



ACQUISITION AND  
TECHNOLOGY

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-3000

August 17, 1998

DP (DAR)

In reply refer to  
DFARS Case: 98-D016  
D. L. 98-019

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES  
DEPUTY FOR ACQUISITION AND 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: Waiver of 10 U.S.C. 2534 - United Kingdom

We have amended the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the waiver of the domestic source restrictions of 10 U.S.C. 2534(a) for certain items manufactured in the United Kingdom. This waiver was signed by the Under Secretary of Defense (Acquisition and Technology) on June 19, 1998, and has an effective date of August 4, 1998.

The attached interim DFARS rule is effective immediately.

Eleanor R. Spector  
Director, Defense Procurement

Attachment

cc: DSMC, Ft. Belvoir



**DFARS CASE 98-D016  
Waiver of 10 U.S.C. 2534 - United Kingdom  
Interim Rule**

**SUBPART 225.70—AUTHORIZATION ACTS, APPROPRIATIONS ACTS, AND  
OTHER STATUTORY RESTRICTIONS ON FOREIGN ACQUISITION**

\* \* \* \* \*

**225.7005 Waiver of certain restrictions.**

**[(a)]** Where provided for elsewhere in this subpart, the restrictions on certain foreign purchases under 10 U.S.C. 2534(a) may be waived as follows:

~~-(a)(1)(i)~~ The Under Secretary of Defense (Acquisition and Technology), without power of delegation, may waive the restriction for a particular item for a particular foreign country upon determination that—

~~(i)(A)~~ United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country; or

~~(i)(B)~~ Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, or would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items under 225.872, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

~~(2)(ii)~~ A notice of the determination to exercise the waiver authority must be published in the Federal Register and submitted to the congressional defense committees at least 15 days before the effective date of the waiver.

~~(3)(iii)~~ Such waiver shall be in effect for a period not greater than 1 year.

~~(4)(iv)~~ For contracts entered into prior to the effective date of a waiver, provided adequate consideration is received to modify the contract, such waiver shall be applied as directed or authorized in the waiver to—

~~(i)(A)~~ Subcontracts entered into on or after the effective date of the waiver; and

~~(i)(B)~~ Options for the procurement of items that are exercised after the effective date of the waiver, if the option prices are adjusted for any reason other than the application of the waiver.

~~(b)(2)~~ \* \* \*  
~~(1)(i)~~ \* \* \*  
~~(2)(ii)~~ \* \* \*  
~~(3)(iii)~~ \* \* \*  
~~(4)(iv)~~ \* \* \*  
~~(5)(v)~~ \* \* \*

~~(e)(3)~~ \* \* \*

**[(b) In accordance with the provisions of paragraphs (a)(1)(i) through (a)(1)(iii) of this section, the Under Secretary of Defense (Acquisition and Technology) has waived the restrictions of 10 U.S.C. 2534(a) for certain items manufactured in the United Kingdom, including air circuit breakers for naval vessels and totally enclosed lifeboats (see 225.7016 and 225.7022). This waiver applies to—**

**(1) Procurements under solicitations issued on or after August 4, 1998; and**

**(2) Subcontracts and options under contracts entered into prior to August 4, 1998, under the conditions described in paragraph (a)(1)(iv) of this section.]**

\* \* \* \* \*

**225.7007-4 Waiver.**

The waiver criteria at 225.7005[(a)] apply to this restriction.

\* \* \* \* \*

**225.7010-3 Waiver.**

The waiver criteria at 225.7005[(a)] apply to this restriction.

\* \* \* \* \*

**225.7016 Restriction on air circuit breakers for naval vessels.**

**225.7016-1 Restriction.**

In accordance with 10 U.S.C. 2534 [and 225.7005(b)], do not acquire air circuit breakers for naval vessels unless they are manufactured in the United States ~~or~~ [Canada, or the United Kingdom].

**225.7016-2 Exceptions.**

This restriction does not apply if—

- (a) The acquisition is for an amount that does not exceed the simplified acquisition threshold; or
- (b) Spare or repair parts are needed to support air circuit breakers manufactured outside the United States ~~and Canada~~. Support includes the purchase of spare air circuit breakers where those from alternate sources are not interchangeable.

**225.7016-3 Waiver.**

The waiver criteria at 225.7005[(a)] apply to this restriction.

\* \* \* \* \*

**225.7019 Restrictions on ball and roller bearings.**

**225.7019-1 Restrictions.**

(a) In accordance with 10 U.S.C. 2534 [and 225.7019-3(b)(5)], through fiscal year 2000, do not acquire ball and roller bearings or bearing components that are not manufactured in the United States ~~or~~ [Canada, or the United Kingdom].

(b) In accordance with Section 8099 of Pub. L. 104-61 and similar sections in subsequent Defense appropriations acts, do not use fiscal year 1996 or subsequently appropriated funds to acquire ball and roller bearings other than those produced by a domestic source and of

domestic origin, i.e., bearings and bearing components manufactured in the United States or Canada.

\* \* \* \* \*

### **225.7019-3 Waiver.**

\* \* \* \* \*

(b)(1) The Under Secretary of Defense (Acquisition and Technology), without power of delegation, may waive the restriction in 225.7019-1(a) for a particular foreign country upon determination that—

- (i) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country; or
- (ii) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, or would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items under 225.872, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(2) A notice of the determination to exercise the waiver authority must be published in the Federal Register and submitted to the congressional defense committees at least 15 days before the effective date of the waiver.

(3) Such waiver shall be in effect for a period not greater than 1 year.

(4) For contracts entered into prior to the effective date of a waiver, provided adequate consideration is received to modify the contract, such waiver shall be applied as directed or authorized in the waiver to—

- (i) Subcontracts entered into on or after the effective date of the waiver; and
- (ii) Options for the procurement of items that are exercised after the effective date of the waiver, if the option prices are adjusted for any reason other than the application of the waiver.

**[(5) In accordance with the provisions of paragraphs (b)(1) through (b)(3) of this subsection, the Under Secretary of Defense (Acquisition and Technology) has waived the restrictions of 10 U.S.C. 2534(a)(5) for ball and roller bearings manufactured in the United Kingdom. This waiver applies to—**

- (i) Procurements under solicitations issued on or after August 4, 1998; and**
- (ii) Subcontracts and options under contracts entered into prior to August 4, 1998, under the conditions described in paragraph (b)(4) of this subsection.]**

\* \* \* \* \*

### **225.7022 Restrictions on totally enclosed lifeboat survival systems.**

#### **225.7022-1 Restrictions.**

\* \* \* \* \*

- (b) In accordance with 10 U.S.C. 2534(a)(3)(B) [and 225.7005(b)], do not purchase a totally enclosed lifeboat that is a component of a naval vessel, unless it is manufactured in the United States ~~or~~ [ ,] Canada, or the United Kingdom]. In accordance with 10 U.S.C. 2534(h), this restriction may not be implemented through the use of a contract clause or certification. Implementation shall be effected through management and oversight techniques that achieve the objective of the restriction without imposing a significant management burden on the Government or the contractor involved.

**225.7022-2 Exceptions.**

The restriction in 225.7022-1(b) does not apply if—

- (a) The acquisition is for an amount that does not exceed the simplified acquisition threshold; or
- (b) Spare or repair parts are needed to support totally enclosed lifeboats manufactured outside the United States ~~and Canada~~.

**225.7022-3 Waiver.**

The waiver criteria at 225.7005[(a)] apply only to the restriction of 225.7022-1(b).

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**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

\* \* \* \* \*

**252.225-7016 Restriction on Acquisition of Ball and Roller Bearings.**

As prescribed in 225.7019-4, use the following clause:

RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS  
(~~FEB 1998~~[AUG 1998])

\* \* \* \* \*

- (b) The Contractor agrees that, except as provided in paragraph (c) of this clause, all ball and roller bearings and ball and roller bearing components (including miniature and instrument ball bearings) delivered under this contract, either as end items or components of end items, shall be wholly manufactured in the United States or Canada. Unless otherwise specified, raw materials, such as preformed bar, tube, or rod stock and lubricants, need not be mined or produced in the United States or Canada.
- (c)(1) The restriction in paragraph (b) of this clause does not apply to the extent that[—  
(i) T]the end items or components containing ball or roller bearings are commercial items]; or  
(ii) **The ball or roller bearings are commercial items manufactured in the United Kingdom].**

\* \* \* \* \*

**252.225-7029 Preference for United States or Canadian Air Circuit Breakers.**

As prescribed in 225.7016-4, use the following clause:

PREFERENCE FOR UNITED STATES OR CANADIAN AIR CIRCUIT  
BREAKERS (~~FEB 1998~~[AUG 1998])

- (a) Unless otherwise specified in its offer, the Contractor agrees that air circuit breakers for naval vessels provided under this contract shall be manufactured in the United States ~~or~~[,] Canada[, or the United Kingdom].
- (b) Unless an exception applies [**under Defense Federal Acquisition Regulation Supplement (DFARS) 225.7016-2**] or a waiver is granted under [**DFARS**] 225.7005(a)[(1)] or (b[2]) ~~of the Defense Federal Acquisition Regulation Supplement~~, preference will be given to air circuit breakers manufactured in the United States or Canada by adding 50 percent for evaluation purposes to the offered price of all other air circuit breakers[, **except those manufactured in the United Kingdom**].

(End of clause)