



ACQUISITION AND
TECHNOLOGY

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000

January 20, 1998

DP (DAR)

In reply refer to
DAR Tracking Number: 98-00001

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION BUSINESS MANAGEMENT,
ASN(RD&A)/ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DEPUTY ASSISTANT SECRETARY OF THE ARMY (PROCUREMENT)
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS AGENCY

SUBJECT: Trade Agreements Thresholds-Class Deviation

Effective immediately, all military departments and defense agencies shall use the attached modified text in lieu of the corresponding Federal Acquisition Regulation text. The modified text revises certain trade agreements thresholds in FAR Part 25.

These Trade Agreements Act and North American Free Trade Agreement Act thresholds were published by the Office of the United States Trade Representative in the Federal Register on January 14, 1998 (63 FR 2295). The new thresholds were effective on January 1, 1998.

This class deviation will remain in effect until the FAR is revised.

Eleanor R. Spector
Director, Defense Procurement

Attachment

cc: DSMC, Ft. Belvoir



**FAR Class Deviation
Tracking Number 98-O0001
Trade Agreements Thresholds**

PART 25—FOREIGN ACQUISITION

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25.105 Evaluating offers.

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(d) The evaluation in paragraph (a) of this section shall not be applied to offers of Israeli end products at or above \$50,000 (see 25.402(a)(2)).

(e) The evaluation in paragraph (a) of this section shall not be applied to offers of Canadian end products above \$25,000 [**or Mexican end products above \$53,150**] (see 25.402(a)(3)(ii)). For the definition[s] of "Canadian end product," [**and "Mexican end product,"**] see 25.401.

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25.202 Policy.

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(d) For construction contracts with an acquisition value of ~~\$6,500,000~~ [**\$6,909,500**] or more, but less than ~~\$7,311,000~~ [**\$7,143,000**], see 25.402(a)(3). If the acquisition value is ~~\$7,311,000~~ [**\$7,143,000**] or more, see 25.402(a)(1).

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25.207 Solicitation provisions and contract clauses.

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(d)(1) The contracting officer shall insert the clause at 52.225-15, Buy American Act--Construction Materials under Trade Agreements Act and North American Free Trade Agreement, in solicitations and contracts for construction inside the United States with an estimated acquisition value of ~~\$7,311,000~~ [**\$7,143,000**] or more.

(2) For solicitations and contracts for construction inside the United States with an estimated acquisition value of ~~\$6,500,000~~ [**\$6,909,500**] or more, but less than ~~\$7,311,000~~ [**\$7,143,000**], the contracting officer shall use the clause with its Alternate I.

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Subpart 25.3—Balance of Payments Program

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25.305 Solicitation provisions and contract clauses.

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(c) *Contract clauses.* (1) * * *

(2) For construction contracts outside the United States, with an estimated value of \$6,500,000 [6,909,500] or more, insert the clause at 52.225-22, Balance of Payments Program—Construction Materials—NAFTA.

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Subpart 25.4--Trade Agreements

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25.402 Policy.

(a)(1) Executive Order 12260 requires the U.S. Trade Representative to set the dollar threshold for application of the Trade Agreements Act. The current threshold is \$190,000[\$186,000] for supply and services contracts and \$7,311,000[\$7,143,000] for construction contracts. The thresholds will be published in the Federal Register and will be distributed through agency procedures on an expedited basis. When the value of the proposed acquisition of an eligible product is estimated to be at or over the dollar threshold, agencies shall evaluate offers for an eligible product without regard to the restrictions of the Buy American Act (see Subpart 25.1) or the Balance of Payments Program (see Subpart 25.3). When the value of the proposed construction contract is estimated to be at or over the dollar threshold, agencies shall evaluate offers of designated country construction materials without regard to the restrictions of the Buy American Act (see Subpart 25.2) or the Balance of Payments Program (see Subpart 25.3). When the value of the proposed acquisition is estimated to be below the Trade Agreements Act threshold, the restrictions of the Buy American Act or the Balance of Payments Program shall be applied to foreign offers, except as noted in paragraphs (a)(2) and (a)(3) of this section (see 25.105).

(2) As required by Article 15 of the U.S.-Israel Free Trade Area Agreement, agencies other than the Department of Defense, Department of Energy, Department of Transportation, the Bureau of Reclamation of the Department of the Interior, the Federal Housing Finance Board, and the Office of Thrift Supervision shall evaluate offers of Israeli end products at or above \$50,000 in amount without regard to the restrictions of the Buy American Act (see Subpart 25.1) or the Balance of Payments Program (see Subpart 25.3).

(3) As required by the North American Free Trade Agreement (NAFTA) Implementation Act (Pub. L. 103-182, 107 Stat. 2057), agencies shall evaluate offers of the following NAFTA country end products without regard to the restrictions of the Buy American Act (see Subpart 25.1) or the Balance of Payments Program (see Subpart 25.3):

(i) NAFTA country construction materials under construction contracts with an estimated acquisition value of \$6,500,000 [6,909,500] or more.

(ii) Canadian end products under supply contracts with an estimated value above \$25,000 and Mexican end products under supply contracts with an estimated value of \$50,000 [\$53,150] or more.

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25.408 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert--

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(3) The provision at 52.225-20, Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program Certificate, in solicitations containing the clause at 52.225-21. Use the provision with its Alternate I if the acquisition value is between \$25,000 and \$50,000[\$53,150]; and

(4) The clause at 52.225-21, Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program, in solicitations and contracts for supplies where the contracting officer has determined that the acquisition is not subject to the Trade Agreements Act but is subject to NAFTA. Use the clause with its Alternate I if the acquisition value is between \$25,000 and \$50,000[\$53,150].

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Subpart 25.10—Implementation of Sanctions Against Countries that Discriminate Against United States Products or Services in Government Procurement

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25.1002 Trade Sanctions.

(a) Subject to the exceptions in paragraph (b) of this section, executive agencies shall not award contracts for—

- (1) Sanctioned EU end products with an estimated acquisition value less than \$190,000[\$186,000].
- (2) Sanctioned EU construction with an estimated acquisition value less than \$7,311,000[\$7,143,000].
- (3) Sanctioned EU service contracts as follows:
 - (i) Service contracts with an estimated acquisition value less than \$190,000[\$186,000].

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25.1003 Contract clauses.

Except as provided in 25.1002(b) and (c)—

(a) Insert the clause at 52.225-18, European Union Sanctions for End Products, in solicitations and contracts for supplies with an estimated acquisition value less than \$190,000[\$186,000].

(b) Insert the clause 52.225-19, European Union Sanction for Services, in solicitations and contracts for—

- (1) Services with an estimated acquisition value less than \$190,000[\$186,000]; and
- (2) * * *

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