

DATE March 30, 1973



Department of Defense Instruction

ASD(ISA) 2

SUBJECT Implementing Procedures for Security Trade Controls
on Sales for Foreign Excess Personal Property

- Refs.:
- (a) DoD Directive 2030.2, "Security Trade Controls on Foreign Excess Personal Property," March 10, 1961
 - (b) DoD Instruction 2030.3, subject as above, September 28, 1962 (hereby cancelled (see V., below))
 - (c) DoD Directive 4160.21, "DoD Personal Property Disposal Program," February 23, 1972
 - (d) DoD Instruction 2110.8, "Transfer of Releasable Assets of the DoD to Eligible Foreign Countries & International Organizations on a Foreign Military Sales Basis," June 26, 1972
 - (e) Armed Services Procurement Regulations (ASPR)
 - (f) Defense Disposal Manual, 4160.21-M, authorized by ref. (c)
 - (g) Defense Demilitarization Manual, 4160.21-M-1, authorized by reference (c)
 - (h) DoD Directive 5105.22, "Defense Supply Agency," Dec. 9, 1965

I. REISSUANCE AND PURPOSE

- A. This Instruction supplements the provisions of reference (a). It reissues reference (b) to incorporate changes which (1) clarify the procedures for handling Munitions List items; (2) concentrate controls on strategic items; and (3) provide minor administrative amendments.
- B. Reference (b) is superseded effective in accordance with the provisions of Section V., below.

II. APPLICABILITY AND SCOPE (See Section V., below)

- A. The provisions of this Instruction apply to Department of Defense sales transaction of foreign excess personal property (FEPP), including property purchased with nonappropriated funds and MAP-returned material disposed of by Department of Defense activities.
- B. This Instruction does not encompass retail sales of foreign non-excess personal property (exchange/sale property) or excess personal property located in the Panama Canal Zone, Puerto Rico and territories, dependencies, and possessions of the United States.

III. DEFINITIONS

Terms used in this Instruction are defined in enclosure (1).

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93-22871



AD-A270 165



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IV. SECURITY TRADE CONTROL PROCEDURES

To carry out the policy of the United States that military FEPP will not be sold directly or indirectly to (a) Denied Areas (see enclosure (1) for definition), or (b) other selected areas designated by the Assistant Secretary of Defense (International Security Affairs), DoD components will comply with the procedures^{1/} of this Instruction.

A. General

1. For security trade control purposes, FEPP is classified into the following three categories:
 - I. Undemilitarized Munitions List items requiring demilitarization pursuant to ref. (g), regardless of sales price.
 - II. Strategic List items and Munitions List items not requiring demilitarization, regardless of sales price. All other items and commodities (including scrap and properly demilitarized Munitions List items) \$100,000 or over in sales price.
 - III. All other items and commodities (including scrap and properly demilitarized Munitions List items) under \$100,000 in sales price.
2. The following three levels of controls relate to the categories above:
 - a. Category I items may not be sold to private firms or individuals; and they may be sold to eligible foreign governments and international organizations only pursuant to the procedures in DoD Instruction 2110.8 (ref. (d)).
 - b. Category II items may be sold to private firms and individuals who are not on a debarred or suspended bidders list, and are not located in denied areas, subject to the restrictions and security trade control procedures stipulated in subsections B through K below. Category II items may be sold to foreign governments and international organizations subject to the procedures in subsection L below.

^{1/} The Security Trade Control Procedures applied by DoD are designed to generally approximate those of the Department of Commerce's Office of Export Control and the Department of State's Office of Munitions Control.

c. Category III items may be sold to private firms and individuals who are not (1) on a debarred or suspended bidders list, or (2) located in denied areas, and who submit properly completed and signed End-use Certificates (enclosure 2). Category III items may be sold to foreign governments and international organizations subject to the procedures in subsection L below.

B. Statement Regarding Disposition and Use of Property (End-Use Certificate).

1. All private bidders will be required to complete and sign an End-Use Certificate.
 - a. The format of the certificate, which has been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 (Budget Bureau No. 22-R200), is attached as enclosure (2).
 - b. This certificate will be completed in accordance with the instructions contained therein, and the information furnished by the bidder will become a part of the bid and will be considered in determining whether acceptance would be consistent with the security requirements of the United States.
 - c. The certificate of the successful bidder will be attached to the original contract.
 - d. An authenticated copy of this certificate will be returned to the successful bidder if and when his bid is accepted for retention as part of his contract.
 - e. A second copy of this certificate, and a copy of the contract will be forwarded to the Central Unit designated for the EUCOM or PACOM areas respectively.

2. On sales of category II items, changes to the bidder's End-Use Certificate will require the prior written approval of the Sales Contracting Officer. The requirement for this prior approval will be indicated by the Sales Contracting Officer on DD Form 1427, Notice of Award.
3. If a bidder's End-Use Certificate indicates that he is buying for speculation and does not yet know the identity of the purchaser or the country of importation, his subsequent ascertainment of specific purchasers and countries of importation should be regarded as a change of fact or intention within the meaning of paragraph 8 of the End-Use Certificate.

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- a. When requested on DD Form 1427, all such changes will be brought to the attention of the Sales Contracting Officer for his approval prior to effecting such changes.
- b. With respect to changes requested prior to delivery of property to a successful bidder, delivery will be withheld pending consideration of the requested change. The effect of a request for a change of destination shall be to require reapproval and review of the contract.
- c. If any subpurchaser or subreceiver not already the subject of a satisfactory Integrity and Reliability Check is named in a proposed change of destination and use, the property shall not be released unless a satisfactory check is made as provided in subsection D below.
- d. No change shall be approved unless the changed subpurchaser, destination or use would have been approved initially as an original part of the bid.
- e. If the requested change is determined to be not acceptable and is disapproved, one of the following actions will be taken, depending on the circumstances, unless the bidder withdraws the request for change and agrees in writing to adhere to his original End-Use Certificate as accepted and to carry out the terms of the contract:
 - (1) If award has not been made the bid shall be rejected.
 - (2) If award has been made but the property has not yet been removed from the US installation, the contract shall be cancelled.
 - (3) If the property concerned is already in the custody of the successful bidder he will be notified in writing that the requested change is not approved and he will be required to tender a written acknowledgment of such notification. At this time the bidder may be afforded the opportunity of submitting an acceptable subpurchaser and destination; if unable to do so the Central Unit shall be notified and, if warranted, appropriate action taken in accordance with the provisions of subsection E.4 or subsection H. In other than the EUCOM and PACOM areas the selling activity will be responsible for taking appropriate action.

4. The following applies to the EUCOM area only: Approval or disapproval of changes to successful bidders End-Use Certificates and any follow-up requests to successful bidders for information on property disposition are the responsibility of the Central Unit in the EUCOM area. For use in that area, the End-Use Certificate (enclosure 2) and the Disposition Restriction Article (enclosure 3) will be appropriately changed to indicate that approval of changes to the End-Use Certificate must be obtained from the Central Unit and that the central unit will make any requests for additional information regarding disposition. For these purposes, the words "Sales Contracting Officer" will be replaced by the name and address of the central unit where appropriate. The Central Unit will take appropriate action to insure compliance with the requirements stipulated in subsection B.3 above.

C. Article Restricting Disposition of FEPP Sales Items.

1. An article describing FEPP disposition restrictions and control procedures (enclosure 3) shall be included in all sales offerings.
2. To effectuate this provision and the End-Use Certificate, all items of property known not to be of United States origin will be specifically designated in sales offerings.

D. Integrity and Reliability (I&R) Check of Bidder(s).

1. On sales of Category II items a determination will be made of the acceptability of each successful bidder. To accomplish this, the United States diplomatic mission in the country wherein the bidder is located or conducts his major business effort will be required to make an I&R check. An I&R check will not be required if the bidder already appears on the Cleared Bidders List (subsection E) unless there is indication that the bidder's status may have changed since the prior I&R check. An Integrity and Reliability Check will also be made on all subsequent subpurchasers and subreceivers as they are brought to the attention of Central Unit or selling activity in resale approval requests. To the greatest extent feasible, the diplomatic mission should be given information on foreign excess property to be sold to each bidder.
2. On sales of Category III items an I&R check is not required and the Sales Contracting Officer will award the contract provided the bidder is not on a Debarred or Suspended Bidders List.
3. If a bidder cannot be identified by the diplomatic mission under the name and address furnished, the sales office will be so notified and no award will be made. Such additional information as may be required by the diplomatic mission to conduct a meaningful I&R check will be furnished by the sales office.

4. Based upon favorable information being provided by diplomatic mission in its I&R check, the Sales Contracting Officer may make the award. Final determination whether the bidder will or will not be placed on the Cleared Bidders List will be made by the Central Unit or selling activity in other than the EUCOM or PACOM areas.
5. Whenever an I&R check develops derogatory information, only those bidders with sufficient derogatory information to have them placed on the Debarred Bidders List will be denied awards of sales for that reason. The Central Unit or selling activity in other than the EUCOM or PACOM areas shall be responsible for initiating debarment procedures in accordance with the procedures of Part 6 of Section 1 of the ASPR (reference (e)).
6. Whenever inquiry is received regarding the denial of awards, such inquiry will not be referred to the diplomatic mission. Clearance of any portion of the derogatory information that can be given to the bidder should be obtained from the Central Unit or selling activity in other than the EUCOM and PACOM areas. Unless reasons such as security or business confidentiality require otherwise, information requests shall be complied with.
7. In no case should the diplomatic mission be requested to conduct an I&R check if the bidder in question appears on a Debarred or Suspended Bidders List. Copies of all Debarred and Suspended Bidders Lists will be maintained in the Central Units (or selling activity in other than the EUCOM or PACOM areas) for reference. If the bidder appears on a Debarred or Suspended Bidders List the bid will be rejected outright. Diplomatic missions will not be requested to perform I&R checks on other than the high (and possibly second high) bidder, and the sub-purchaser(s) and subreceiver(s) concerned, if such are named.

E. Cleared Bidders List, Suspended Bidders List and Debarment.

1. Each Central Unit is responsible for compiling and maintaining a consolidated list of cleared bidders for use in its respective area. This list will include the names and addresses of purchasers and subpurchasers of Category II items who have been checked by appropriate United States diplomatic missions for integrity and reliability and subsequently approved by the appropriate Central Unit for inclusion in the list (see subsection D). Each clearance or reclearance shall be valid for one year from the date of approval.

2. Reclearance of bidders after the expiration of the one year period is the responsibility of the Central Units. Those bidders who have remained active and have established their integrity and reliability may be recleared automatically. Inactive bidders (no sales for one year) will be dropped from the list. For those bidders of uncertain integrity and reliability the Central Unit will repeat the clearance procedures in subsection D.
3. Each Central Unit shall be responsible for distributing its Cleared Bidders List to the property disposal offices in its respective area. Information copies shall also be sent to the other central unit and to other offices and agencies as determined to be necessary or desirable by the central unit.
4. Successful bidders who are guilty of a technical violation(s) of Department of Defense security trade control regulations (e.g. failure to submit valid Delivery Verification Certificates, failure to obtain resale approval prior to resale to otherwise legitimate subpurchasers, ignoring follow-up requests, etc.) but who are not suspected of diverting any property to unauthorized destinations or subpurchasers may be suspended from bidding on, or receiving FEPP by the Central Unit and removed from the Cleared Bidders List.
 - a. Suspension action will be taken by the Central Unit on the basis of information from the sales contracting officers, diplomatic posts, or other competent source indicating that a technical violation has occurred and the nature thereof.
 - b. Reasonable opportunity shall be given to affected parties to present information in opposition to a proposed suspension. Proposed suspension actions will also be subject to the review of the legal office designated to support the Central Unit or selling activity in other than the EUCOM or PACOM areas.
 - c. The Central Unit will notify the appropriate Sales Contracting Officer of the suspension and the basis therefor.
 - d. Suspended bidders will in turn be notified of the action against them by the Sales Contracting Officer (by the Central Unit in EUCOM).
 - e. The period of suspension may be indefinite, except that it should not generally exceed one year and may be lifted when the bidder complies with the requirements whose violation resulted in the suspension.
 - f. If it is determined that the successful bidder has a history of committing minor contract violations, appropriate steps

may be taken by the Central Unit to place the bidder on the Debarred Bidders List in accordance with the procedures of part I-609 of the ASPR (ref. (e)).

- g. For reference purposes, a list of all suspended bidders, including length of suspension will be prepared by the Central Unit and appended to the Cleared Bidders List.
5. Subpurchasers on the Cleared Bidders List who do not comply with the security trade control requirements of the original sales contract, which have been passed on to them by the original purchaser, may be removed from the Cleared Bidders List and suspended from bidding on and receiving FEPP by the Central Unit under the procedures in subsection E.4.
6. All inquiries regarding suspension actions will be referred by the Sales Contracting Officer to the Central Unit for clearance of any of the derogatory information that can be given to the bidder. Unless reasons such as security or business confidentiality require otherwise, information requests shall be complied with.
7. In order to insure proper dissemination of bidder information, property disposal offices in the field will forward to the Central Unit information copies of all derogatory information received on current or prospective bidders and on debarred or suspended bidders. The Central Unit will use this data to make appropriate additions, deletions or corrections to the Cleared Bidders List or to recommend appropriate changes to the Debarred Bidders List.
8. Selling activities in other than the EUCOM and PACOM areas will be required to develop and maintain Cleared Bidders Lists in accordance with applicable sections of the foregoing subparagraphs 1 through 7.

F. Follow-Up Action

1. Follow-up action in the form of a letter along the lines outlined in Enclosure 4 will be taken by the Sales Contracting Officer no later than four months after the sale has been made whenever all of the following conditions apply:
 - a. Resale approval requirement has been entered on DD Form 1427, Notice of Award.

- b. Replies given on the End-Use Certificate indicate that customers (subpurchasers) are unknown.
 - c. Replies given on the End-Use Certificate indicate that property was bought for probable resale.
 - d. No permission to resell property has been requested.
2. Copies of the follow-up letters will be sent simultaneously to the appropriate Central Unit if appropriate.
 3. Additional follow-up letters will be sent, if required, at 30-day intervals and no additional awards will be made by the Sales Contracting Officer to bidders involved until satisfactory replies are received. If no satisfactory reply is received three months after the original letter is sent, a full report will be made to the Central Unit concerned if appropriate and the bidder will be suspended from bidding on or receiving FEPP and removed from the Cleared Bidders List according to the procedures in subsection E.4. If an unauthorized diversion is suspected, a full report will be forwarded by the Central Unit, or selling activity in other than the EUCOM and PACOM areas, to the Office of the Assistant Secretary of Defense (ISA)IT, Washington, D. C. 20301, for institution of appropriate administrative action.
 4. Contracts remaining open after two fiscal years will be forwarded to the Central Unit for determination if (a) additional follow-up actions are necessary or (b) if the case may be closed. In other than the EUCOM and PACOM areas the selling activity will be responsible for this determination.
 5. Follow-up letters will be sent only to successful bidders and not to subpurchasers or subreceivers, unless it is known at the time of sale that the original purchaser is merely acting as a forwarding agent. In such cases follow-up letters will be sent to the subpurchaser or subreceiver.
 6. At any time contract violations are suspected the Sales Contracting Officer or Central Unit will request from a successful bidder information regarding disposition of the property awarded to him.
 7. The following applies to the EUCOM area only: Follow-up action in this area is the responsibility of the Central Unit.

G. End-Use Check

1. In instances where it is suspected that diversions of property to Denied Areas or other unauthorized destinations may take place, an End-Use Check will be requested to determine if the property arrived at the destination designated in the End-Use Certificate.

2. Requests for End-Use Checks will be initiated by the selling activity or the Central Unit, and addressed to the appropriate United States diplomatic mission, accompanied by as much pertinent information as possible, i.e., ultimate consignee, description of the property, final destination, shipping data, date of shipment and stated end use. The selling activity and Central Unit will coordinate such action if appropriate.
3. In the EUCOM area the request for an End-Use Check and coordination with the US diplomatic mission will be the responsibility of the Central Unit.
4. End-Use Checks will be limited predominantly to sales of Strategic List and Munitions List items. End-Use Checks on sales of items not on the Strategic List or Munitions List can be authorized only by the Central Unit or selling activity in other than the EUCOM and PACOM areas and then only in cases of suspected diversions of very large sales.

H. Investigations

1. Initiation and coordination of investigations of actual or suspected violations of the security trade control provisions and conditions of sales contracts, shall be the responsibility of the designated Central Unit in the area for which it is responsible. In other than the EUCOM and PACOM area, this will be the responsibility of the selling activity.
2. When an investigation confirms that a contract violation has occurred, appropriate action shall be taken by the Central Unit in accordance with the procedures of subsection E.4 above. In other than the EUCOM and PACOM area, this will be the responsibility of the selling activity.
3. In the conduct of investigations, the Central Unit or such selling activity will be authorized to call on, in addition to the appropriate embassies and consulates, United States Military Investigative and Intelligence agencies for assistance. These agencies will also provide the Central Unit (or selling activity outside the PACOM and EUCOM areas) with information indicating that FEPP may be diverted to a prohibited destination. Information copies of such reports will be sent directly to the Office of the Assistant Secretary of Defense (ISA) IT, Washington, D.C. 20301.

I. Illegal Diversions of FEPP

1. When investigations are conducted under the supervision and direction of the Central Unit, or selling activity in other than the EUCOM and PACOM areas, to determine whether an attempt has been made to divert property, appropriate information will be forwarded directly to the Office of the Assistant Secretary of Defense (ISA) IT, Washington, D.C. 20301, for institution of action to prevent the diversion.
2. Whenever it has been established by satisfactory evidence that the property was diverted, transshipped or re-exported to a Denied Area or other unauthorized destination, or attempted to be so diverted, transshipped or re-exported, contrary to the terms of the contract, a summary of the investigation and recommendation of the Central Unit or selling activity will be forwarded upon completion, directly to the Office of the Assistant Secretary of Defense (ISA) IT for institution of appropriate debarment or suspension procedures in accordance with the provisions of Part 6 of Section 1 of the ASPR (ref. (e)) or Administrative Action in accordance with the procedures of the interagency Administrative Action Program.

J. Import Certificate - Delivery Verification (IC/DV) System

1. This system or a comparable system is applicable to FEPP on the Strategic List or Munitions List. It may be used for destination control purposes when items in Category II are to be imported into a country which employs the IC/DV system as part of its export controls. In such cases the purchaser is responsible for obtaining the appropriate IC/DV documents and providing them to the Central Unit or selling activity. If the original purchaser does not intend to retain possession of IC/DV property and is authorized by the Central Unit or selling activity to resell the property to a cleared subpurchaser(s) during the removal period specified in the contract, the original purchaser shall be required to transfer responsibility for the fulfillment of any IC/DV requirements to the subpurchaser(s).
2. When the IC/DV system is not applicable or is not used and when items in Category II have been released for export, the successful purchaser (or subpurchaser(s) to whom this responsibility has been transferred as in subsection J.1) shall be required to furnish the Sales Contracting Officer (Central Unit in European area) evidence of its arrival at the approved destination and delivery to the approved consignee through a receipted copy of the bill of lading, a landing certificate issued by the country of import, or other appropriate documentation.

K. United States Government as Shipper

1. When sales of Category II items are made in areas other than the EUCOM area and acceptable bidders propose to transport the property from the foreign country in which it is located to an acceptable destination, they will be required to authorize the Sales Contracting Officer to ship the property, at the buyer's risk and expense, on a commercial shipping document showing the United States Government as the shipper, to a consignee and destination named by the buyer and acceptable to the United States.
2. Each such shipping document shall include this statement: "Only the United States Government may divert this shipment to other than the named consignee or destination."
3. All costs of packing, handling and transportation, including desired insurance, will be borne and prepaid by the buyer.
4. Adequate provisions will be made in the sale contract to indemnify the United States Government against all claims or suits of any nature arising under or incidental to the contract by reason of the fact that the United States Government appears as shipper on the commercial bill of lading.
5. When property has been released for export, the successful bidder shall be required to furnish evidence of its arrival at the approved destination and delivery to the approved consignee through a receipted copy of the bill of lading, a landing certificate issued by the country of import, or other appropriate documentation.
6. At the discretion of the Sales Contracting Officer, the above procedures may also be applied to sales of Category III items.

L. Sales to Friendly Foreign Government or International Organizations.

1. Sales made pursuant to DoD Directive 4160.21 (ref. (c)) and the Defense Disposal Manual (ref. (f)).
 - a. For these sales the provisions of subsections B through K above are not applicable, but contracts will include the following article: "The government (or agents) of (name of country or international organization) certifies that the property covered by this contract is intended for use in (name of country)."

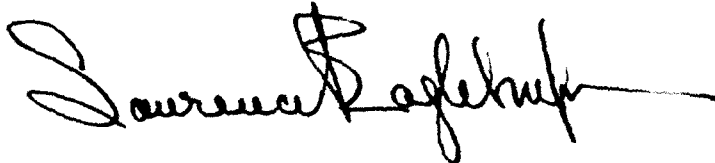
However, in the event resale or export is to be affected of any of the property, the government (or agent) of (name of country or international organization) agrees to obtain the approval of the Sales Contracting Officer unless specifically excepted in this contract."

- b. The Sales Contracting Officer (Central Unit in the EUCOM area) will approve such resale only if (a) the proposed purchaser's name does not appear on the Debarred or Suspended Bidders List and (b) if the government or international organization concerned agrees to insert in its sales contract a provision prohibiting exports by purchasers and subpurchasers to destinations named in paragraph (2) of enclosure (3). In the event of a refusal to sign the above article, the sale will be held in abeyance and the case will be referred to the Office of the Assistant Secretary of Defense (ISA) IT, Washington, D.C., 20301, through the Central Unit for decision.
 - c. Resale approval will not be required on sales of Category III items.
2. This Instruction does not apply to sales made pursuant to DoD Instruction 2110.8 (ref. (d)). (Security trade control requirements are fulfilled by use of DD Form 1513 in all such transactions.)
- M. The Strategic List shall be compiled by the EUCOM area Central Unit and published as an enclosure to the appropriate security trade control regulations in the European and Pacific Commands. The Strategic List shall also be distributed to selling activities outside of the EUCOM and PACOM areas.
 - N. Records of security trade control actions will be maintained by the administering unit for a period of five years from the date of shipment of the FEPP sold, provided all security trade control requirements have been met.
 - O. The Defense Supply Agency is responsible for implementation and enforcement of the policies and procedures prescribed herein and for establishing Central Units (except for the Southern Command area) as defined in enclosure (1) of this Instruction.

V. EFFECTIVE DATE AND IMPLEMENTATION

The provisions of this Instruction are effective immediately. However, the responsibilities of the Defense Supply Agency (DSA) (see DoD Directive 5105.22 (reference (h), as amended by Ch. 1, dated November 22, 1972, which extended the DSA responsibilities overseas in the area of property disposal operations and other logistics support areas) for the implementation and enforcement of this Instruction shall

not take effect until DSA officially assumes responsibility for DoD foreign disposal activities on or about 1 July 1973. In the interim the Commander in Chief, US Air Force Europe, the Commander in Chief, US Army Pacific; and the Commander in Chief, US Army South will retain responsibility for the implementation and enforcement of this Instruction. Two copies of revised implementing instructions shall be submitted to the Assistant Secretary of Defense (ISA) by May 20, 1973.



LAWRENCE S. EAGLEBURGER
Acting Assistant Secretary

Enclosures - 4

1. Definitions
2. End-use Certificate
3. Disposition Restriction Article
4. Sample Follow-up Letter

DEFINITIONS

1. Administrative Action. Action taken by one or more departments of the Federal Government to deny United States Government privileges, including Defense contracts, to firms and individuals, and which may include suspension or debarment.
2. Central Unit. Office designated by the Defense Supply Agency to be responsible for (a) coordinating the efforts of all military units, diplomatic missions and the Office of the Assistant Secretary of Defense (ISA) for the purpose of preventing diversions and following up on such diversions to denied areas of FEPP sold in the EUCOM area (Europe, the Middle East, Africa, and Asia as far east as India and Pakistan) or the PACOM area, and (b) the issuance of the Cleared Bidders Lists. (See also additional responsibilities of EUCOM Central Unit as indicated in paragraphs IV.B.4., IV.F.7., and IV.G.3.)
3. Cleared Bidders List. Consolidated List of bidders and sub-purchasers cleared by a Central Unit or selling activity to buy FEPP in Category II.
4. Controlled Items. Commodities which have been determined to be subject to specific export controls.
5. Debarred Bidders List. Consolidated list established under the provisions of Section 1 Part 6 of the ASPR (reference (e)) of names of individuals or firms to whom contracts will not be awarded and from whom bids or proposals will not be solicited.
6. Denied Areas. For the purpose of this Instruction, it includes the following countries: Albania, Bulgaria, Cuba, Czechoslovakia, East Germany including East Berlin, Estonia, Hungary, Latvia, Lithuania, Mongolia, North Korea, North Vietnam, Peoples Republic of China, Poland, Rumania, Southern Rhodesia, Union of Soviet Socialist Republics.
7. End-Use Check. A check made by local US diplomatic mission to verify the final destination and ultimate use of FEPP as originally authorized.
8. End-Use Certificate (Statement Regarding Disposition and Use of Property). The Statement submitted by a purchaser of FEPP which includes the intended destination and disposition of the purchased property and which becomes a part of the sales contract.

9. Foreign Excess Personal Property (FEPP). DoD excess personal property located outside the United States, Panama Canal Zone, Puerto Rico and all territories, dependencies and possessions of the United States.
10. Friendly Governments. Governments of countries not designated as a denied area (definition 6).
11. Import Certificate-Delivery Verification System (IC/DV). The export control system established by cooperating friendly governments to preclude diversion of shipments of FEPP, by purchasers, to other than approved destinations. This system applies only to FEPP in Category II.
12. Integrity and Reliability Check. A check made by local US diplomatic mission to establish or confirm the integrity and reliability of an individual or organization as a prospective purchaser of FEPP.
13. International Organizations. For the purpose of this Instruction it includes the following: Central Treaty Organization; Colombo Plan Council for Technical Cooperation in South and Southeast Asia; EURATOM; Indus Basin Development; International Atomic Energy Agency; International Red Cross; NATO; Organization of American States; Pan American Health Organization; SEATO; United Nations; United Nations Emergency Force; United Nations Children's Fund; United Nations Development Program; United Nations High Commissioner for Refugees Programs; United Nations Relief and Works Agency for Palestine Refugees in the Near East; UNESCO; World Health Organization; and all other international organizations approved by a US diplomatic mission.
14. Munitions List. Export control list included in the International Traffic in Arms Regulation (ITAR) published by the Department of State. (Title 22, CFR, Parts 121-128)
15. Sales Contracting Officer. An individual who has been duly appointed and granted the authority conferred by law to sell surplus, foreign excess and exchange/sale personal property by any of the authorized prescribed methods of sale.
16. Strategic List. List of Items subject to additional security trade controls by DoD. It consists of the Commerce Department's Commodity Control List "A" items.
17. Suspended Bidders List. A list of bidders who have committed technical violations of DoD security trade control regulations. This list is compiled by the Central Unit or selling activity and is appended to the Cleared Bidders List.

Contract Nr. _____

Invitation Nr. _____

Name and Address of Bidder as shown
in Standard Form 114, Revised

Name: _____

Address: _____

STATEMENT REGARDING DISPOSITION AND USE OF PROPERTY

1. Instructions. This form must be submitted to the Sales Contracting Officer of the United States Armed Forces prior to the acceptance by the United States of America of the bid submitted by the above-named bidder pursuant to the above-numbered invitation. One authenticated copy of this Statement will be returned to the successful bidder if and when his bid is accepted and should be retained by him.

2. Commodities. This Statement applies to the commodities on which we have submitted our bid pursuant to the above-numbered invitation.

3. Nature of Business.

(Use separate sheet if needed)

a. We are a _____
(Sole Proprietorship, Partnership, Corporation,
other)

b. The names and addresses of our branch offices are:

c. The names and addresses of our partners or corporate officers and directors are:

d. If bidder is acting as an agent, the names and addresses of all principals are: _____

e. The nature of our (and our principals) business is: _____

4. Disposition of Commodities: (Check and complete appropriate entry or entries. Entry c or d must be checked)

a. The commodities, if sold to us, will not be sold or otherwise disposed of by us for use outside of _____
Name of country
_____ or countries

b. May be re-exported in the form received to the following country or countries: _____
Name of country or countries

c. If sold by us, our buyer(s) may be _____
Give names and addresses

d. Our customers are unknown at the present time. Written approval for the resale of any property covered by this contract will be required from the Sales Contracting Officer prior to sale when indicated on DD Form 1427, Notice of Award, unless they are named in c. above.

5. Specific end use: (Check and complete appropriate entry or entries)

a. We will use the commodities referred to in Item 2 for:

(1) Resale in the form received.

(2) Production or manufacture of _____
Name of final product

in _____ end distribution in
Name of country or countries

_____ Name of country or countries

b. Our customers will use the commodities for:

(1) Resale in the form received from us.

(2) Production or manufacture of _____
Name of final product

in _____ and distribution
Name of country or countries

in _____
Name of country or countries

c. Other end use by us or by our customers _____

6. Additional information: (State any other material facts relating to the disposition and use of the commodities which may be of value in considering the bid.)

7. Understanding and notifications:

a. We understand that the property on which we are bidding originated in the United States unless otherwise specifically indicated in the sales offering.

b. We acknowledge receipt of notification that use and disposition, export and re-export of such property by us or any other person will be subject to applicable United States laws and regulations, which, among other things, prohibit -

(1) The making of any false statements and the concealment of any material information regarding the use or disposition, export and re-export, of this property, or any other subject matter of this Statement and

(2) Any use or disposition, export or re-export of the property not authorized in accordance with the provisions of the contract to be made if our bid is accepted.

c. We further acknowledge receipt of notification that special United States restrictions bar unauthorized exports and re-exports of United States origin commodities directly or indirectly to Albania, Bulgaria, Cuba, Czechoslovakia, East Germany including East Berlin, Estonia, Hungary, Latvia, Lithuania, Mongolia, North Korea, North Vietnam, Peoples Republic of China, Poland, Rumania, Southern Rhodesia, USSR and other prohibited destinations which may be specified in the contract of sale.

d. Sanctions may be imposed against any person who contravenes any law relating to the United States export control. Such sanctions will be in conformity with US laws and regulations (including 50 U.S.C. Appl., sections 2401-2413, 15 Code of Federal Regulations,

Chapter III, Subchapter B, esp. section 370.7; Armed Services Procurement Regulations; and DoD Instruction 2030.3) and may include the denial of United States export privileges and of any participation in further United States Government contracts.

e. The information provided by us in this Statement will be considered a part of our bid under the above-numbered invitation, and a part of the contract of sale if and when our bid is accepted by the United States of America.

8. Certification. We certify that all of the information we have given in this Statement is true and correct to our best knowledge and belief and that we do not know of and have not omitted any additional information which is inconsistent with this Statement. We understand that this Statement will be referred to and be a part of the contract of sale between us and the United States of America. If stipulated on DD Form 1427, Notice of Award, we agree to submit a written request for amendment of this Statement to the Property Disposal (Contracting) Officer prior to effecting any change of fact or intention from that stated herein or in any prior amendment, whether occurring before or after the release of the commodities to us, and not to effect such changes without first receiving the written approval of the Property Disposal (Contracting) Officer.

Sign here in ink: _____
Signature of
Official Bidder

Print or type name of
Signer

Date of Signing

"ARTICLE _____ DISPOSITION AND USE OF PROPERTY

- (1) The bidder agrees to submit with his bid a completed Statement Regarding Disposition and Use of Property (End-Use Certificate) as prescribed by the Sales Contracting Officer. Because acceptance of this bid will be based on considerations of security requirements of the United States, the bidder understands and agrees that the ultimate destination, use, and disposition of the property shall be in accordance with the End-Use Certificate submitted to and approved by the Sales Contracting Officer. When specifically requested on DD Form 1427, Notice of Award, changes to the bidder's End-Use Certificate will require the prior written approval of the Sales Contracting Officer.
- (2) The bidder understands and agrees that the ultimate destination shall not be to Albania, Bulgaria, Cuba, Czechoslovakia, East Germany including East Berlin, Estonia, Hungary, Latvia, Lithuania, Mongolia, North Korea, North Vietnam, Peoples Republic of China, Poland, Rumania, Southern Rhodesia, USSR, or any other prohibited destinations that may be specified in this contract.
- (3) The bidder further agrees to notify in writing any and all subsequent purchasers or receivers of this property from him of the provisions of this Article and his End-Use Certificate relative to the authorized destination, the requirement for approval by the Sales Contracting Officer of any change of such destination prior to exportation thereto; the specific United States restrictions on exports and re-exports directly and indirectly to denied areas or other prohibited destinations that may have been specified in the original contract; the documentation (e.g., IC/DV documents, answers to follow-up requests) that may be required; and United States sanctions against violators. Subsequent purchasers and receivers who have been so notified shall be required to make similar notifications to purchasers and receivers from them. Any unauthorized disposition of the property by a subpurchaser or sub-receiver of the property shall be the responsibility of such sub-purchaser or subreceiver, and where at fault, of the original buyer from the government.
- (4) When property purchased under single contract is intended for more than one destination, the bidder agrees to submit, with the End-Use Certificate a listing of those items specifying quantities intended for each destination and consignee. The bidder further agrees to furnish the listing referred to herein with each change of export intent when specifically requested to do so on DD Form 1427, Notice of Award.
- (5) Whenever requested by the Sales Contracting Officer to furnish information regarding the actual disposition made of the property awarded to him, the bidder agrees to furnish the requested information within 30 calendar days after the date of the request.

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- (6) On those items requiring resale approval as indicated on DD Form 1427, Notice of Award, the bidder agrees to maintain detailed records of their disposition and to provide such records to the Sales Contracting Officer whenever requested to do so.
- (7) The trade control actions required by paragraph (1) of this article will be applied to all items included in the original sale. Resale breakdowns of such sales will still be subject to the same control requirements applicable to the original sale.

Dear

This query is being made as a result of your intended disposition of excess property as stated in your "Statement Regarding Disposition and Use of Property" which was filed under Invitation to Bid Nr. _____, Contract Nr. _____, in accordance with Article D., "Disposition and Use of Property", General Sales Terms and Conditions of that contract.

Request this office be advised as to the disposition made of Line Item Nrs. _____, purchased under the above mentioned contract as follows:

- a. Has property been resold or is it still in your possession?
- b. If it has been resold, please list the names and addresses of

the sub-purchaser(s):

<u>Item Nr.</u>	<u>Name and Address of Sub-Purchaser(s)</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

c. Was property resold in the form received, or was it dismantled and/or modified?

- d. If not resold, where is the property now located?

<u>Item Nr.</u>	<u>Location of Property</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Please submit this information so as to arrive at this office on or before _____.

Thank you for your cooperation in this matter.

Sincerely yours,