**DFARS Case 2022-D009**

**Restriction on Acquisition of Personal Protective Equipment and Certain Items from Non-Allied Foreign Nations**

**Interim Rule**

**PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES**

**SUBPART 212.3—SOLICITATION PROVISIONS AND CONTRACT CLAUSES FOR THE ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES**

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

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(f) \* \* \*

(x) *Part 225—Foreign Acquisition*.

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(LL) \* \* \*

**[(MM) Use the clause at 252.225-7061, Restriction on the Acquisition of Personal Protective Equipment and Certain Other Items from Non-Allied Foreign Nations, as prescribed in 225.7023-4, to comply with section 802 of the National Defense Authorization Act for Fiscal Year 2022 (Pub. L. 117-81) (10 U.S.C. 4875).]**

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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**

**225.7000 Scope of subpart.**

(a) This subpart contains restrictions on the acquisition of foreign products and services, imposed by DoD appropriations and authorization acts and other statutes. Refer to the acts to verify current applicability of the restrictions.

(b) Nothing in this subpart affects the applicability of the Buy American statute or the Balance of Payments Program.

**225.7001 Definitions.**

As used in this subpart—

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“Component” means any item supplied to the Government as part of an end item or of another component, except that for use in 225.7007, the term means an article, material, or supply incorporated directly into an end product.

**[“Covered country” means—**

**(1) The Democratic People’s Republic of North Korea;**

**(2) The People’s Republic of China;**

**(3) The Russian Federation; and**

**(4) The Islamic Republic of Iran (10 U.S.C. 4872 and 4875).]**

“End item,” as used in sections 225.7003 and 225.7018, means the final production product when assembled or completed and ready for delivery under a line item of the contract (10 U.S.C. 4863(m)).

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**225.7018 Restriction on acquisition of certain magnets , tantalum, and tungsten.**

**225.7018-1 Definitions.**

As used in this section—

~~“Covered country” means—~~

~~(1) The Democratic People’s Republic of North Korea;~~

~~(2) The People’s Republic of China;~~

~~(3) The Russian Federation; or~~

~~(4) The Islamic Republic of Iran.~~

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**[225.7023 Restriction on acquisition of personal protective equipment and certain other items from non-allied foreign nations.**

**225.7023-1 Definitions.**

**As used in this section—**

**“Covered item” means an article or item of—**

**(1) Personal protective equipment for use in preventing spread of disease, such as by exposure to infected individuals or contamination or infection by infectious material, including—**

**(i) Nitrile and vinyl gloves;**

**(ii) Surgical masks;**

**(iii) Respirator masks and powered air purifying respirators and required filters;**

**(iv) Face shields and protective eyewear;**

**(v) Surgical and isolation gowns and head and foot coverings; or**

**(vi) Clothing; and**

**(vii) The materials and components thereof, other than sensors, electronics, or other items added to and not normally associated with such personal protective equipment or clothing; or**

**(2) Sanitizing and disinfecting wipes, testing swabs, gauze, and bandages.**

**225.7023-2 Restriction.**

**Except as provided in 225.7023-3, do not acquire a covered item from a covered country in accordance with section 802 of the National Defense Authorization Act for Fiscal Year 2022 (Pub. L. 117-81) (10 U.S.C. 4875).**

**225.7023-3 Exceptions.**

**The restriction in section 225.7023-2 does not apply to acquisitions—**

**(a) Of covered items for use outside of the United States;**

**(b) At or below $150,000; or**

**(c)(1) If the head of the contracting activity determines that a covered item of satisfactory quality and quantity, in the required form, cannot be procured as and when needed from nations other than a covered country to meet requirements at a reasonable price.**

**(2) The contracting officer shall include a copy of any such determination in the contract file.**

**225.7023-4 Contract clause.**

**Unless an exception applies, use the clause at 252.225-7061, Restriction on the Acquisition of Personal Protective Equipment and Certain Other Items from Non-Allied Foreign Nations, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products, including COTS items, and commercial services, and that—**

**(a) Are for the acquisition of covered items;**

**(b) Are for use within the United States; and**

**(c) Have an estimated value greater than $150,000.]**

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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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**[252.225-7061 Restriction on the Acquisition of Personal Protective Equipment and Certain Other Items from Non-Allied Foreign Nations.**

**As prescribed in 225.7023-4, use the following clause:**

**RESTRICTION ON THE ACQUISITION OF PERSONAL PROTECTIVE EQUIPMENT AND CERTAIN OTHER ITEMS FROM NON-ALLIED FOREIGN NATIONS (JAN 2023)**

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

**“Covered country” means—**

**(1) The Democratic People’s Republic of North Korea;**

**(2) The People’s Republic of China;**

**(3) The Russian Federation; and**

**(4) The Islamic Republic of Iran.**

**“Covered item” means an article or item of—**

**(1) Personal protective equipment for use in preventing spread of disease, such as by exposure to infected individuals or contamination or infection by infectious material, including—**

**(i) Nitrile and vinyl gloves;**

**(ii) Surgical masks;**

**(iii) Respirator masks and powered air purifying respirators and required filters;**

**(iv) Face shields and protective eyewear;**

**(v) Surgical and isolation gowns and head and foot coverings; or**

**(vi) Clothing; and**

**(vii) The materials and components thereof, other than sensors, electronics, or other items added to and not normally associated with such personal protective equipment or clothing; or**

**(2) Sanitizing and disinfecting wipes, testing swabs, gauze, and bandages.**

**(b) *Restriction*. The Contractor shall not deliver under this contract a covered item from a covered country (10 U.S.C. 4875).**

**(c) *Subcontracts*. The Contractor shall insert this clause, including this paragraph (c), without alteration other than to identify the appropriate parties, in subcontracts valued above $150,000 that are for the acquisition of covered items, including subcontracts for commercial products, including commercially available off-the-shelf items, and commercial services.**

**(End of clause)]**

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