**DFARS Case 2020-D010**

**(S) Prohibition on Contracting with Persons That Have**

**Business Operations with the Maduro Regime**

**Final Rule**

**PART 212—ACQUISITION OF COMMERCIAL ITEMS**

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**Subpart 212.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items**

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**212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

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(f) \* \* \*

(x) *Part 225—Foreign Acquisition*.

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(HH) Use the clause at 252.225-7054, Prohibition on Use of Certain Energy Sourced from Inside the Russian Federation, as prescribed in 225.7019-4(b), to comply with section 2821 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92).

**[(II) Use the provision at 252.225-7055, Representation Regarding Business Operations with the Maduro Regime, as prescribed in 225.7020-5(a), to comply with section 890 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92).**

**(JJ) Use the clause at 252.225-7056, Prohibition Regarding Business Operations with the Maduro Regime, as prescribed in 225.7020-5(b), to comply with section 890 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92).]**

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**PART 225—FOREIGN ACQUISITION**

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

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**[225.7020 Prohibition on contracting with the Maduro regime.**

**225.7020-1 Definitions.**

**As used in this section—**

***Agency or instrumentality of the government of Venezuela* means an agency or instrumentality of a foreign state as defined in 28 U.S.C. 1603(b), with each reference in section 1603(b) to a foreign state deemed to be a reference to Venezuela.**

***Business operations* means engaging in commerce in any form, including acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.**

***Government of Venezuela* means the government of any political subdivision of Venezuela, and any agency or instrumentality of the government of Venezuela.**

***Person* means—**

**(1) A natural person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;**

**(2) Any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3)); and**

**(3) Any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in paragraph (1) or (2) of this definition.**

**225.7020-2 Prohibition.**

**In accordance with section 890 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92), DoD is prohibited from entering into a contract for the procurement of products or services with any person that has business operations with an authority of the government of Venezuela that is not recognized as the legitimate government of Venezuela by the U.S. Government, except as provided in 225.7020-3 or 225.7020-4.**

**225.7020-3 Exceptions.**

**The prohibition in 225.7020-2 does not apply if—**

**(a) The person has a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury; or**

**(b) The acquisition is related to the operation and maintenance of the U.S. Government’s consular office and diplomatic posts in Venezuela.**

**225.7020-4 Joint determination.**

**(a) The prohibition in section 225.7020-2 does not apply to an acquisition jointly determined by the Secretary of Defense and Secretary of State, without power of redelegation, to be—**

**(1) Necessary for purposes of—**

**(i) Providing humanitarian assistance to the people of Venezuela;**

**(ii) Disaster relief and other urgent lifesaving measures; or**

**(iii) Carrying out noncombatant evacuations; or**

**(2) Vital to the national security interests of the United States.**

**(b) Follow the procedures at PGI 225.7020-4(b) when entering into a contract on the basis of a joint determination.**

**225.7020-5 Solicitation provision and contract clause.**

**(a) Use the provision at 252.225-7055, Representation Regarding Business Operations with the Maduro Regime, in solicitations,** **including solicitations using FAR part 12 procedures for the acquisition of commercial items, that include the clause at 252.225-7056, Prohibition Regarding Business Operations with the Maduro Regime.**

**(b) Unless the exception at 225.7020-3(b) applies or a joint determination has been made in accordance with 225.7020-4, use the clause at 252.225-7056, Prohibition Regarding Business Operations with the Maduro Regime, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items.]**

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

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**subpart 252.2--text of provisions and clauses**

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**[252.225-7055 Representation Regarding Business Operations with the Maduro Regime.**

**As prescribed in 225.7020-5(a), use the following provision:**

**REPRESENTATION REGARDING BUSINESS OPERATIONS WITH THE MADURO REGIME (MAY 2022)**

**(a) *Definitions*. As used in this provision—**

***Agency or instrumentality of the government of Venezuela*, *business operations, government of Venezuela,* and *person* have the meaning given in the clause 252.225-7056, Prohibition Regarding Business Operations with the Maduro Regime, of this solicitation.**

**(b) *Prohibition*. In accordance with section 890 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92), DoD is prohibited from entering into a contract for the procurement of products or services with any person that has business operations with an authority of the government of Venezuela that is not recognized as the legitimate government of Venezuela by the U.S. Government, unless the person has a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury.**

**(c) *Representation*. By submission of its offer, the Offeror represents that the Offeror is a person that—**

**(1) Does not have any business operations with an authority of the Maduro regime or the government of Venezuela that is not recognized as the legitimate government of Venezuela by the U.S. Government; or**

**(2) Has a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury.**

**(End of provision)**

**252.225-7056 Prohibition Regarding Business Operations with the Maduro Regime.**

**As prescribed in 225.7020-5(b), use the following clause:**

**PROHIBITION REGARDING BUSINESS OPERATIONS WITH THE MADURO REGIME (MAY 2022)**

**(a) *Definitions*. As used in this clause—**

***Agency or instrumentality of the government of Venezuela* means an agency or instrumentality of a foreign state as defined in 28 U.S.C. 1603(b), with each reference in section 1603(b) to a foreign state deemed to be a reference to Venezuela.**

***Business operations* means engaging in commerce in any form, including acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.**

***Government of Venezuela* means the government of any political subdivision of Venezuela, and any agency or instrumentality of the government of Venezuela.**

***Person* means—**

**(1) A natural person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;**

**(2) Any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3)); and**

**(3) Any successor, subunit, parent entity, or subsidiary of, or any entity under common ownership or control with, any entity described in paragraph (1) or (2) of this definition.**

**(b) *Prohibition*. In accordance with section 890 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92), DoD is prohibited from entering into a contract for the procurement of products or services with any person that has business operations with an authority of the government of Venezuela that is not recognized as the legitimate government of Venezuela by the U.S. Government, unless the person has a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury.**

**(c) The Contractor shall—**

**(1) Not have any business operations with an authority of the Maduro regime or the government of Venezuela that is not recognized as the legitimate government of Venezuela by the U.S. Government; or**

**(2) Have a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury.**

**(d) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts, including subcontracts for the acquisition of commercial items.**

**(End of clause)]**

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