PART 25 – FOREIGN ACQUISITION

SUBPART 25.1 – BUY AMERICAN ACT – SUPPLIES

25.103 Exceptions.

SUBPART 25.8 – OTHER INTERNATIONAL AGREEMENTS AND COORDINATION

25.802-71 End use certificates.

SUBPART 25.9 – CUSTOMS AND DUTIES

25.903 Exempted supplies.

SUBPART 25.70 – AUTHORIZATION ACTS, APPROPRIATIONS ACTS, AND OTHER STATUTORY RESTRICTIONS ON FOREIGN ACQUISITION

25.7002 Restrictions on food, clothing, fabrics, hand or measuring tools, and flags.

25.7002-2 Exceptions.

SUBPART 25.73 – ACQUISITIONS FOR FOREIGN MILITARY SALES

25.7301 General.

SUBPART 25.79 – EXPORT CONTROL

25.7901 Export–controlled items.

25.7901-1 Definitions.

25.7902-4 Procedures.

SUBPART 25.1 – BUY AMERICAN ACT – SUPPLIES

(Revised September 19, 2016 through PROCLTR 16-09)

25.103 Exceptions.

(b)(1)(iii)(C) Submit supporting documentation to the DLA Acquisition Operations Division.

(b)(2)(ii) Submit the determination and supporting documentation to the DLA Acquisition Operations Division.

SUBPART 25.8 – OTHER INTERNATIONAL AGREEMENTS

AND COORDINATION

(Revised August 9, 2018 through PROCLTR 18-10)

25.802-71 End use certificates.

(S-90) *Exports from the U.S. Requiring an End Use Certificate.* The contracting officer shall use and process Department of State Form DSP-83, United States of America Nontransfer and End Use Certificate, and not the foreign country government end use certificate when exporting items from the United States. Only DLA Disposition shall use DLA Form 1822, End-Use Certificate (Statement Regarding Disposition and Use of Property) for selling or property disposal.

(S-91) *Approval and execution of foreign government end use certifications.* Submission of a foreign-government required end use certificate requires coordination with the MSC Office of Counsel. Provide the request for a Category I and II EUC, or the waiver for a Category III EUC, for DLA-managed items to the DLA Acquisition Operations Division, which will coordinate the request with the Office of General Counsel and the DLA Political Advisor (POLAD). Prior to anticipated award, allow at least 10 business days for processing of Category I EUC requests, 30 business days for Category II EUC requests, and 45 business days for Category III EUC waivers. For Military Service-managed items procured by Depot Level Repairable (DLR) and Supply Storage and Distribution (SS&D) sites, the Secretary of the Military Department is responsible for approval and execution of the EUC. Governing policy is in DoD Directive 2040.3, End Use Certificates (https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodd/204003p.pdf).

(S-92) By memorandum dated March 19, 2018, the DLA Director delegated to the DLA Acquisition Director the authority to sign individual Category I and II EUCs once the DLA Director has authorized the execution of the EUC; this authority may be delegated to the responsible Commander or Deputy Commander of the applicable Major Subordinate Command on a case-by-case basis.

SUBPART 25.9 – CUSTOMS AND DUTIES

(Revised September 19, 2016 through PROCLTR 16-09)

25.903 Exempted supplies.

(b)(ii) The contracting officer shall execute the certificate.

SUBPART 25.70 – AUTHORIZATION ACTS, APPROPRIATIONS ACTS, AND OTHER STATUTORY RESTRICTIONS ON FOREIGN ACQUISITION

(Revised September 19, 2016 through PROCLTR 16-09)

25.7002 Restrictions on food, clothing, fabrics, hand or measuring tools, and flags.

25.7002-2 Exceptions.

(b)(3) Determination shall be forwarded to the DLA Acquisition Operations Division ten (10) working days prior to anticipated contract award.

SUBPART 25.73 – ACQUISITIONS FOR FOREIGN MILITARY SALES

(Revised September 19, 2016 through PROCLTR 16-09)

25.7301 General.

(c)(iv) DEVIATION 2016-03 implements an exception granted to DLA by the Defense Security Cooperation Agency (DSCA) to allow FMS medical equipment and medical systems that the contracting officer has determined require manufacturer or distributor delivery and installation to be shipped as f.o.b. destination.

SUBPART 25.79 – EXPORT CONTROL

(Revised October 13, 2020 through PROCLTR 2020-24)

25.7901 Export–controlled items.

25.7901-1 Definitions.

See 2.101 for definitions of “collaboration folders,” “DLA Export Control Technical Data Access,” “enhanced validation,” and “JCP Certification.” See DoDD 5230.25, Withholding of Unclassified Technical Data From Public Disclosure, section 3. Definitions, for definition of “qualified U.S. contractor,” and Enclosure 2, Definitions, paragraph E2.1.2, for definition of “critical technology.”

25.7902-4 Procedures.

(S-90) For DLA managed items with export controlled technical data, the product specialist will update the Purchase Order Text (POT) to include Standard Text Objects (STOs) RD002, Covered

Defense Information Applies, and RQ032, Export Control of Technical Data.

(S-91) For manual acquisitions, the contracting officer shall—

(1) Confirm that the POT contains STOs RQ032 and RD002 to notify offerors the item requires DLA controlling authority approval to access export-controlled technical information contained within DLA Systems; and

(2) Unless one of the exceptions at PGI 25.7902-4(S-90) applies, verify that the offeror and any source(s) of supply it will use for contract performance have DLA controlling authority approval to access export-controlled technical data within the cFolders. To identify contractors with DLA controlling authority approval to access export-controlled technical data—

(i) See the Business Decision Analytics (BDA) Supplier Risk Analysis by CAGE Code Model in the BDA Job Aid Folder (https://dlamil.dps.mil/sites/InfoOps/Shared%20Documents/Forms/AllItems.aspx?FolderCTID=0x012000D3D259D71343A94E992AA17310CB0231&viewid=bb1b25a6%2D56d8%2D4398%2Dac48%2D5f987c946cca&id=%2Fsites%2FInfoOps%2FShared%20Documents%2FEBS%20ONLINE%20HELP%2FePROCUREMENT%2FBDA); or

(ii) If the BDA Job Aid Folder is unavailable, contact the DLA controlling authority at email DLAJ344DataCustodian@dla.mil .

(iii) Contracting Officers can also verify that an item is export-controlled, along with the item's demilitarization information by accessing the BDA Item Risk Dashboard. The job aid for accessing the BDA Item Risk Dashboard can found at Information Operations (J6) Enterprise Data Warehouse (EDW) - All Documents (dps.mil).

(3) Utilize the exceptions at PGI 25.7902-4(S-90) only when:

(a) The offeror is a manufacturer (i.e., Original Equipment Manufacturer (OEM), the Original Component Manufacturer (OCM), or is an OEM or OCM authorized manufacturer) offering its manufactured item and does not need DLA controlling authority approval to access export-controlled technical data within the cFolders.;

(b)The offeror is a dealer or distributor that has DLA controlling authority approval to access export-controlled technical data within cFolders, and is offering an item produced by an OCM, an OEM or OEM, or OCM authorized manufacturer that does not need access to DLA export-controlled technical data, or

(c) The offeror is a dealer or distributor that has DLA controlling authority approval to access export-controlled technical data within cFolders and is offering unused former Government surplus property that is produced by an OCM, an OEM or OEM or OCM authorized manufacturer that does not need access to DLA export-controlled technical data.

(S-92) For automated acquisitions, the Auto Evaluation logic module will follow the enhanced validation procedures and requirements identified in the DLA Master Solicitation for Automated Simplified Acquisitions. To be eligible for award in the automated system, the offeror, and any source(s) of supply it will use for contract performance must have an active JCP certification and DLA controlling authority approval to access export-controlled data.