

**U.S. ARMY**

**PROCUREMENT POLICY**

**ALERT BULLETIN**

**NO. 96-014**

**December 20, 1996**

The enclosed documents are forwarded for your information and any necessary implementation in advance of formal publication of a Federal Acquisition Circular (FAC), or Defense Acquisition Circular (DAC). There will be no Department of the Army level supplementation or implementing instructions.

**ENCLOSURES:**

1. DPP Memorandum, Subject: Foreign Machine Tools, Powered and Non-Powered Valves, and Ball and Roller Bearings, D. L. 96-019, November 15, 1996.
2. DPP Memorandum, Subject: Restructuring Costs/Bonuses, D. L. 96-020, November 15, 1996.
3. ASARDA Letter, SARDA-96-7, Delegation of Authority to Approve Contract Awards for Certain Personal Services, December 5, 1996.
4. DPP Memorandum, Subject: Notice of Termination, D. L. 96-021, December 6, 1996.

This bulletin is issued by the U.S. Army Contracting Support Agency. Comments or questions should be referred to the Policy and Procedures Division, SFAE-CSA-PP, 5109 Leesburg Pike, Suite 916, Falls Church, Virginia 22041.

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Bulletin 96-014 consists of 20 pages.

Release Approved by: RCL



**OFFICE OF THE UNDER SECRETARY OF DEFENSE**

**3000 DEFENSE PENTAGON**

**WASHINGTON, DC 20301-3000**

**November 15, 1996**



ACQUISITION AND  
TECHNOLOGY

DP (DAR)

In reply refer to  
DFARS Cases: 96-D023/96-D:  
D. L. 96-019

**MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES**

**DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,  
ASN(RD&A)/ABM**

**DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING), SAF/AQC**

**DIRECTOR, PROCUREMENT POLICY, ASA(RD&A)/SARD-PP**

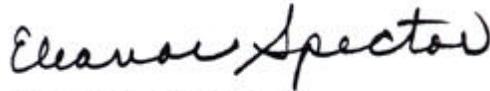
**DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS AGENCY**

**SUBJECT: Foreign Machine Tools, Powered and Non-Powered Valves, and Ball and Roller Bearings**

We have amended the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the expiration on October 1, 1996, of the restriction on machine tools and powered and non-powered

valves at 10 U.S.C 2534 and to implement Section 8082 of the Fiscal Year 1997 Defense Appropriations Act (Public Law 104-208). Section 8082 extends applicability of the fiscal year 1996 restriction on procurement of foreign ball and roller bearings to acquisitions using fiscal year 1997 funds.

The attached final DFARS rule is effective immediately and will be included in a future Defense Acquisition Circular.



Eleanor R. Spector  
Director, Defense Procurement

Attachment

cc: DSMC, Ft. Belvoir

**DFARS Case 96-D023,  
Foreign Machine Tools and Powered and Non-Powered Valves  
Final Rule**

**DFARS Case 96-D331,  
Ball and Roller Bearings  
Final Rule**

## **PART 212 -- ACQUISITION OF COMMERCIAL ITEMS**

\* \* \* \* \*

### **SUBPART 212.5 -- APPLICABILITY OF CERTAIN LAWS TO THE ACQUISITION OF COMMERCIAL ITEMS**

\* \* \* \* \*

#### **212.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.**

(a) The following laws are not applicable to subcontracts at any tier for the acquisition of commercial items or commercial components:

\* \* \* \* \*

(xviii) 10 U.S.C. 2534, Miscellaneous Limitations on the Procurement of Goods Other Than United States Goods.

(xix) ~~10 U.S.C. 2534 (c), Preference for United States and Canadian Valves and Machine Tools~~ [Reserved].

(xx) ~~10 U.S.C. 2534 (d), Restriction on Acquisition of Carbonyl Iron Powder~~[Reserved].

(xxi) ~~10 U.S.C. 2534 (e), Restriction on Acquisition of Air Circuit Breakers~~[Reserved].

\* \* \* \* \*

## **PART 225 -- FOREIGN ACQUISITION**

\* \* \* \* \*

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

\* \* \* \* \*

~~225.7004 Restriction on machine tools and powered and non-powered valves~~[Reserved].

~~225.7004.1 Restriction.~~

~~In accordance with 10 U.S.C. 2534, through fiscal year 1996, do not acquire, either directly as end items or indirectly on behalf of the Government, the machine tools or powered and non-powered valves in 225.7004-2 unless they are of U.S. or Canadian origin.~~

~~225.7004.2 Applicability.~~

~~(a) Machine tools restricted under this section are those tools listed in Federal supply classes of metalworking machinery in the following categories--~~

FEDERAL SUPPLY CLASSIFICATION (FSC)	NAME
3405	Saw and filing machines
3408	Machine centers and way type machines
3410	Electrical and ultrasonic erosion machines
3411	Boring machines
3412	Breaching machines
3413	Drilling and tapping machines
3414	Gear cutting and finishing machines
3415	Grinding machines
3416	Lathes
3417	Milling machines
3418	Planers and shapers
3419	Miscellaneous machine tools
3426	Metal finishing equipment
3433	Gas welding, heat cutting, and metalizing equipment
3438	Miscellaneous welding equipment
3441	Bending and forming machines
3442	Hydraulic and pneumatic presses, power driven
3443	Mechanical presses, power driven
3445	Punching and shearing machines
3446	Forging machinery, and hammers
3448	Riveting machines
3449	Miscellaneous secondary metal forming and cutting machines
3460	Machine tool accessories
3461	Accessories for secondary metalworking machinery

(b) — ~~Machine tool accessories classified under FSC 3460 or 3461 are not components under 225.7004-5. Where a solicitation for machine tools includes machine tool accessories, list known machine tool accessories which are not separate line items in the provision at 252.225-7040, Machine Tool List. Identify accessories which are separate line items in the schedule. The contracting activity must exercise judgment in determining whether an item is an accessory or a component. This determination should be based on the use of the item in the machine tool being purchased.~~

(c) — ~~Valves restricted under this section are those powered and non-powered valves listed in Federal supply classes 4810 (valves, powered) and 4820 (valves, non-powered) used in piping for naval surface ships and submarines.~~

~~225.7004-3~~ ~~Exception.~~ This restriction does not apply if the acquisition is below the simplified acquisition threshold.

~~225.7004-4~~ ~~Waiver.~~

~~(a)~~ The head of the contracting activity may waive the restriction on a case-by-case basis upon execution of a determination and findings that any of the following applies:

~~(1)~~ The restriction would cause unreasonable delays.

~~(2)~~ United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

~~(3)~~ Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

~~(4)~~ Satisfactory quality items manufactured in the United States or Canada are not available.

~~(5)~~ Application of the restriction would result in the existence of only one source for the item in the United States or Canada.

~~(6)~~ Application of the restriction is not in the national security interests of the United States.

~~(7)~~ Application of the restriction would adversely affect a U.S. company.

~~(b)~~ The restriction is waived when it would cause unreasonable costs. The cost of the item of U.S. or Canadian origin is unreasonable if it exceeds 150 percent of the offered price, inclusive of duty, of items which are not of U.S. or Canadian origin.

~~225.7004-5~~ ~~U.S. or Canadian origin.~~

~~(a)~~ A valve or machine tool shall be considered to be of U.S. or Canadian origin if--

~~(1)~~ It is manufactured in the United States or Canada; and

~~(2) The cost of its components manufactured in the United States or Canada exceeds 50 percent of the cost of all its components.~~

~~(b) The cost of components shall include transportation costs to the place of incorporation into the end product and duty (whether or not a duty-free certificate may be issued).~~

~~225.7004-6 Contract clauses.~~

~~(a) Unless an exception applies or a waiver has been granted, use the clause at 252.225-7017, Preference for United States and Canadian Valve and Machine Tools, in all solicitations and contracts for valves and machine tools.~~

~~(b) Consider using the clause at 252.225-7001, Buy American Act and Balance of Payments Program, and, if applicable, the clause at 252.225-7007, Trade Agreements Act, whenever an exception or waiver is anticipated. Where these clauses are used, state in the solicitation that offers which do not conform to the restrictions of the more restrictive clause will only be considered if an exception applies or a waiver is granted.~~

~~(c) Use the provision at 252.225-7040, Machine Tool List, in all solicitations for machine tools which contain the clause at 252.225-7017, except where--~~

~~(1) All machine tool accessories are listed as separate line items, and~~

~~(2) The solicitation does not allow offerors to provide accessories which are not specifically required by the specifications.~~

\* \* \* \* \*

**225.7005 ~~Reserved.~~ [Waiver of certain restrictions.**

**Where provided for elsewhere in this subpart, the restrictions on certain foreign purchases under 10 U.S.C. 2534 may be waived as follows:**

**(a) The head of the contracting activity may waive the restriction on a case-by-case basis upon execution of a determination and findings that any of the following applies:**

**(1) The restriction would cause unreasonable delays.**

**(2) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.**

(3) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(4) Satisfactory quality items manufactured in the United States or Canada are not available.

(5) Application of the restriction would result in the existence of only one source for the item in the United States or Canada.

(6) Application of the restriction is not in the national security interests of the United States.

(7) Application of the restriction would adversely affect a U.S. company.

(b) The restriction is waived when it would cause unreasonable costs. The cost of the item of U.S. or Canadian origin is unreasonable if it exceeds 150 percent of the offered price, inclusive of duty, of items which are not of U.S. or Canadian origin.]

\*\*\*\*\*

**225.7007 Restriction on acquisition of foreign buses.**

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**225.7007-4 Waiver.**

The waiver criteria at 225.7004-4[7005]also apply to this restriction.

\*\*\*\*\*

**225.7010 Restriction on certain chemical weapons antidote.**

\*\*\*\*\*

**225.7010-3 Waiver.**

The waiver criteria at 225.7004-4[7005]also apply to this restriction.

\*\*\*\*\*

**225.7016 Restriction on air circuit breakers for naval vessels.**

\* \* \* \* \*

**225.7016-3 Waiver.**

The waiver criteria at 225.7004.4[7005] also apply to this restriction.

\* \* \* \* \*

**225.7019 Restrictions on ball and roller bearings.**

**225.7019-1 Restrictions.**

(a) In accordance with 10 U.S.C. 2534, through fiscal year 2000, do not acquire ball and roller bearings or bearing components which are not manufactured in the United States or Canada.

(b) In accordance with Section 8099 of Pub. L 104-61 [**and similar sections in subsequent Defense appropriations acts**], do not use fiscal year 1996 [**or subsequently appropriated**] funds to acquire ball and roller bearings other than those produced by a domestic source and of domestic origin, i.e., bearings and bearing components manufactured in the United States or Canada.

\* \* \* \* \*

**225.7022 Restrictions on totally enclosed lifeboat survival systems.**

\* \* \* \* \*

**225.7022-3 Waiver.**

The waiver criteria at 225.7004.4[7005] apply only to the restriction of 225.70022-1(b).

\* \* \* \* \*

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

\* \* \* \* \*

**252.212-7001 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items.**

As prescribed in 212.301 (f) (iii), use the following clause:

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS  
(~~NOV 1995~~[NOV 1996])

(a) \* \* \*

(b) The Contractor agrees to comply with any clause that is checked on the following list of DFARS clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive Orders applicable to acquisitions of commercial items or components.

\* \* \* \* \*

~~252.225-7017 Preference for United States and Canadian Valves and Machine Tools (10 U.S.C. 2534 (c)(2)).~~

\* \* \* \* \*

**252.225-7017 Preference for United States and Canadian Valves and Machine Tools [Reserved].**

~~As prescribed in 225.7004-6 (a), use the following clause:~~

~~PREFERENCE FOR UNITED STATES AND CANADIAN VALVES AND MACHINE TOOLS  
(APR 1995)~~

~~(a) For the purpose of this clause, a valve, machine tool, or machine tool accessory is considered to be of United States or Canadian origin if--~~

~~(1) It is manufactured in the United States or Canada; and~~

~~(2) The cost of its components manufactured in the United States or Canada exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end item and duty (whether or not a duty free entry certificate may be issued).~~

~~(b) Unless otherwise specified in its offer, the Contractor agrees that valves used in piping for naval surface ships and submarines within Federal supply classifications 4810 (valves, powered) and 4820~~

~~(valves, non-powered), machine tools within the Federal supply classifications for metalworking machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448 and 3449, and machine tool accessories numbered 3460 and 3461 delivered as end items or purchased indirectly on behalf of the Government under this contract shall be of United States or Canadian origin.~~

~~(c) Unless an exception applies or a waiver is granted under 225.7004-4 (a) of the Defense Federal Acquisition Regulation Supplement, preference will be given to valves and machine tools of United States or Canadian origin by adding 50 percent to the offered price of all other valves and machine tools for evaluation purposes.~~

~~(End of clause)~~

~~\*\*\*\*\*~~

~~252.225.7040 Machine Tool List:~~

~~As prescribed in 225.7004-6 (c), use the following provision:~~

~~MACHINE TOOL LIST (MAY 1995)~~

~~The Government has identified those items listed as machine tool accessories which are not listed in the schedule as separate line items. The Offeror must also list any accessories to be provided which are not specifically required by the specifications. Where the machine tool accessory is not of U.S. or Canadian origin, as defined in the Preference for United States and Canadian Valves and Machine Tools clause of this solicitation, indicate the country in which the accessory was manufactured and the cost of the accessory.~~

<del>Line Item No.</del>	<del>Accessory</del>	<del>Country of Manufacture</del>	<del>Cost</del>

~~(End of provision)~~

~~\*\*\*\*\*~~



**OFFICE OF THE UNDER SECRETARY OF DEFENSE**

**3000 DEFENSE PENTAGON**

**WASHINGTON, DC 20301-3000**

**November 15, 1996**



TECHNOLOGY

DP (DAR)

In reply refer to  
DFARS Case: 96-D332  
D. L. 96-020

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES

DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,  
ASN(RD&A)/ABM

DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING), SAF/AQC

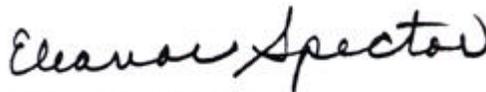
DIRECTOR, PROCUREMENT POLICY, ASA(RD&A)/SARD-PP

DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS AGENCY

SUBJECT: Restructuring Costs/Bonuses

We have amended Part 231 of the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 8095 of the FY 1997 Defense Appropriations Act (Pub. L. 104-208). Section 8095 prohibits the use of FY 1997 appropriated funds to reimburse a contractor for costs paid by the contractor to an employee when such costs are for a bonus or other payment in excess of the normal salary paid by the contractor to the employee, and such bonus is part of restructuring costs associated with a business combination. This prohibition does not apply to severance or early retirement incentive payments.

This interim DFARS rule is effective immediately and will be published in a future Defense Acquisition Circular.



Eleanor R. Spector  
Director, Defense Procurement

Attachment

cc: DSMC, Ft. Belvoir

**RESTRUCTURING COSTS/BONUSES**

**DFARS CASE 96-D332**

## SUBPART 231.2 -- CONTRACTS WITH COMMERCIAL ORGANIZATIONS

### 231.205-6 Compensation for personal services.

\* \* \* \* \*

- (f) (1) Costs for bonuses or other payments in excess of the normal salary paid by the contractor to an employee, that are part of restructuring costs associated with a business combination, are unallowable under DoD contracts funded by fiscal year 1996 appropriations (Section 8122 of Pub. L. 104-61) [**or fiscal year 1997 appropriations (Section 8095 of Pub. L. 104-208)**]. This limitation does not apply to severance payments or early retirement incentive payments. (See 231.205-70(b) for the definitions of "business combination" and "restructuring costs.")

\* \* \* \* \*



**DEPARTMENT OF THE ARMY**  
**OFFICE OF THE ASSISTANT SECRETARY**  
**RESEARCH DEVELOPMENT AND ACQUISITION**  
**103 ARMY PENTAGON**  
**WASHINGTON DC 20310-0103**

**05 DEC 1996**

REPLY TO  
ATTENTION OF

**SARDA-96-7**

**DELEGATION OF AUTHORITY TO APPROVE  
CONTRACT AWARDS FOR CERTAIN PERSONAL SERVICES**

**1. Authority**

**5 U.S.C. 3109**

**10 U.S.C. 129b**

**2. Delegation of Authority: I hereby delegate to the persons listed below the authority to approve contract actions for those categories of services described in paragraph 3, as indicated by the subparagraph numbers after the title of the person:**

- a. Deputy Assistant Secretary of the Army (Procurement) -- 3.a., b., c. and d.**
- b. Heads of Contracting Activities -- 3. a. (i) and d.**
- c. Deputy and Assistant Deputy Chief of Staff for Research, Development and Acquisition, U.S. Army Materiel Command -- 3. a. (i), b. and d.**
- d. Deputy Commander in Chief, U.S. Army, Europe -- 3. c.**
- e. Commander, U.S. Army Forces Command -- 3. b.**
- f. Commander, U.S. Army Medical Command -- 3. b.**
- g. Commander, U.S. Army Military District of Washington -- 3.b.**
- h. Commander, U.S. Army Training and Doctrine Command -- 3. b.**

- i. **Commander, Defense Supply Service -- Washington -- 3. a. and 3. b.**
- j. **Commander, U.S. Army Communications - Electronics Command -- 3. b.**
- k. **Commander, U.S. Army Pacific Command -- 3. b.**

**3. Categories of Services:**

- a. **Stenographic reporting services in connection with --**
  - (i) **Administrative hearings for which verbatim records are required, either by regulation or by order of the board's appointing authority.**
  - (ii) **White House activities.**
  
- b. **Expert personal services of actors, narrators and other technical and professional personnel and production staff personnel necessary in connection with stage, motion picture or television production.**
  
- c. **Personal services of experts or consultants in the field of law for performance outside the United States, but not including --**
  - (i) **The employment of lawyers in their full capacity as advocates. They may be employed solely for the purposes of providing legal advice to military and civilian Army officials.**
  - (ii) **Contracts expected, initially or by modification, to exceed \$50,000.**
  
- d. **The services of interpreters, guides and drivers for performance outside the United States in support of --**
  - (i) **A contingency operation as defined in Army Federal Acquisition Regulation Supplement Manual Number 2, Contingency Contracting; or**
  - (ii) **A humanitarian or peacekeeping mission.**

**4. Limitations:**

- a. **The persons listed in paragraph 2, or their designees, shall authorize each contract action approved under this delegation by a written Determination and Finding (D&F). The determinations shall be that the procurement of such services is advantageous to the United States, and that such services cannot adequately be**

provided by the Department of Defense. The use of class D&Fs is authorized.

b. Contracting officers shall make a written determination that a non-personal services contract is impracticable before exercising the authorities herein.

5. **Period of Delegation:** This delegation of authority is effective January 1, 1997 and shall remain effective until specifically rescinded or superseded.

  
Gilbert F. Decker  
Assistant Secretary of the Army  
(Research, Development and Acquisition)



**OFFICE OF THE UNDER SECRETARY OF DEFENSE**

3000 DEFENSE PENTAGON

WASHINGTON, DC 20301-3000

**December 6, 1996**



ACQUISITION AND  
TECHNOLOGY

DP (DAR)

In reply refer to  
DFARS Case: 96-D320  
D. L. 96-021

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES

DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,  
ASN(RD&A)/ABM

DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING), SAF/AQC

DIRECTOR, PROCUREMENT POLICY, ASA(RD&A)/SARD-PP

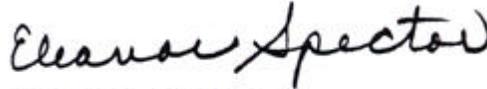
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS AGENCY

SUBJECT: Notice of Termination

We have amended the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 824 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104-201). Section

824 streamlines the statutory requirements for providing notification to contractors regarding contract terminations or reductions that could occur as a result of reduced funding levels under major defense programs.

The attached interim DFARS rule is effective immediately and will be included in a future Defense Acquisition Circular.



Eleanor R. Spector  
Director, Defense Procurement

Attachment

cc: DSMC, Ft. Belvoir

DFAR Case 96-D320, Notice of Termination  
Interim Rule

**PART 249 -- TERMINATION OF CONTRACTS**

\* \* \* \* \*

**SUBPART 249.7 -- SPECIAL TERMINATION REQUIREMENTS**

\* \* \* \* \*

**249.7003 Notification of ~~proposed program~~[anticipated contract] termination[s] or reduction[s].**

(a) Section 1372 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. [.] ~~aw~~ 103-160) **[and Section 824 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104-201)], is [are]** intended to help establish benefit eligibility under the Job Training Partnership Act (29 U.S.C. 1661 and 1662) for employees of DoD contractors and subcontractors adversely affected by termination or substantial reductions in major defense programs.

(b) Departments and agencies are responsible for establishing procedures to:

(1) ~~Determine which major defense programs are proposed for termination or substantial reduction as a result of the submission of the President's budget, and which are likely to be terminated or substantially reduced~~**[Identify which contracts (if any) under major defense programs will be terminated or substantially reduced]** as a result of enactment of ~~[the funding levels provided in]~~ an appropriations act.

(2) Within 60 days of ~~such submission or~~ [the] enactment [of such an act], provide notice of the ~~proposed or~~ anticipated termination [of] or [substantial] reduction [in the funding of affected contracts]--

(i) ~~By general notice in the Federal Register;~~

~~—(ii) In case of an enactment, [Directly] to the Secretary of Labor; and~~

~~—(iii)[(ii)] Through the contracting officer to each prime contractor, unless in the case of an enactment, notice was given at budget submission.~~

~~—(3) Within 60 days after an enactment provides sufficient funding for a program, provide notice withdrawing the notices in 249.7003 (b) (2) --~~

~~—(i) By general notice in the Federal Register; and~~

~~—(ii) Through the contracting officer to each prime contractor.~~

~~(c) The notification provided under (b) (2) (iii) shall be substantially as follows:~~

~~—"Section 1372 of the Fiscal Year 1994 National Defense Authorization Act (Pub. L. 103-160) requires that each prime contractor under a major defense program be notified if the program is likely to be or proposed for termination or substantial reduction. (The terms "major defense program" and "substantial reduction" are defined in the Notification of Proposed Program Termination or Reduction clause of your contract (*insert contract number*).)"~~

~~—You are hereby notified that the (*insert program name*) has been (*contracting officer to insert either (1) or (2)*)~~

~~(1) proposed to be (*insert "terminated" or "substantially reduced"*) by the Fiscal Year (*insert fiscal year*) President's budget; or~~

~~(2) identified as likely to be (*insert "terminated" or "substantially reduced"*) by the Fiscal Year (*insert fiscal year*) Defense Appropriations Act.~~

~~—While this notice is provided pursuant to section 1372, the impact on individual contracts has not yet been determined. This is not a notice of termination under the Termination for Convenience or Default clauses of your contract.~~

~~—Your responsibilities upon receipt of this notice are set forth in the Notification of Proposed Program Termination or Reduction clause in your contract."~~

~~(d)~~[(c)] Use the clause at 252.249-7002, Notification of ~~Proposed Program~~[Anticipated Contract] Termination or Reduction, in all contracts under a major defense program.

\* \* \* \* \*

## PART 252 -- SOLICITATION PROVISIONS AND CONTRACT CLAUSES

\* \* \* \* \*

### SUBPART 252.2 -- TEXT OF PROVISIONS AND CLAUSES

\* \* \* \* \*

#### 252.249-7002 Notification of ~~Proposed Program~~[Anticipated Contract] Termination or Reduction.

As prescribed in 249.7003 ~~(d)~~(c), use the following clause:

#### NOTIFICATION OF ~~PROPOSED PROGRAM~~[ANTICIPATED CONTRACT] TERMINATION OR REDUCTION (~~MAY 1995~~[DEC 1996])

(a) *Definitions.*

"Major defense program" means a program that is carried out to produce or acquire a major system (as defined in 10 U.S.C.2302[(5)]) (see also ~~DoD Instruction 5000.2, Defense Acquisition Management Policies and Procedures, Acquisition Categories I and H~~[DoD **5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPs) and Major Automated Information System (MAIS) Acquisition Programs**]).

"Substantial reduction" means a reduction of 25 percent or more in the total dollar value of ~~[funds obligated by the]~~ contracts ~~under the program.~~

(b) Section 1372 of the National Defense Authorization Act for Fiscal Year 1994 [**and Section 824 of the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104-201)**] ~~is~~ [are] intended to help establish benefit eligibility under the Job Training Partnership Act (29 U.S.C. 1661 and 1662) for employees of DoD contractors and subcontractors adversely affected by [contract] termination[s] or substantial reductions ~~in~~ [under] major defense programs.

(c) *Notice to employees and state and local officials.*

Within two weeks after the Contracting Officer notifies the Contractor that a ~~major defense program is proposed for, or likely to be,~~ [contract funding will be] terminated or substantially reduced, the Contractor shall provide notice of such ~~proposed or~~ anticipated termination or reduction to -

(1) Each employee representative of the Contractor's employees whose work is [directly] related to the ~~program and who may be impacted in the event of a termination or substantial reduction~~ [defense contract]; or

- (2) If there is no such representative, each such employee;
- (3) The State dislocated worker unit or office described in section 311(b)(2) of the Job Training Partnership Act (29 U.S.C. 1661(b)(2)); and
- (4) The chief elected official of the unit of general local government within which the adverse effect may occur.

(d) *Notice to subcontractors.*

~~As soon as practicable, but n~~[N]ot later than ~~45~~ [60] days after the Contractor receives the Contracting Officer's notice of the ~~proposed~~[**anticipated**] termination or reduction ~~in a major defense program~~, the Contractor shall -

- (1) Provide notice of the ~~proposed~~ [**anticipated**] termination or reduction to each first-tier subcontractor with a subcontract of \$500,000 or more ~~under the program~~; and
- (2) Require that each such subcontractor -
  - (i) Provide notice to each of its subcontractors with a subcontract of \$100,000 or more ~~under the program~~; and
  - (ii) Impose a similar notice and flowdown requirement to subcontractors with subcontracts of \$100,000 or more.

(e) The notice provided an employee under paragraph (c) of this clause shall have the same effect as a notice of termination to the employee for the purposes of determining whether such employee is eligible for training, adjustment assistance, and employment services under section 325 or 325A of the Job Training Partnership Act (29 U.S.C. 1662d, 1662d-1). If the Contractor has specified that the ~~proposed program~~[**anticipated contract**] termination or reduction is not likely to result in plant closure or mass layoff, as defined in 29 U.S.C. 2101, the employee shall be eligible only for services under section 314(b) and paragraphs (1) through (14), (16), and (18) of section 314(c) of the Job Training Partnership Act (29 U.S.C. 1661c(b) and paragraphs (1) through (14), (16), and (18) of section 1661c(c)).

~~(f) If the Contracting Officer subsequently withdraws a notice referred to in paragraphs (c) and (d) of this clause, the Contractor, as soon as practicable but not later than two weeks after receipt of the withdrawal notice, shall provide notice of the withdrawal to --~~

~~(1) The representatives, employees, offices, officials, and subcontractors specified in paragraphs (c) and (d) of this clause, and~~

~~(2) Each grantee under section 325(a) or 325A (a) of the Job Training Partnership Act (29 U.S.C. 1662d, 1662d-1), which provides training, adjustment assistance, and employment services to the employees.~~

~~(g) An employee who receives notice of withdrawal shall not be eligible for training, adjustment assistance, or employment services under section 325 or 325A of the Job Training Partnership Act (29 U.S.C. 1662d, 1662d-1), beginning on the date the employee receives such notice.~~

(End of clause)