

DFARS Procedures, Guidance, and Information

PGI 225—Foreign Acquisition

(Revised December 8, 2009)

PGI 225.77—ACQUISITIONS IN SUPPORT OF OPERATIONS IN IRAQ OR AFGHANISTAN

PGI 225.7703 Acquisition of products or services other than small arms.

PGI 225.7703-2 Determination requirements.

(b) Subject matter experts for defense industrial base matters are as follows:

For Army: SAAL-PA, Army Industrial Base Policy, telephone 703-695-2488.

For DLA: DLA J-74, Acquisition Programs and Industrial Capabilities Division, telephone 703-767-1427.

For Navy: Ship Programs, DASN Ships, telephone 703-697-1710.

For Air Force: Air Force Research Laboratory, Materials Manufacturing Directorate, telephone 703-588-7777.

For Other Defense Agencies: Personnel at defense agencies without industrial base expertise on staff should contact the Office of the Deputy Under Secretary of Defense for Industrial Policy (Acquisition, Technology, and Logistics), telephone 703-697-0051.

(c) Determination formats.

(i) Prepare an individual determination and findings substantially as follows:

DEPARTMENT OR AGENCY

Authority to Acquire Products or Services
from Iraq or Afghanistan

Determination and Findings

Upon the basis of the following findings and determination which I hereby make in accordance with the provisions of DFARS 225.7703-2, the acquisition of a product or service, other than small arms, in support of operations in [Select one: Iraq / Afghanistan / Iraq and Afghanistan] may be made as follows:

Findings

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1. The [contracting office] proposes to purchase under contract number _____, [describe item]. The total estimated cost of this acquisition is _____.
2. The product or service is to be used by [describe the entity(ies) that are the intended user(s) of the product or service].
3. The contracting officer recommends conducting the acquisition using the following procedure, which, given this determination, is authorized by Section 886 of Public Law 110-181:

[Select one of the following:]

Provide a preference for products or services from Iraq or Afghanistan.

Limit competition to products or services from Iraq or Afghanistan.

Use procedures other than competitive procedures to award a contract to a particular source or sources from Iraq or Afghanistan.

4. To implement the recommended procedure, the solicitation will contain [title and number of the applicable provision and/or clause prescribed at DFARS 225.7703-5].
5. The proposed acquisition will provide a stable source of jobs in *[Select one: Iraq / Afghanistan / Iraq and Afghanistan]*, because _____.
6. The proposed use of other than full and open competition is necessary to provide this stable source of jobs in *[Select one: Iraq / Afghanistan / Iraq and Afghanistan]*.
7. The proposed use of other than full and open competition will not adversely affect military operations or stability operations in *[Select one: Iraq / Afghanistan / Iraq and Afghanistan]*, because _____. This is the opinion of the *[title of the official responsible for operations in the area involved]*.
8. The proposed use of other than full and open competition will not adversely affect the United States industrial base.
9. *[If a preference will be provided for products or services from Iraq or Afghanistan, or if competition will be limited to products or services from Iraq or Afghanistan, include—*

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(1) A description of efforts made to ensure that offers are solicited from as many potential sources as is practicable; and

(2) Whether a notice was or will be publicized as required by FAR Subpart 5.2 and, if not, which exception in FAR 5.202 applies.]

- or -

[If procedures other than competitive procedures will be used to award a contract to a particular source or sources from Iraq or Afghanistan, include—

(1) A description of the market research conducted in accordance with FAR Part 10 and the results; or a statement of the reason market research was not conducted;

(2) A listing of the sources, if any, that expressed, in writing, an interest in the acquisition;

(3) A demonstration that the proposed contractor's unique qualifications require the use of a noncompetitive acquisition, or an explanation of the other reasons for use of a noncompetitive acquisition; and

(4) A certification by the contracting officer that the information in paragraphs (1) through (3) above is accurate and complete to the best of the contracting officer's knowledge and belief.]

Determination

I hereby determine that it is in the national security interest of the United States to use the acquisition procedure described above, because the procedure is necessary to provide a stable source of jobs in [Select one: Iraq / Afghanistan / Iraq and Afghanistan] and it will not adversely affect (1) Operations in [Select one: Iraq / Afghanistan / Iraq and Afghanistan] or (2) the United States industrial base.

(Date)

(ii) Prepare a determination and findings for a class of acquisitions substantially as follows:

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DEPARTMENT OR AGENCY

Authority to Acquire Products or Services
from Iraq or Afghanistan

Determination and Findings

Upon the basis of the following findings and determination which I hereby make in accordance with the provisions of DFARS 225.7703-2, the acquisition of products or services, other than small arms, in support of operations in [Select one: Iraq / Afghanistan / Iraq and Afghanistan] may be made as follows:

Findings

1. It is anticipated that [applicable departments/agencies/components] will need to award contracts during the period from _____ to _____ in order to acquire [describe the type(s) of products or services] for [describe the purpose, if the purpose for which the items will be acquired is a defining characteristic of the class of acquisitions to be covered by the class determination].
2. The products or services to be acquired under the contemplated contracts are to be used by [describe the entity(ies) intended to use the products or services].
3. This class of acquisitions should be conducted using the following procedure, which, given this determination, is authorized by Section 886 of Public Law 110-181:

[Select one of the following:]

Provide a preference for products or services from Iraq or Afghanistan.

Limit competition to products or services from Iraq or Afghanistan.

Use procedures other than competitive procedures to award a contract to a particular source or sources from Iraq or Afghanistan.

4. To implement the recommended procedure, solicitations will contain [title and number of the applicable provision and/or clause prescribed at DFARS 225.7703-5].

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5. Each of the contemplated contracts will provide a stable source of jobs in [Select one: Iraq / Afghanistan / Iraq and Afghanistan], because _____.
6. The proposed use of other than full and open competition for this class of acquisitions is necessary to provide this stable source of jobs in [Select one: Iraq / Afghanistan / Iraq and Afghanistan].
7. The proposed use of other than full and open competition for this class of acquisitions will not adversely affect operations in [Select one: Iraq / Afghanistan / Iraq and Afghanistan], because_____.
This is the opinion of the [title of the official responsible for operations in the area involved].
8. The proposed use of other than full and open competition for this class of acquisitions will not adversely affect the United States industrial base.
9. *[If a preference will be provided for products or services from Iraq or Afghanistan, or if competition will be limited to products or services from Iraq or Afghanistan, include—*

(1) A description of the efforts that will be made to ensure that offers are solicited from as many potential sources as is practicable; and

(2) Whether a notice will be publicized as required by FAR Subpart 5.2 and, if not, which exception in FAR 5.202 applies.]

- or -

[If procedures other than competitive procedures will be used to award contracts to a particular source or sources from Iraq or Afghanistan, include—

(1) A description of the market research conducted in accordance with FAR Part 10 and the results; or a statement of the reason market research was not conducted;

(2) A listing of the sources, if any, that expressed, in writing, an interest in this class of acquisitions;

(3) A demonstration that the proposed contractor's unique qualifications require the use of a noncompetitive acquisition, or an explanation of the other reasons for use of a noncompetitive acquisition; and

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(4) A certification by the contracting officer that the information in paragraphs (1) through (3) above is accurate and complete to the best of the contracting officer's knowledge and belief.]

Determination

I hereby determine that it is in the national security interest of the United States to use the acquisition procedure described above for [description of the class of acquisitions to which this determination is intended to apply], because the procedure is necessary to provide a stable source of jobs in [Select one: Iraq / Afghanistan / Iraq and Afghanistan] and it will not adversely affect (1) Operations in [Select one: Iraq / Afghanistan / Iraq and Afghanistan] or (2) the United States industrial base.

(Date)

(iii) Prepare a deviation and findings for acquisitions issued pursuant to class deviation 2009-O0012, Authority to Acquire Products and Services Produced in Countries along a Major Route of Supply to Afghanistan, substantially as follows:

DEPARTMENT OR AGENCY

AUTHORITY TO ACQUIRE PRODUCTS OR SERVICES FROM

Determination and Findings

Upon the basis of the following findings and determination, which I hereby make in accordance with the provisions of DFARS 225.7799-2 (DEVIATION), the acquisition of a product or service, other than small arms, in support of operations in Afghanistan may be made as follows:

FINDINGS

1., The _____ 1A _____ proposes to purchase under solicitation number _____
1B _____, _____ 1C _____.

The total estimated cost of this acquisition is _____ 1D _____.

2., The product or service is to be used by _____ 2 _____.

3., The contracting officer recommends conducting the acquisition using the following procedure, which, given this determination, is authorized by Section 801 of Public Law 111-084:

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4., To implement the recommended procedure, the solicitation will contain DFARS 252.225-7998, Preference for Products or Services from Central Asia, Pakistan, or the South Caucasus (11 NOV 09) (DEVIATION), and DFARS 252.225-7999, Requirement for Products or Services from Central Asia, Pakistan, or the South Caucasus (11 NOV 09) (DEVIATION).

5., The proposed acquisition will provide a product or service that is to be used

5

6. It is in the national security interest of the United States to use a procedure specified in 225.7799-1(a)(DEVIATION) because the procedure is necessary to

6A

Use of the procedure will not adversely affect

6B

7. Acquisitions conducted using the procedures specified in DFARS 225.7799-1(a) (DEVIATION), (see para. 3. above), are authorized to use other than full and open competition procedures and do not require the justification and approved addressed in FAR Subpart 6.3.

8. If a preference will be provided to products or services from Central Asia, Pakistan, or the South Caucasus, or if competition will be limited to products or services from Central Asia, Pakistan, or the South Caucasus, include—

8A

Requirement will be/was synopsisized: YES NO If not synopsisized, exception at FAR 5.202(a) 8B applies.

9. If other than competitive procedures will be used to award a contract to a particular source(s) from Central Asia, Pakistan, or the South Caucasus, the following statements apply –

(a) Market Research:

9A

(b) Sources that expressed, in writing, an interest in the acquisition:

9B

(c) Contractor's unique qualifications requiring a noncompetitive acquisition:

9C

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or other reasons for use of a noncompetitive acquisition:

9C

(d) I hereby that the information in paragraphs (1) through (3) above is accurate and complete to the best of my knowledge and belief.

_____ Date: _____

CONTRACTING OFFICER

Name: _____

Office Symbol: _____

DETERMINATION

Head of the Contracting Activity (HCA) Determination

In accordance with the authorization outlined in DFARS 225.7799-

2(b)(1)(i)(DEVIATION), I hereby determine that it is in the national security interest of the United States to use the acquisition procedure described above, because the procedure is necessary to support operations in Afghanistan and these procedures will not affect the security, transition, reconstruction, and humanitarian relief operations in Afghanistan or the United States industrial base.

_____ Date: _____

INSTRUCTIONS FOR COMPLETING DETERMINATION

1A Office symbol of your contracting office

1B RFP/RFQ/IFB number

1C Description of the items to be purchased

1D Estimated amount of the requirement (in USD)

2 Describe the entity(ies) that are the intended user(s) of the product or service

3 *Select and include one of the following:*

Provide a preference for products or services from Central Asia, Pakistan, or the South Caucasus IAW the evaluation procedures at 225.7799-3 (DEVIATION).

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Limit competition to products or services from Central Asia, Pakistan, or the South Caucasus.

5 *Select and include one of the following:*

In the country that is the source of the product or service.

In the course of efforts by the United States and the NATO International Security Assistance Force to ship goods to Afghanistan in support of operations in Afghanistan. By the military forces, police, or other security personnel of Afghanistan.

6A *Select and include one of the following:*

Reduce the overall United States transportation costs and risks in shipping goods in support of operations in Afghanistan.

Encourage states of Central Asia, Pakistan, or the South Caucasus to cooperate in expanding supply routes through their territory in support of operations in Afghanistan.

Help develop more robust and enduring routes of supply to Afghanistan.

6B *Select and include one of the following:*

Operations in Afghanistan (including security, transition, reconstruction, and humanitarian relief activities).

The U.S. industrial base. [The contracting officer generally may presume that there will not be an adverse effect on the U.S. industrial base. However, when in doubt the contracting officer should coordinate with the applicable subject matter experts.]

8A Description of efforts made to ensure offers are solicited from as many potential sources as is practicable

8B Provide the number of the exception in FAR 5.202(a) that applies

9A A description of the market research conducted IAW FAR Part 10 and the results; or a statement of the reason why market research was not conducted

9B Provide the names of the sources that expressed an interest in this acquisition

9C Provide rationale for the noncompetitive acquisition: either a description of the contractor's unique qualifications or other reasons why competition is not appropriate

PGI 225.7703-4 Reporting requirement.

(1) Reports for Class Deviation 2009-O0012 shall include—

(i) The number of occasions on which a determination under Deviation 2009-O0012 was made with respect to the exercise of the authority, regardless of whether or not the determination resulted in the exercise of such authority;

(ii) The total dollar amount of contracts issued pursuant to the exercise of such authority displayed—

(A) Separately for each country (Georgia, the Kyrgyz Republic, Pakistan, the Republic of Armenia, the Republic of Azerbaijan, the Republic of Kazakhstan, the Republic of Tajikistan, the Republic of Uzbekistan, or Turkmenistan); and

(B) Combined total for all countries; and

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(iii) A description and assessment of the extent to which procurements pursuant to the exercise of such authority furthered the national security interest of the United States to—

(A) Improve local market and transportation infrastructure in Central Asia, Pakistan, or the South Caucasus in order to reduce overall United States transportation costs and risks in shipping goods in support of operations in Afghanistan; or

(B) Encourage states of Central Asia, Pakistan, or the South Caucasus to cooperate in expanding supply routes through their territory in support of operations in Afghanistan.

(2) Reports shall be submitted in accordance with the following schedule:

Reportable Actions Occurring From - To	Submit Report No Later Than
September 15, 2009 – December 31, 2009	January 31, 2010
January 1, 2010– December 31, 2010	January 31, 2011
January 1, 2011 – December 31, 2011	January 31, 2012