

Contracting with the U.S. Government

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US Army Corps of Engineers
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Major Topics

- Understanding the basics of Contract Surety Bonds
- DBA Insurance Requirements
- International Balance of Payments - Trade Agreements Act
- System for Award Management (SAM)
- Synchronized Pre-Deployment Operational Tracker (SPOT)



Understanding the Basics of Contract Surety Bonds



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Surety Bonds Outline

- What is a Surety Bond
- Types of Bonds
- Surety Prequalification of a Contractor
- Who Requires Bonds



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What is a Surety Bond?

- A “Surety” means an individual or corporation legally liable for the debt, default or failure of a principal to satisfy a contractual obligation.
- A “Bond” is a written instrument executed by the contractor (principal), and a second party (Surety) to fulfill the principal’s obligation to a third party (Obligee or Government), identified in the bond.
- If the principal’s (contractor) obligations are not met, the bond assures payment, to the extent stipulated, of any loss sustained by the obligee.



Types of Bonds

- Bonds written by a Surety for construction projects are referred to as contract surety bonds.
- Two main types of contract surety bonds are:
Performance Bonds and Payment Bonds.
- The basic functions of these bonds are:
 - Financial protection if the contractor defaults on its obligation – guarantee that the contract will be performed and certain laborers and suppliers will be paid for the work and materials.



Performance Bonds

- Performance bond provides an obligee with a guarantee that, in the event of a contractor's default, the surety can be called upon to meet its obligations under the bond.
- Bonds differ in terms of the types of options available to the surety, and to the obligee, in the event of a default.
- If the bonded contractor fails to perform its work in accordance with the plans and specifications, the owner, which has performed its contractual obligations, has a right of action against the surety to obtain completion of the contract and enforce the owner's rights under the contract.



Payment Bonds

- A payment bond provides security for payment for labor and materials incorporated into the project by certain laborers, subcontractors, and suppliers, if the principal fails to pay for labor & materials supplied for the project.



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Who requires Contract Bonds

- Federal Acquisition Regulations (FAR) Part 28 requires the contractor to obtain Contract Performance and Payment bonds on all construction contracts in excess of \$150,000 surety acceptable to the officer awarding the contract.



Bottom Line

- Providing Bonds is a contract requirement.
- Typically required within 15 days of contract award.
- A Notice to Proceed (NTP) will not be issued if Bonds are not provided.



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Defense Base Act (DBA) Insurance Requirement



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DBA Insurance Outline

- What it is
- Who is covered
- Roles & Responsibilities
- References



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DBA, what it is

- Provides disability compensation and medical benefits to employees and death benefits to eligible survivors of employees under contract with US Government.
- Required by Federal Law (33 USC 901 et. seq.)
- The Federal Acquisition Regulation (FAR) sets out the workers' compensation insurance requirements for all overseas contracts at 52-228-3 and 52-228-4.



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Who is Covered

- The Defense Base Act provides workers' compensation protection to employees working outside the United States.
- It includes ALL employees, regardless of nationality:
 - U.S. citizens and residents,
 - Host country nationals (local hires), and
 - Third country nationals (individuals hired from another country to work in the host country)



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Roles and Responsibilities

- Contracting Officer -

- Ensure contractor compliance with the Federal Acquisition Regulation for Defense Base Act Insurance
- FAR 52.228-3 & 52.228-4 requires that solicitations and contracts include the requirement for Defense Base Act insurance where applicable
- Contract will not be awarded without it!



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Roles and Responsibilities

- Contractor -

- Obtain DBA Insurance coverage from a Department of Labor authorized insurance carrier before employees are deployed overseas
 - The DOL table of authorized carriers and self-insured employers is available at <http://www.dol.gov/owcp/dlhwc/lscarrier.html>
- Notify the insurance carrier of employee injury or death
- Authorize medical care when requested or upon knowledge of injury
- Assist the employee or survivors to file claim for benefits



Bottom Line

- Providing DBA Insurance is a contract requirement.
- Typically required within 15 days of contract award.
- A Notice to Proceed (NTP) will not be issued if proof of payment of DBA policy is not provided. Proof is normally an invoice marked as “PAID”.



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International Balance of Payment – Trade Agreements Act



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Domestic Source Restrictions

Foreign Acquisitions, FAR Part 25 and DFARS Part 225:

- Balance of Payments Program
 - Applies to purchases of supplies or construction materials for use outside the US. Exceptions found in [DFARS 225.75](#)
- Trade Agreements Act
 - Presidential authority to waive the Buy American Act, for eligible products from countries that have signed an international trade agreement with the U.S., (19 USC 2501; [FAR 25.4](#))



Balance of Payment Program

- Restricts the purchase of supplies that are not domestic end products, for use outside the United States, and restricts the use of construction materials that are not domestic, for performance of construction contracts outside the United States.
- Exceptions to the Balance of Payments Program, especially for construction materials, are generally determined prior to solicitation and assignment of contracting responsibility.
- Exceptions are found at FAR 25.3



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Trade Agreements Act (TAA)

- Governs trade agreements negotiated between the United States and other countries. TAA can restrict procurement of goods and services for federal contracts. FAR 25.4 includes guidance for TAA compliance. In general, a product is "Compliant" if it is made in the United States or a "Designated Country," including
 - Those with a free trade agreement with the U.S.
 - Countries that participate in the World Trade Organization Government Procurement Agreement
- A full list of Designated/Qualifying Countries is in FAR 25.003



System for Award Management (SAM) Registration



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SAM Outline

- What is the System for Award Management (SAM)
- Why Register
- Mandatory information required



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What is SAM?

- SAM is the Official U.S. Government system that consolidated the capabilities of CCR/FedReg, ORCA, and EPLS
- There is no fee to register for this site. Entities may register at no cost directly from the SAM website located at [HTTPS:WWW.SAM.GOV](https://www.sam.gov)
- User guides and webinars are available under the HELP tab.



Why Register?

- The FAR requires all prospective vendors to be registered in SAM prior to the award of a contract
- Reduces the time it takes to award a contract
- Federal agencies will be able to look in one place for entity pre-award information
- SAM is streamlining processes, eliminating the need to enter the same data multiple times, and consolidating hosting to make the process of doing business with the government more efficient



Mandatory Information Required

- DUNS number from Dun & Bradstreet, and the name and address associated with that DUNS (2 days)
- Your CAGE Code, if you already have one (if you don't, one will be assigned to you during registration)
- Your Electronic Funds Transfer information, such as your financial institution's ABA Routing Number and your account number, with the bank phone or fax number
- You will be unable to submit your registration online unless all the mandatory information is provided





Quick Start Guide for Entities Interested in Being Eligible for Government Contracts

How to register your entity to be eligible for CONTRACTS in SAM:

Before you register, you need to know the following:

What is an Entity?

In SAM, your company/business/organization is now referred to as an "Entity."

- **REGISTERING IN SAM IS FREE.**
- If you were registered in CCR, your company's information is already in SAM. You just need to set up a SAM account. See the "Migrating Roles" Quick Start Guide.

Your Entity's DUNS Number

You need a DUNS to register your entity in SAM.

- If you do not have a DUNS number, you can request a DUNS number for free by visiting D&B at <http://fedgov.dnb.com/webform>
- It takes 1-2 business days to obtain a DUNS.

Your Entity's Taxpayer Identification Number (TIN)

You need your entity's Tax ID Number (TIN) and taxpayer name (as it appears on your last tax return). Foreign entities that do not pay employees within the U.S. do not need to provide a TIN.

- A TIN is an Employer Identification Number (EIN) assigned by the Internal Revenue Service (IRS).
- Sole proprietors may use their Social Security Number (SSN) assigned by the Social Security Administration (SSA) if they do not have a TIN, but please be advised it will not be treated as privacy act data in SAM.
- To obtain an EIN visit:
www.irs.gov/businesses/small/article/0,,id=102767,00.html
- Activating a new EIN with the IRS takes 2-5 weeks.

Steps For Registering Your Entity in SAM

1. Go to www.sam.gov
2. Create a Individual Account and Login
3. Click "Register New Entity" under "Register/Update Entity" on your "My SAM" page
4. Select your type of Entity
5. Select "Yes" to "Do you wish to bid on contracts?"
6. Complete "Core Data"
 - ✓ Validate your DUNS information
 - ✓ Enter Business Information (TIN, etc.)
 - ✓ Enter CAGE code if you have one. If not, one will be assigned to you after your registration is completed. Foreign registrants must enter NCAGE code.
 - ✓ Enter General Information (business types, organization structure, etc)
 - ✓ Financial Information (Electronic Funds Transfer (EFT) Information)
 - ✓ Executive Compensation
 - ✓ Proceedings Details
7. Complete "Assertions"
 - ✓ Goods and Services (NAICS, PSC, etc.)
 - ✓ Size Metrics
 - ✓ EDI Information
 - ✓ Disaster Relief Information
8. Complete "Representations and Certifications"
 - ✓ FAR Responses
 - ✓ Architect-Engineer Responses
 - ✓ DFARS Responses
9. Complete "Points of Contact"
10. Your entity registration will become active after 3-5 days when the IRS validates your TIN information.

How do I get more information? Take a look at the SAM User Guide.

Go to Our Website: www.sam.gov

Contact the SAM Help Desk: www.fsd.gov

Synchronized Pre-Deployment Operational Tracker (SPOT)



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SPOT Outline

- What is SPOT?
- Access and access requirements
- User Groups and Roles
- Capabilities by Roles



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What is SPOT?

- A single source for the management, tracking and visibility of contractors accompanying U.S. forces overseas and contingency operations.
- Captures movement and location information about operating forces, government civil servants, and government contractors in specified operational theaters.
- Providing dynamic, ad hoc reporting by putting the power of data reporting and analysis in the hands of the analyst.



SPOT Access

- SPOT is restricted to authorized, registered users through the on-line registration process via the below URL
 - ▶ <https://spot.dmdc.mil/privacy.aspx>
- Click register link and follow the prompts to complete the registration. Access will be granted after SPOT's Help Desk receives confirmation.
- Individuals who are NOT citizens of the United States, United Kingdom, Canada, Australia and New Zealand are permitted to obtain a SPOT User Name and Password account



Access Requirements

- SPOT access authorized by one of the following:
 - SPOT User ID and Password
 - Common Access Card (CAC)
 - DoD approved Public Key Infrastructure (PKI) certificate



Users Groups and Roles

- Three Primary User Groups (Roles)
- Contractor
 - Company Administrator
 - Company Employee (Self Tracker)
- Government Organization
 - Government Administrator / Government Authority
- Contracting Community
 - Contracting Officer (KO)
- Each role limits access to data and functionality



Capabilities by Roles

Company Administrator

- Add/Maintain Contract
- Add/Maintain Persons
- Initiate Deployment
- Maintain Deployment Information
- Initiate LOA

Government Authority

- Add/Maintain Contract
- Add/Maintain Persons
- Initiate Deployment
- Maintain Deployment Information
- Initiate LOA
- Authorize LOA (Government Authority Only)

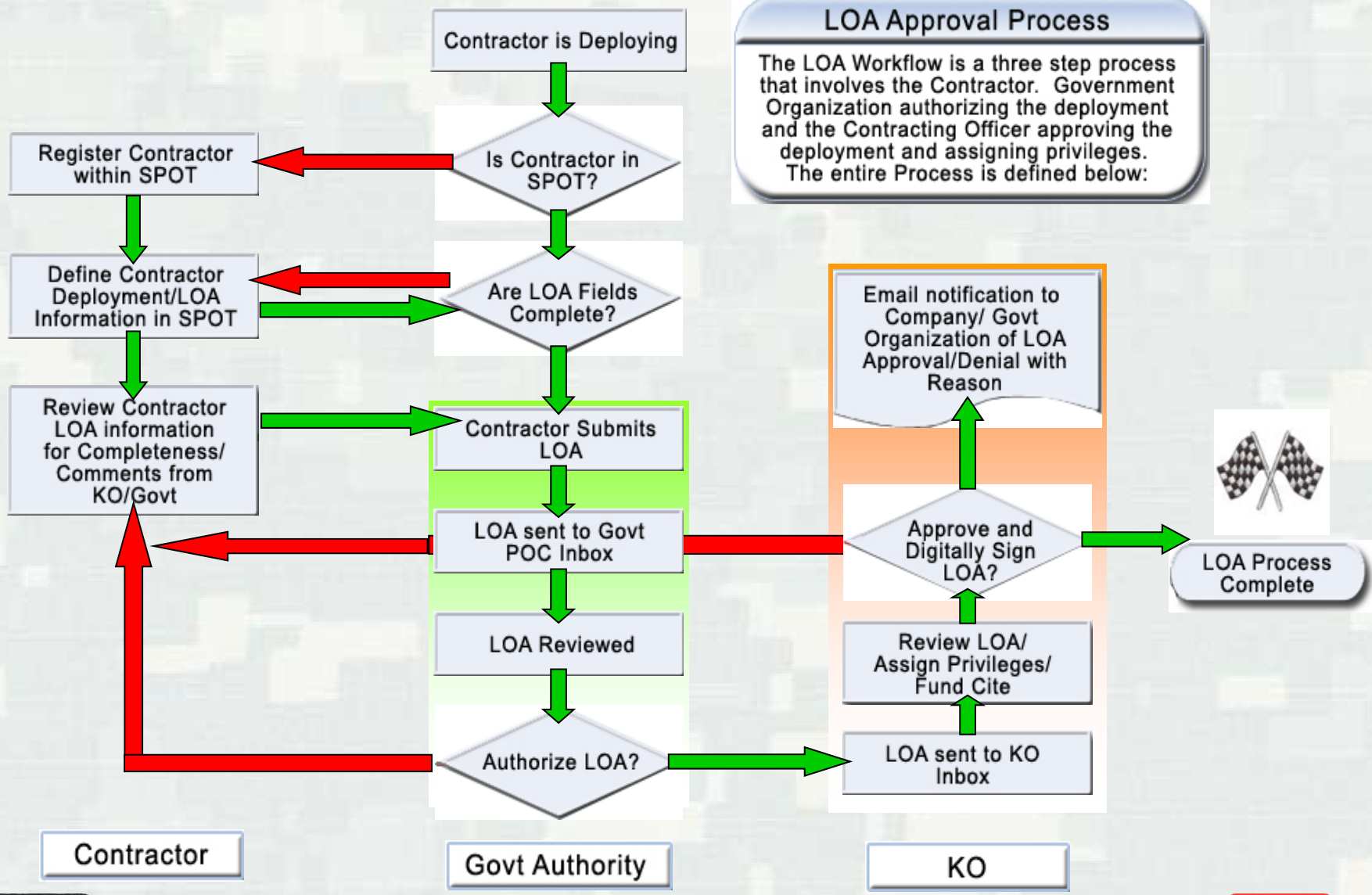
Contracting Officer

- Add/Maintain Contract
- Approve LOA (Contracting Officer only)



LOA Approval Process

The LOA Workflow is a three step process that involves the Contractor, Government Organization authorizing the deployment and the Contracting Officer approving the deployment and assigning privileges. The entire Process is defined below:



Contractor

Govt Authority

KO



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SPOT Produced LOA

NAME: Greenfield Jr., Marcus K. SSN: XXX-XX-XXXX

LETTER OF AUTHORIZATION			DATE OF REQUEST
REQUIRING ACTIVITY Communications and Electronic Command			3/14/2010
GOVT AGENCY POC Rice, James	GOVT AGENCY POC PHONE 2025551212	GOVT AGENCY POC EMAIL james.rice@us.army.mil	
NAME (Last, First, Middle Initial) Greenfield Jr., Marcus K.	SSN/FIN xxx-xx-2280	DATE OF BIRTH 1/1/1970	
HOME ADDRESS 5322 Brambleton Drive Norfolk Virginia 23533	CITIZENSHIP United States	PASSPORT # / EXPIRATION PASS0000 / 12/31/2013	
EMAIL marcus.greenfield@us.army.mil	THEATER EMAIL ngc@email.com	DEPLOYMENT PERIOD START 4/1/2010	DE 6/3
CLEARANCE LEVEL w/ AGENCY None	CLEARANCE DATE (mm/yyyy)	JOB TITLE Concrete/Mason	BU No
COMPANY (Full name) Northrop Grumman Corp.	COMPANY POC Jones, Nora	COMPANY POC TELEPHONE 2025551212	CG No
CONTRACT NUMBER/ TASK ORDER CON1000217AS00027A	CONTRACT / TO START DATE 3/1/2010	CONTRACT / TO END DATE 12/31/2010	CC No
NEXT OF KIN (NOK) NAME Available in SPOT	NOK RELATIONSHIP Available in SPOT	ASSIGNED KO TERRIE B PUGH	AB 75
IN-THEATER CONTACT Pace, Ricky	CONTACT'S PHONE 017844-5555		CG No
COUNTRIES TO BE VISITED Afghanistan		GOVERNMENT FURNISHED SERVICES	
PURPOSE To rebuild what was destroyed.		<input checked="" type="checkbox"/> APO/FPO/MPO/Postal Services	<input checked="" type="checkbox"/> Authorized Weapon
FUND CITE w/ BILLING ADDRESS 123-4578 25304 1324739 1 Penn Ave. Washington, District of Columbia - 22000 United States	DBA INSURANCE INFORMATION Company Name: International Health Insurance Co. Policy Number: 123-ABC-456 POC Phone Number: 800-456-3322	<input type="checkbox"/> Billeting	<input checked="" type="checkbox"/> CAAF
		<input type="checkbox"/> CAC/ID Card	<input type="checkbox"/> Commissary
		<input checked="" type="checkbox"/> Dependents Authorized	<input checked="" type="checkbox"/> DFACs
		<input type="checkbox"/> Excess Baggage	<input type="checkbox"/> Fuel Authorized
		<input type="checkbox"/> Govt Furnished Meals	<input type="checkbox"/> Mil Banking
		<input type="checkbox"/> Mil Clothing	<input type="checkbox"/> Mil Exchange
		<input type="checkbox"/> Mil Issued Equip	<input checked="" type="checkbox"/> Milair
		<input type="checkbox"/> MWR	<input type="checkbox"/> None
		<input checked="" type="checkbox"/> Resuscitative Care	<input type="checkbox"/> Transportation

LOA REMARKS

API 3.17.1. U.S.-owned contractors providing goods or services in direct support of DoD activities for contract-related mail only, their U.S. citizen employees and sponsored family members may be authorized personal mail. Postal support will be limited to the country in which the contractor is performing and providing there is no host-country prohibition. The extent of the postal support will be set forth in the contract. The provisions for postal support in such contracts shall be reviewed and approved by the applicable Combatant Commander (or his designated representative) and the Military Department concerned prior to execution of the contract.

GOVERNMENT FURNISHED SERVICES

- APO/FPO/MPO/Postal Services
- Billeting
- CAC/ID Card
- Dependents Authorized
- Excess Baggage
- Govt Furnished Meals
- Mil Clothing
- Mil Issued Equip
- MWR
- Resuscitative Care
- Authorized Weapon
- CAAF
- Commissary
- DFACs
- Fuel Authorized
- Mil Banking
- Mil Exchange
- Milair
- None
- Transportation

The government organization specified above, in its mission support capacity under the contract, authorizes the individual employee identified herein, to proceed to the location(s) listed for the designated deployment period set forth above. Upon completion of the mission, the employee will return to the point of origin. Travel being performed is necessary and in the public's service. Travel is in accordance with FAR 31.205-36 and the maximum per diem allowable under the appropriate travel regulations (Joint Travel Regulation for AK, HI and outlying ar States and US possessions), Federal Travel Regulation for CONUS and US Terr of State's Standardized Regulations for OCONUS Foreign Areas designated by L

Prior to issuance of a DoD Common Access Card (CAC), the government sponsor completion of the FBI fingerprint check with favorable results and submission of a Check with Inquiries to the Office of Personnel Management (OPM), or a DoD-de equivalent investigation.

Emergency medical support will be determined by the appropriate supported commander. Contractor authorization aboard military aircraft will be determined by the supported commander. Necessary identification badges will be determined and provided by the supported command.

Contracting Officer

Signature: spot.altess.army.mil
spot.altess.army.mil
 cn=spot.altess.army.mil, c=US, o=U.S. Government, ou=USA
 2010.03.14 19:18:29 -0400

Signed by the SPOT System on behalf of TERRIE B PUGH

pughspot2@yahoo.com

3/14/2010

7573590223

A unique barcode is generated for each LOA
 JAMMS scans contractor location data which is uploaded to SPOT records



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Policy

- Acquire only domestic end products for use outside the United States, and use only domestic construction material for construction to be performed outside the United States, including end products and construction material for foreign military sales, unless –



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Before Issuing the Solicitation

- The Contracting Officer determines that a requirement can best be filled by a foreign end product or construction material
- This includes determinations that the product is perishable and delivery from the United States would significantly impair the quality at the point of consumption;
- The construction material, by its nature or as a practical matter, can best be acquired in the geographic area concerned, e.g., bulk material, such as sand, gravel, or other soil material, stone, concrete masonry units, or fired brick;

