent topic: Part 5125 - Foreign Acquisition

5125.7000 Scope of subpart.

5125.7000-90 Applicability to utilize a non-Army contracting activity.

Army program executive offices, program management offices and other requiring activities that utilize a non-Army contracting activity to fulfill a requirement for a covered item are responsible for ensuring compliance with DFARS PGI 225.70.

5125.7002 Restrictions on food, clothing, fabrics, and hand or measuring tools.

5125.7002-2 Exceptions.

(b)(1)(ii)(*1*) The Secretary of the Army, on a nondelegable basis, is responsible for approving all domestic nonavailability determinations under 10 U.S.C. 2533a (Berry Amendment). (See DFARS 225.7002-2(b)(1)). The Contracting officer shall not release the solicitation until the Secretary approves the determination.

(*2*) Submit all requests for an exception under this provision through procurement channels to the Deputy Assistant Secretary of the Army (Procurement) at the address located in AFARS 5101.290(b)(2)(ii)(C). Submit requests no later than 60 business days prior to the planned release of the solicitation. All requests shall fully explain why the item(s) in question cannot be procured as and when needed in a satisfactory quality and sufficient quantity at U.S. market prices. The request shall include information on whether item(s) in question are managed by the Defense Logistics Agency (DLA) and written confirmation from the DLA that said item(s) are not available from the DLA in the time needed to meet Army requirements. In addition, all requests shall include a written certification signed by the General Officer/Senior Executive Service-level head of the requiring activity that addresses, with specificity, why alternatives that would not require an exception from the Berry Amendment are unacceptable.

5125.7003 Restrictions on acquisition of specialty metals.

5125.7003-3 Exceptions.

(b)(5)(i)(*l*) The Secretary of the Army, on a nondelegable basis, is responsible for approving all

domestic nonavailability determinations under 10 U.S.C. 2533b that apply to only one contract. (See DFARS 225.7003-3(b)(5)(i).) The Under Secretary of Defense (Acquisition, Technology and Logistics) (USD(AT&L)), on a nondelegable basis, is responsible for approving determinations that apply to more than one contract, see DFARS 225.7003-3(b)(5)(ii). The USD(AT&L), on a nondelegable basis, is responsible for approving national security waivers under DFARS 225.7003-3(d). In all cases, the Contracting officer shall not release the solicitation until the Secretary approves the determination.

(*2*) Follow the procedures at AFARS 5125.7002-2 when submitting a request for an exception to restrictions on acquisition of specialty metals.

5125.7008 Waiver of restrictions of 10 U.S.C. 2534.

(a)(2) The HCA may waive a restriction as stated in DFARS 225.7008(a)(2). See Appendix GG for further delegation.