



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

In reply refer to
DARS Tracking Number: 2021-O0006

MEMORANDUM FOR COMMANDER, UNITED STATES CYBER
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY
(PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Class Deviation—Department of State Rescission of Determination Regarding
Sudan

Effective immediately, contracting officers shall—

- Use the provision 252.225-7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism (DEVIATION 2021-O0006), provided in Attachment 1, in lieu of the provision at DFARS 252.225-7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism; and
- Use the clause 252.225-7051, Prohibition on Acquisition of Certain Foreign Commercial Satellite Services (DEVIATION 2021-O0006), provided in Attachment 2, in lieu of the clause at DFARS 252.225-7051, Prohibition on Acquisition of Certain Foreign Commercial Satellite Services. Both clauses invoke the applicability of 10 U.S.C. 2327.

In addition, in accordance with 10 U.S.C. 2327(b), unless a waiver is granted by the Secretary of Defense, contracting officers shall not award contracts to a firm if the government of a country that is a state sponsor of terrorism owns or controls a significant interest in—

- (1) The firm;
- (2) A subsidiary of the firm; or
- (3) Any other firm that owns or controls the firm.

Class Deviation 2021-O0006
Department of State Rescission of Determination Regarding Sudan

This class deviation implements the Department of State Public Notice: 11281, Rescission of Determination Regarding Sudan, announcing removal of Sudan from the U.S. list of state sponsors of terrorism, effective December 14, 2020. This action was based upon the Presidential Report of October 26, 2020, to Congress, indicating the Administration's intent to rescind the designation of Sudan as a state sponsor of terrorism, including the certification that Sudan has not provided any support for international terrorism during the previous six months, and that Sudan has provided assurance that it will not support acts of international terrorism in the future.

This class deviation remains in effect until it is incorporated in the Defense Federal Acquisition Regulation Supplement, or is otherwise rescinded. My point of contact is Mr. Greg Snyder, who is available at gregory.d.snyder.civ@mail.mil.

John M. Tenaglia
Principal Director,
Defense Pricing and Contracting

Attachments:
As stated

252.225-7050 Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism. (DEVIATION 2021-O0006)

Use the following provision in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items (other than commercial satellite services), that are expected to result in contracts of \$150,000 or more. If the solicitation includes the provision at FAR 52.204-7, do not separately list this provision in the solicitation:

DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A
COUNTRY THAT IS A STATE SPONSOR OF TERRORISM
(DEVIATION 2021-O0006) (JUNE 2021)

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

“Government of a country that is a state sponsor of terrorism” includes the state and the government of a country that is a state sponsor of terrorism, as well as any political subdivision, agency, or instrumentality thereof.

“Significant interest” means—

(i) Ownership of or beneficial interest in 5 percent or more of the firm’s or subsidiary’s securities. Beneficial interest includes holding 5 percent or more of any class of the firm’s securities in “nominee shares,” “street names,” or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as a director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

“State sponsor of terrorism” means a country determined by the Secretary of State, under section 1754(c)(1)(A)(i) of the Export Control Reform Act of 2018 (Title XVII, Subtitle B, of the National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, state sponsors of terrorism include: Iran, North Korea, and Syria.

(b) *Prohibition on award.* In accordance with 10 U.S.C. 2327, unless a waiver is granted by the Secretary of Defense, no contract may be awarded to a firm if the government of a country that is a state sponsor of terrorism owns or controls a significant interest in—

Attachment 1
Class Deviation 2021-O0006

Department of State Rescission of Determination Regarding Sudan
Changes to the text are indicated by a change bar in the right-hand margin.

- (1) The firm;
- (2) A subsidiary of the firm; or
- (3) Any other firm that owns or controls the firm.

(c) *Representation.* Unless the Offeror submits with its offer the disclosure required in paragraph (d) of this provision, the Offeror represents, by submission of its offer, that the government of a country that is a state sponsor of terrorism does not own or control a significant interest in—

- (1) The Offeror;
- (2) A subsidiary of the Offeror; or
- (3) Any other firm that owns or controls the Offeror.

(d) *Disclosure.*

(1) The Offeror shall disclose in an attachment to its offer if the government of a country that is a state sponsor of terrorism owns or controls a significant interest in the Offeror; a subsidiary of the Offeror; or any other firm that owns or controls the Offeror.

(2) The disclosure shall include—

- (i) Identification of each government holding a significant interest; and
- (ii) A description of the significant interest held by each government.

(End of provision)

252.225-7051 Prohibition on Acquisition of Certain Foreign Commercial Satellite Services. (DEVIATION 2021-O0006)

Use the following clause in solicitations and contracts for the acquisition of commercial satellite services, including solicitation and contracts using FAR part 12 procedures for the acquisition of commercial items:

PROHIBITION ON ACQUISITION OF CERTAIN FOREIGN COMMERCIAL
SATELLITE SERVICES (DEVIATION 2021-O0006)(JUNE 2021)

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

“Covered foreign country” means—

- (i) The People’s Republic of China;
- (ii) North Korea;
- (iii) The Russian Federation; or
- (iv) Any country that is a state sponsor of terrorism. (10 U.S.C. 2279)

“Foreign entity” means—

(i) Any branch, partnership, group or sub-group, association, estate, trust, corporation or division of a corporation, or organization organized under the laws of a foreign state if either its principal place of business is outside the United States or its equity securities are primarily traded on one or more foreign exchanges.

(ii) Notwithstanding paragraph (i) of this definition, any branch, partnership, group or sub-group, association, estate, trust, corporation or division of a corporation, or organization that demonstrates that a majority of the equity interest in such entity is ultimately owned by U.S. nationals is not a foreign entity. (31 CFR 800.212)

“Government of a covered foreign country” includes the state and the government of a covered foreign country, as well as any political subdivision, agency, or instrumentality thereof.

“Launch vehicle” means a fully integrated space launch vehicle. (10 U.S.C. 2279)

“Satellite services” means communications capabilities that utilize an on-orbit satellite for transmitting the signal from one location to another.

“State sponsor of terrorism” means a country determined by the Secretary of State, under section 1754(c)(1)(A)(i) of the Export Control Reform Act of 2018 (Title XVII, Subtitle B, of the National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232), to be a country the government of which has repeatedly provided

Attachment 2
Class Deviation 2021-O0006

Department of State Rescission of Determination Regarding Sudan
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support for acts of international terrorism. As of the date of this provision, state sponsors of terrorism include: Iran, North Korea, and Syria. (10 U.S.C. 2327)

(b) *Limitation.* Unless specified in its offer, the Contractor shall not provide satellite services under this contract that—

(1) Are from a covered foreign country; or

(2) Except as provided in paragraph (c), use satellites that will be-

(i) Designed or manufactured—

(A) In a covered foreign country; or

(B) By an entity controlled in whole or in part by, or acting on behalf of, the government of a covered foreign country; or

(ii) Launched outside the United States using a launch vehicle that is designed or manufactured—

(A) In a covered foreign country; or

(B) Provided by—

(1) The government of a covered foreign country; or

(2) An entity controlled in whole or in part by, or acting on behalf of, the government of a covered foreign country.

(c) *Exception.* The limitation in paragraph (b)(2) shall not apply with respect to—

(1) A launch that occurs prior to December 31, 2022; or

(2) A satellite service provider that has a contract or other agreement relating to launch services that, prior to June 10, 2018, was either fully paid for by the satellite service provider or covered by a legally binding commitment of the satellite service provider to pay for such services.

(End of clause)