Defense Acquisition Regulations System, DoD

225.7002–2

statute or the Balance of Payments Program.


225.7001 Definitions.

As used in this subpart—

(a) *Bearing components* is defined in the clause at 252.225–7016, Restriction on Acquisition of Ball and Roller Bearings.

(b) “Component” is defined in the clauses at 252.225–7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals; 252.225–7012, Preference for Certain Domestic Commodities, and 252.225–7016, Restriction on Acquisition of Ball and Roller Bearings, except that for use in 225.7007, the term has the meaning given in the clause at 252.225–7019, Restriction on Acquisition of Anchor and Mooring Chain.

(c) “End product” is defined in the clause at 252.225–7012, Preference for Certain Domestic Commodities.

(d) *Hand or measuring tools* means those tools listed in Federal supply classifications 51 and 52, respectively.

(e) *Structural component of a tent* is defined in the clause at 252.225–7012, Preference for Certain Domestic Commodities.


225.7002 Restrictions on food, clothing, fabrics, and hand or measuring tools.

225.7002–1 Restrictions.

The following restrictions implement 10 U.S.C. 2333a (the “Berry Amendment”). Except as provided in sub-section 225.7002–2, do not acquire—

(a) Any of the following items, either as end products or components, unless the items have been grown, reprocessed, reused, or produced in the United States:

1. Food.

2. Clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing and the materials and components thereof. Clothing includes items such as outerwear, headwear, underwear, nightwear, footwear, hosiery, handwear, belts, badges, and insignia. For additional guidance and examples, see PGI 225.7002–1(a)(2).

3. (i) Tents and the structural components of tents;

(ii) Tarps;

(iii) Covers.


5. Woven silk or woven silk blends.

6. Spun silk yarn for cartridge cloth.

7. Synthetic fabric or coated synthetic fabric, including all textile fibers and yarns that are for use in such fabrics.

8. Canvas products.

9. Wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles).

10. Any item of individual equipment (Federal Supply Class 8465) manufactured from or containing any of the fibers, yarns, fabrics, or materials listed in this paragraph (a).

(b) Hand or measuring tools, unless the tools were produced in the United States. For additional guidance, see PGI 225.7002–1(b).


225.7002–2 Exceptions.

Acquisitions in the following categories are not subject to the restrictions in 225.7002–1:

(a) Acquisitions at or below the simplified acquisition threshold.

(b) Acquisitions of any of the items in 225.7002–1, if the Secretary concerned determines that items grown, reprocessed, reused, or produced in the United States cannot be acquired as and when needed in a satisfactory quality and sufficient quantity at U.S. market prices. (See the requirement in 205.301 for synopsis within 7 days after contract award when using this exception.)

1. The following officials are authorized, without power of redelegation, to make such a domestic nonavailability determination:
(i) The Under Secretary of Defense (Acquisition, Technology, and Logistics).
(ii) The Secretary of the Army.
(iii) The Secretary of the Navy.
(iv) The Secretary of the Air Force.
(v) The Director of the Defense Logistics Agency.

(2) The supporting documentation for the determination shall include—

(i) An analysis of alternatives that would not require a domestic nonavailability determination; and

(ii) A written certification by the requiring activity, with specificity, why such alternatives are unacceptable.

(3) Defense agencies other than the Defense Logistics Agency shall follow the procedures at PGI 225.7002–2(b)(3) when submitting a request for a domestic nonavailability determination.

(4) Follow the procedures at PGI 225.7002–2(b)(4) for reciprocal use of domestic nonavailability determinations.

(c) Acquisitions of items listed in FAR 25.104(a).

(d) Acquisitions outside the United States in support of combat operations.

(e) Acquisitions of perishable foods by or for activities located outside the United States for personnel of those activities.

(f) Acquisitions of food or hand or measuring tools—

(1) In support of contingency operations; or

(2) For which the use of other than competitive procedures has been approved on the basis of unusual and compelling urgency in accordance with FAR 6.302–2.

(g) Emergency acquisitions by activities located outside the United States for personnel of those activities.

(h) Acquisitions by vessels in foreign waters.

(i) Acquisitions of items specifically for commissary resale.

(j) Acquisitions of incidental amounts of cotton, other natural fibers, or wool incorporated in an end product, for which the estimated value of the cotton, other natural fibers, or wool—

(1) Is not more than 10 percent of the total price of the end product; and

(2) Does not exceed the simplified acquisition threshold.

(k) Acquisitions of waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives.

(l) Acquisitions of foods manufactured or processed in the United States, regardless of where the foods (and any component if applicable) were grown or produced. However, in accordance with Section 8118 of the DoD Appropriations Act for Fiscal Year 2005 (Pub. L. 108–287), this exception does not apply to fish, shellfish, or seafood manufactured or processed in the United States or fish, shellfish, or seafood contained in foods manufactured or processed in the United States.

(m) Acquisitions of fibers and yarns that are for use in synthetic fabric or coated synthetic fabric (but not the purchase of the synthetic or coated synthetic fabric itself), if—

(1) The fabric is to be used as a component of an end product that is not a textile product. Examples of textile products, made in whole or in part of fabric, include—

(i) Draperies, floor coverings, furnishings, and bedding (Federal Supply Group 72, Household and Commercial Furnishings and Appliances);

(ii) Items made in whole or in part of fabric in Federal Supply Group 83, Textile/leather/furs/apparel/findings/tents/flags, or Federal Supply Group 84, Clothing, Individual Equipment and Insignia;

(iii) Upholstered seats (whether for household, office, or other use); and

(iv) Parachutes (Federal Supply Class 1670); or

(2) The fibers and yarns are para-aramid fibers and continuous filament para-aramid yarns manufactured in a qualifying country.

(n) Acquisitions of chemical warfare protective clothing when the acquisition furthers an agreement with a qualifying country. (See 225.003(10) and the requirement in 265.301 for synopsis
within 7 days after contract award when using this exception.)


225.7002–3 Contract clauses.

Unless an exception applies—

(a) Use the clause at 252.225–7012, Preference for Certain Domestic Commodities, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that exceed the simplified acquisition threshold.

(b) Use the clause at 252.225–7015, Restriction on Acquisition of Hand or Measuring Tools, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that exceed the simplified acquisition threshold that require delivery of hand or measuring tools.


225.7003 Restrictions on acquisition of specialty metals.

225.7003–1 Definitions.

As used in this section—

(a) Assembly, commercial derivative military article, commercially available off-the-shelf item, component, electronic component, end item, high performance magnet, required form, and subsystem are defined in the clause at 252.225–7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals.

(b) Automotive item—

(1) Means a self-propelled military transport tactical vehicle, primarily intended for use by military personnel or for carrying cargo, such as—

(i) A high-mobility multipurpose wheeled vehicle;

(ii) An armored personnel carrier; or

(iii) A troop/cargo-carrying truck, truck, or van; and

(2) Does not include—

(i) A commercially available off-the-shelf vehicle; or

(ii) Construction equipment (such as bulldozers, excavators, lifts, or loaders) or other self-propelled equipment (such as cranes or aircraft ground support equipment).

(c) Produce and specialty metal are defined in the clauses at 252.225–7008, Restriction on Acquisition of Specialty Metals, and 252.225–7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals.

(74 FR 37636, July 29, 2009)

225.7003–2 Restrictions.

The following restrictions implement 10 U.S.C. 2533b. Except as provided in 225.7003–3—

(a) Do not acquire the following items, or any components of the following items, unless any specialty metals contained in the items or components are melted or produced in the United States (also see guidance at PGI 225.7003–2(a)):

(1) Aircraft.

(2) Missile or space systems.

(3) Ships.

(4) Tank or automotive items.

(5) Weapon systems.

(6) Ammunition.

(b) Do not acquire a specialty metal (e.g., raw stock, including bar, billet, slab, wire, plate, and sheet; castings; and forgings) as an end item, unless the specialty metal is melted or produced in the United States. This restriction applies to specialty metal acquired by a contractor for delivery to DoD as an end item, in addition to specialty metal acquired by DoD directly from the entity that melted or produced the specialty metal.

(74 FR 37636, July 29, 2009)

225.7003–3 Exceptions.

Procedures for submitting requests to the Under Secretary of Defense (Acquisition, Technology, and Logistics) (USD(AT&L)) for a determination or approval as required in paragraph (b)(5), (c), or (d) of this subsection are at PGI 225.7003–3.

(a) Acquisitions in the following categories are not subject to the restrictions in 225.7003–2:

(1) Armament systems.

(2) Standards, data, and information.

(3) Consumable items.

(4) Commercial items.

(5) Noncommercial items.

(6) Medical items.

(7) Services.

(8) Commercial products.

(9) Computer software.

(10) Other items.

(b) Acquisitions in the following categories that involve the use of specialty metal are subject to the restrictions in 225.7003–2:

(1) Ammunition systems.

(2) Architectural and engineering services.

(3) Field operations.

(4) Research and development.

(5) Construction.

(6) Support services.

225.7003–4 Compliance.

DoD 225.7003–3 does not apply when—

(a) Acquirers, including DoD, the Military Services, and the Defense agencies, are acquiring non-defense products and services.