



ACQUISITION,
TECHNOLOGY
AND LOGISTICS

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

DEC 29 2014

In reply refer to
DARS Tracking Number: 2015-O0008

MEMORANDUM FOR 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
(ACQUISITION AND PROCUREMENT)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING)
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Class Deviation—Use of Military Construction Funds

Effective immediately, when using funds appropriated under Title I, Department of Defense, Military Construction and Veterans Affairs, and Related Agencies Appropriations Act, 2015 (Division I of Pub. L. 113-235), enacted December 16, 2014, contracting officers shall use the attached provision and clause prescriptions, in lieu of the prescriptions at DFARS 236.570(c)(1), 236.570(d), and 236.609-70(b). This class deviation implements sections 108, 111, and 112 in the prescriptions for the following DFARS provisions and clause: DFARS 252.236-7010, Overseas Military Construction—Preference for United States Firms; DFARS 252.236-7013, Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers; and DFARS 252.236-7011, Overseas Architect Engineer Services—Restriction to the United States Firm.


- Section 108 provides that none of the funds made available in Title I may be used for the procurement of steel for any construction activity for which the requirement for competition opportunity has been denied to American steel producers, fabricators, and manufacturers in DoD construction contracts.
- Section 111 provides that none of the funds made available in Title I may be obligated for architect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished in certain foreign countries, including countries bordering the Arabian Gulf, unless such contracts are awarded to U.S. firms or U.S. firms in a joint venture with host nation firms.
- Section 112 provides, with some exceptions, that none of the funds made available in Title I for military construction in certain foreign countries, including countries bordering

the Arabian Gulf, may be used to award any contract estimated by the Government to exceed \$1,000,000 to a foreign contractor.

This deviation implements section 108 by providing a prescription in lieu of DFARS 236.570(d)(1) that deletes the reference to the 2009 Appropriations Act and inserts the citation to Title I of the FY 2015 Military Construction and Veterans Affairs, and Related Agencies Appropriations Act.

The deviation also implements section 111 and 112 by providing prescriptions in lieu of DFARS 236.609-70(b)(3) and 236.570(c)(1) that replace the term "Arabian Sea" with the term "Arabian Gulf".

This class deviation remains in effect until incorporated in the DFARS or otherwise rescinded. My point of contact is Ms. Amy Williams, who may be reached at 571-372-6106, or at amy.g.williams.civ@mail.mil.


Richard Ginman
Director, Defense Procurement
and Acquisition Policy

Attachment:
As stated

236.570 Additional provisions and clauses. (DEVIATION 2015-00008)

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(c) Use the following provisions in solicitations for military construction contracts that are funded with military construction appropriations and are estimated to exceed \$1,000,000:

(1) [252.236-7010](#), Overseas Military Construction--Preference for United States Firms, when contract performance will be in a United States outlying area in the Pacific or in a country bordering the Arabian Gulf.

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(d) Use the clause at [252.236-7013](#), Requirement for Competition Opportunity for American Steel Producers, Fabricators, and Manufacturers, in solicitations and contracts that—

(1) Use funds appropriated by **Title I of the Military Construction and Veterans Affairs, and Related Agencies Appropriations Act, 2015 (Pub. L. 113-235, Division I)**; and

(2) May require the acquisition of steel as a construction material.

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236.609-70 Additional provision and clause. (DEVIATION 2015-00008)

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(b) Use the provision at [252.236-7011](#), Overseas Architect-Engineer Services--Restriction to United States Firms, in solicitations for architect-engineer contracts that are—

(1) Funded with military construction appropriations;

(2) Estimated to exceed \$500,000; and

(3) To be performed in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Gulf.

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