Part 25
Henry Goswick
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OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

ACQUISITION, TECHNOLOGY AND LOGISTICS

JUN 25 2003

DPAP(DAR)

In reply refer to
DAR Tracking Number: 2003-O0003

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY ASSISTANT SECRETARY OF THE ARMY, (POLICY AND PROCUREMENT), ASA(ALT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY (ACQUISITION MANAGEMENT), ASN(RDA)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (CONTRACTING), SAF/AQC
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY
EXECUTIVE DIRECTOR, ACQUISITION, TECHNOLOGY AND SUPPLY DIRECTORATE (DLA)

SUBJECT: Class Deviation–Prohibited Sources

Effective as of the date of this memo, all military departments and defense contracting activities shall deviate from the requirements of Federal Acquisition Regulation (FAR) Subpart 25.7, 25.1103(a), and the clause at 52.225-13, Restrictions on Certain Foreign Purchases, when contracting for supplies or services with a value that exceeds the micro-purchase threshold. Instead, contracting officers shall use the attached FAR Subpart 25.7, 25.1103(a), and clause 52.225-13, Restriction on Certain Foreign Purchases (July 2000) (Deviation). When applicable, contracting officers shall also insert this modified clause in lieu of the standard FAR clause listed in 52.212-5, Contract Terms and Conditions Required to Implement Statute or Executive Order, or 52.213-4, Terms and Conditions—Simplified Acquisitions.

This deviation implements Executive Order 13192, Lifting and Modifying Measures With Respect to the Federal Republic of Yugoslavia (Serbia and Montenegro); Executive Order 13268—Termination of Emergency With Respect to the Taliban and Amendment of Executive Order 13224 of September 23, 2001; and the General license issued on May 23, 2003, by the Department of the Treasury, entitled "Iraqi Sanctions Regulations." Contracting Officers are to refer to the above Executive orders and the regulations of the Office of Foreign Assets Control (OFAC) at 31 CFR Chapter V. This deviation removes Serbia, the Taliban-controlled regions of Afghanistan, and Iraq from

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the list of prohibited sources. The contracting officer must check the lists of entities and individuals subject to economic sanctions that are available on OFAC's website at http://www.treas.gov/ofac and may not acquire from such entities and individuals (FAR 25.701(b)).

The contracting officer is no longer authorized in unusual circumstances to acquire for use outside the United States supplies or services restricted by this section, unless specifically authorized by OFAC. However, OFAC has granted authority to Department of Defense personnel to make emergency acquisitions in direct support of U.S. or allied forces deployed in military contingency, humanitarian, or peacekeeping operations in a country or region subject to economic sanctions administered by OFAC (see DFARS 225.701-70).

This deviation remains in effect until implemented in the Federal Acquisition Regulation, or is otherwise rescinded. My point of contact is Ms. Amy G. Williams at 703-602-0328 or via e-mail: amy.williams@osd.mil.

Deidre A. Lee
Director, Defense Procurement
and Acquisition Policy

Attachment:
As stated

cc:
DSMC, Ft. Belvoir

Class Deviation—Prohibited Sources
Tracking Number 2003-O0003

PART 25—FOREIGN ACQUISITION

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Subpart 25.7—Prohibited Sources

25.701 Restrictions.

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, agencies and their contractors and subcontractors must not acquire any supplies or services, if any Executive order administered by OFAC's regulations set forth at 31 CFR Chapter V would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, Libya, and Sudan are prohibited, as are most imports into the United States from North Korea. In addition, lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons. More information about these restrictions as well as updates with respect to restrictions imposed after June 2003, is available in OFAC's regulations at 31 CFR Chapter V and/or on OFAC's website at http://www.treas.gov/ofac .

25.702 Source of further information

Refer questions concerning the restrictions in 25.701 to the—
Department of Treasury
Office of Foreign Assets Control
Washington, DC 20220
(Telephone (202) 622-2490)

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Subpart 25.11 - Solicitation Provisions and Contract Clauses

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25.1103 Other provisions and clauses.

(a) *Restrictions on certain foreign purchases.* Insert the clause at 52.225-13, Restrictions on Certain Foreign Purchases, in solicitations and contracts with a value exceeding $2,500, $7,500 for acquisitions as described in 13.201(g)(1)(i), or $15,000 for acquisitions as described in 13.201(g)(1)(ii), unless an exception applies.
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PART 52 - SOLICITATION PROVISIONS AND CONTRACT CLAUSES

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52.225-13 Restrictions on Certain Foreign Purchases.

As prescribed in 25.1103(a), insert the following clause.

RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (~~JULY 2000~~ JUN 2003)[1]
(DEVIATION)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services, if any Executive order administered by OFAC, or OFAC's regulations set forth at 31 CFR Chapter V would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, Libya, and Sudan are prohibited, as are most imports into the United States from North Korea. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons. More information about these restrictions as well as updates with respect to restrictions imposed after April 2003, is available in the OFAC's regulations at 31 CFR Chapter V and/or on OFAC's website at http://www.treas.gov/ofac.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts

(End of clause)

[1] FAC 2001-014, June 23, 2003