**DFARS Case 2023-D015**

**(S) Prohibition on Certain Procurements from the**

**Xinjiang Uyghur Autonomous Region**

**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**

\* \* \* \* \*

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

\* \* \* \* \*

(f) \* \* \*

(ix) *Part 225—Foreign Acquisition*.

\* \* \* \* \*

(KK) Use the provision at 252.225-7059, Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region—~~Certification~~ **[Representation]**, as prescribed in 225.7022-5(a), to comply with section ~~848~~**[855]**of the National Defense Authorization Act for Fiscal Year ~~2022~~**[2023]**(Pub. L. 117-~~81~~**[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 ~~848~~**[855]**of the National Defense Authorization Act for Fiscal Year ~~2022~~**[2023]** (Pub. L. 117-~~81~~**[263) and 10 U.S.C. 4661]**~~)~~.

\* \* \* \* \*

**PART 225–FOREIGN ACQUISITION**

\* \* \* \* \*

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

\* \* \* \* \*

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

**225.7022–1 Scope**.

This section implements section ~~848~~**[855]**of the National Defense Authorization Act for Fiscal Year ~~2022~~**[2023]** (Pub. L. 117-~~81~~**[263) and 10 U.S.C. 4661]**~~)~~.

**225.7022-2 Definitions**.

As used in this section—

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

~~“Person” means–~~

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

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

“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 ~~2022~~ 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—~~Certification~~**[Representation]**, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial products**[,]** ~~and~~ 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 ~~2022~~, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products**[,]** ~~and~~ commercial services**[,]** and COTS items.

\* \* \* \* \*

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

\* \* \* \* \*

**Subpart 252.2—Text of Provisions and Clauses**

\* \* \* \* \*

**252.225-7059 Prohibition on Certain Procurements from the Xinjiang Uyghur Autonomous Region~~–Certification~~[Representation].**

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

PROHIBITION ON CERTAIN PROCUREMENTS FROM THE XINJIANG UYGHUR AUTONOMOUS REGION–~~CERTIFICATION~~ **[REPRESENTATION]** (~~DEC 2022~~**[JUN 2023]**)

(a) *Definitions.* “Forced labor”~~, “person”,~~ 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) *~~Certification~~****[Representation]****.*

~~(1)~~ ~~The~~**[****By submission of its offer, the ]**Offeror ~~does [ ] does not [ ]~~ **[represents]** ~~certify~~ that ~~the Offeror~~**[it]** has made a good faith effort to determine that forced labor from XUAR ~~was not or~~ will not be used in the performance of a contract resulting from this solicitation.

~~(2) Offerors who do not certify having made a good faith effort will not be eligible for award.~~

(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 (~~JAN 2023~~**[JUN 2023]**)

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

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

~~“Person” means–~~

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

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

“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 ]**~~not provide 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 throughout the entire period of~~ **[will not be used in the ]**performance of ~~the~~**[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~~, and commercial services~~.

(End of clause)