

not use any funds appropriated to or for the use of DoD to enter into or carry out a contract with a foreign government or firm, including any contract awarded as a result of a broad agency announcement, if the contract provides for the conduct of research, development, test, and evaluation (RDT&E) in connection with the Ballistic Missile Defense Program.

[68 FR 15627, Mar. 31, 2003. Redesignated at 74 FR 53413, Oct. 19, 2009]

**225.7016-3 Exceptions.**

This restriction does not apply—

(a) To contracts awarded to a foreign government or firm if the contracting officer determines that—

(1) The contract will be performed within the United States;

(2) The contract is exclusively for RDT&E in connection with antitactical ballistic missile systems; or

(3) The foreign government or firm agrees to share a substantial portion of the total contract cost. Consider the foreign share as substantial if it is equitable with respect to the relative benefits that the United States and the foreign parties will derive from the contract. For example, if the contract is more beneficial to the foreign party, its share of the cost should be correspondingly higher; or

(b) If the head of the contracting activity certifies in writing, before contract award, that a U.S. firm cannot competently perform a contract for RDT&E at a price equal to or less than the price at which a foreign government or firm would perform the RDT&E. The contracting officer or source selection authority, as applicable, shall make a determination, in accordance with PGI 225.7016-3 (b), that will be the basis for the certification.

[68 FR 15627, Mar. 31, 2003, as amended at 71 FR 62565, Oct. 26, 2006. Redesignated and amended at 74 FR 53413, Oct. 19, 2009]

**225.7016-4 Solicitation provision.**

Unless foreign participation is otherwise excluded, use the provision at 252.225-7018, Notice of Prohibition of Certain Contracts With Foreign Entities for the Conduct of Ballistic Missile Defense Research, Development, Test, and Evaluation, in competitively nego-

tiated solicitations for RDT&E in connection with the Ballistic Missile Defense Program.

[68 FR 15627, Mar. 31, 2003. Redesignated at 74 FR 53413, Oct. 19, 2009]

**Subpart 225.71—Other Restrictions on Foreign Acquisition**

SOURCE: 68 FR 15631, Mar. 31, 2003, unless otherwise noted.

**225.7100 Scope of subpart.**

This subpart contains foreign product restrictions that are based on policies designed to protect the defense industrial base.

**225.7101 Definitions.**

“Component” and “domestic manufacture,” as used in this subpart, are defined in the clause at 252.225-7025, Restriction on Acquisition of Forgings.

[74 FR 68384, Dec. 24, 2009]

**225.7102 Forgings.**

**225.7102-1 Policy.**

When acquiring the following forging items, whether as end items or components, acquire items that are of domestic manufacture to the maximum extent practicable:

Items	Categories
Ship propulsion shafts .....	Excludes service and landing craft shafts.
Periscope tubes .....	All.
Ring forgings for bull gears ...	All greater than 120 inches in diameter.

**225.7102-2 Exceptions.**

The policy in 225.7102-1 does not apply to acquisitions—

(a) Using simplified acquisition procedures, unless the restricted item is the end item being purchased;

(b) Overseas for overseas use; or

(c) When the quantity acquired exceeds the amount needed to maintain the U.S. defense mobilization base (provided the excess quantity is an economical purchase quantity). The requirement for domestic manufacture does not apply to the quantity above that required to maintain the base, in which case, qualifying country sources may compete.