Defense Acquisition Regulations System, DOD

229.170–3 Reporting of foreign taxation on U.S. assistance programs.

229.170–1 Definition.

Commodities, as used in this section, means any materials, articles, supplies, goods, or equipment.

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229.170–2 Policy.

(a) By law, bilateral agreements with foreign governments must include a provision that commodities acquired under contracts funded by U.S. assistance programs shall be exempt from taxation by the foreign government. If taxes or customs duties nevertheless are imposed, the foreign government must reimburse the amount of such taxes to the U.S. Government (Section 579 of Division E of the Consolidated Appropriations Act, 2003 (Pub. L. 108–7), as amended by Section 506 of Division D of the Consolidated Appropriations Act, 2004 (Pub. L. 108–199), and similar sections in subsequent acts).

(b) This foreign tax exemption—

(1) Applies to a contract or sub-contract for commodities when—

(i) The funds are appropriated by the annual foreign operations appropriations act; and

(ii) The value of the contract or subcontract is $500 or more;

(2) Does not apply to the acquisition of services;

(3) Generally is implemented through letters of offer and acceptance, other country-to-country agreements, or Federal interagency agreements; and

(4) Requires reporting of noncompliance for effective implementation.

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229.170–3 Reports.

The contracting officer shall submit a report to the designated Security Assistance Office when a foreign government or entity imposes tax or customs duties on commodities acquired under contracts or subcontracts meeting the criteria of 229.170–2(b)(1). Follow the procedures at PGI 229.170–3 for submission of reports.

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