**DFARS Case 2023-D015**

**Prohibition on Certain Procurements from the**

**Xinjiang Uyghur Autonomous Region**

**Final Rule (Interim to Final without change)**

**DFARS Text**

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

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**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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(KK) Use the provision at 252.225-7059, Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region—Representation, as prescribed in 225.7022-5(a), to comply with section 855 of the National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117-263) and 10 U.S.C. 4661.

(LL) Use the clause at 252.225-7060, Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region, as prescribed in 225.7022-5(b), to comply with section 855 of the National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117-263) and 10 U.S.C. 4661.

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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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**225.7022 Prohibition on certain procurements from the Xinjiang Uyghur Autonomous Region.**

**225.7022–1 Scope**.

This section implements section 855 of the National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117-263) and 10 U.S.C. 4661.

**225.7022-2 Definitions**.

As used in this section—

“Forced labor”means any work or service that is exacted from any person under the menace of any penalty for nonperformance and that the worker does not offer to perform (10 U.S.C. 2496).

“XUAR” means the Xinjiang Uyghur Autonomous Region of the People’s Republic of China (10 U.S.C. 2496).

**225.7022-3 Prohibition.**

Contracting officers shall not award a contract utilizing funds appropriated or otherwise made available for any fiscal year for any products mined, produced, or manufactured wholly or in part by forced labor from XUAR or from an entity that has used labor from within or transferred from XUAR as part of any forced labor programs, unless an exception applies.

**225.7022-4 Exceptions.**

The prohibition at 225.7022-3 does not apply to—

(a) Purchases under the micro-purchase threshold made using the Governmentwide commercial purchase card; or

(b) Purchases using the SF 44 in accordance with 213.306.

**225.7022-5 Solicitation provision and contract clause.**

(a) Use the provision at 252.225-7059, Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region—Representation, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial products, commercial services, and COTS items, that contain the clause at 252.225-7060, Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region.

(b) Use the clause at 252.225-7060, Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region, in solicitations, contracts, and orders for products utilizing funds appropriated or otherwise made available for any fiscal year, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products, commercial services, and COTS 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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**252.225-7059 Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region~~–~~Representation.**

As prescribed in 225.7022-5(a), use the following provision:

PROHIBITION ON CERTAIN PROCUREMENTS FROM THE XINJIANG UYGHUR AUTONOMOUS REGION–REPRESENTATION (JUN 2023)

(a) *Definitions.* “Forced labor”, and “XUAR”, as used in this provision, have the meaning given in the 252.225-7060, Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region, clause of this solicitation.

(b) *Prohibition.* DoD may not knowingly procure any products mined, produced, or manufactured wholly or in part by forced labor from XUAR or from an entity that has used labor from within or transferred from XUAR as part of any forced labor programs, as specified in paragraph (b) of the 252.225-7060, Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region, clause of this solicitation.

(c) *Representation.* By submission of its offer, the Offeror represents that it has made a good faith effort to determine that forced labor from XUAR will not be used in the performance of a contract resulting from this solicitation.

(End of provision)

**252.225-7060 Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region.**

As prescribed in 225.7022-5(b), use the following clause:

PROHIBITION ON CERTAIN PROCUREMENTS FROM THE XINJIANG UYGHUR AUTONOMOUS REGION (JUN 2023)

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

“Forced labor”means any work or service that is exacted from any person under the menace of any penalty for nonperformance and that the worker does not offer to perform (10 U.S.C. 2496).

“XUAR” means the Xinjiang Uyghur Autonomous Region of the People’s Republic of China (10 U.S.C. 2496).

(b) *Prohibition.* In accordance with 10 U.S.C. 4661, none of the funds appropriated or otherwise made available for DoD may be used to knowingly procure any products mined, produced, or manufactured wholly or in part by forced labor from XUAR or from an entity that has used labor from within or transferred from XUAR. The Contractor shall make a good faith effort to determine that forced labor from XUAR will not be used in the performance of this contract (section 855, Pub. L. 117-263).

(c) *Subcontracts*. The Contractor shall insert this clause, including this paragraph (c), without alteration other than to identify the appropriate parties, in subcontracts including subcontracts for commercial products, commercial services, and commercially available off-the-shelf items.

(End of clause)

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