



ACQUISITION
AND SUSTAINMENT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

In reply refer to
DARS Tracking Number: 2020-O0015

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)
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DEFENSE FIELD ACTIVITIES

SUBJECT: Class Deviation—Prohibition on Procurement of Foreign-Made Unmanned Aircraft
Systems

Effective immediately, unless an exception applies or a waiver is granted, contracting
officers shall not enter into or renew a contract for the procurement of—

- An unmanned aircraft system (UAS), or any related services or equipment, that—
 - Is manufactured in the People's Republic of China or by an entity domiciled in the People's Republic of China;
 - Uses flight controllers, radios, data transmission devices, cameras, or gimbals manufactured in the People's Republic of China or by an entity domiciled in the People's Republic of China;
 - Uses a ground control system or operating software developed in the People's Republic of China or by an entity domiciled in the People's Republic of China; or
 - Uses network connectivity or data storage located in, or administered by an entity domiciled in, the People's Republic of China; or
- A system for the detection or identification of a UAS, or any related services or equipment, that is manufactured—
 - In the People's Republic of China; or
 - By an entity domiciled in the People's Republic of China.

This prohibition does not apply to procurements for the purposes of: counter-UAS surrogate testing and training; or intelligence, electronic warfare, and information warfare operations, testing, analysis, and training.

Contracting officers shall use the solicitation provision provided in Attachment 1 and the contract clause provided in Attachment 2, as prescribed in the attachments.

This class deviation implements the procurement prohibition under section 848 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92). Pursuant to section 848, the Secretary of Defense may waive the prohibition on a case-by-case basis by certifying in writing to the congressional defense committees that the procurement is required in the national interest of the United States. If a waiver has been granted for a specific acquisition in accordance with section 848, the contracting officer shall obtain a copy of the waiver from the requiring activity or program manager prior to making the award. A copy of the approved waiver shall be included in the contract file.

This class deviation remains in effect until it is incorporated in the Defense Federal Acquisition Regulation Supplement or otherwise rescinded. My point of contact is Mr. Jeff Grover, who is available at (703) 697-9352 or jeffrey.c.grover.civ@mail.mil.

Kim Herrington
Acting Principal Director,
Defense Pricing and Contracting

252.225-7973 Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems—Representation. (DEVIATION 2020-O0015)

Use the following provision in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, unless—

(a) The acquisition is for—

(1) Counter-unmanned aircraft system surrogate testing and training; or

(2) Intelligence, electronic warfare, and information warfare operations, texting, analysis, and training; or

(b) A waiver has been granted by the Secretary of Defense in accordance with section 848 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92).

PROHIBITION ON THE PROCUREMENT OF FOREIGN-MADE UNMANNED AIRCRAFT SYSTEMS—REPRESENTATION (MAY 2020) (DEVIATION 2020-O0015)

(a) *Prohibition.* Section 848 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92) prohibits DoD from using or procuring—

(1) An unmanned aircraft system (UAS), or any related services or equipment, that—

(i) Is manufactured in the People’s Republic of China or by an entity domiciled in the People’s Republic of China;

(ii) Uses flight controllers, radios, data transmission devices, cameras, or gimbals manufactured in the People’s Republic of China or by an entity domiciled in the People’s Republic of China;

(iii) Uses a ground control system or operating software developed in the People’s Republic of China or by an entity domiciled in the People’s Republic of China; or

(iv) Uses network connectivity or data storage located in, or administered by an entity domiciled in, the People’s Republic of China; or

(2) A system for the detection or identification of a UAS, or any related services or equipment, that is manufactured—

(i) In the People’s Republic of China; or

(ii) By an entity domiciled in the People’s Republic of China.

(b) *Representations.* By submission of its offer, the Offeror represents that it will not provide or use—

(1) A UAS, as described in paragraph (a)(1) of this provision, in the performance of any contract, subcontract, or other contractual instrument resulting from this solicitation; and

(2) A system for the detection or identification of a UAS, as described in paragraph (a)(2) of this provision, in the performance of any contract, subcontract, or other contractual instrument resulting from this solicitation.

(End of provision)

252.225-7972 Prohibition on the Procurement of Foreign-Made Unmanned Aircraft Systems. (DEVIATION 2020-O0015)

Use the following clause in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, unless—

(a) The acquisition is for—

(1) Counter-unmanned aircraft system surrogate testing and training; or

(2) Intelligence, electronic warfare, and information warfare operations, texting, analysis, and training; or

(b) A waiver has been granted by the Secretary of Defense in accordance with section 848 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92).

**PROHIBITION ON THE PROCUREMENT OF FOREIGN-MADE
UNMANNED AIRCRAFT SYSTEMS (MAY 2020)
(DEVIATION 2020-O0015)**

(a) *Prohibition.* In accordance with section 848 of the National Defense Authorization Act for Fiscal Year 2020, the Contractor shall not provide or use in the performance of this contract—

(1) An unmanned aircraft system (UAS), or any related services or equipment, that—

(i) Is manufactured in the People's Republic of China or by an entity domiciled in the People's Republic of China;

(ii) Uses flight controllers, radios, data transmission devices, cameras, or gimbals manufactured in the People's Republic of China or by an entity domiciled in the People's Republic of China;

(iii) Uses a ground control system or operating software developed in the People's Republic of China or by an entity domiciled in the People's Republic of China; or

(iv) Uses network connectivity or data storage located in, or administered by an entity domiciled in, the People's Republic of China; or

(2) A system for the detection or identification of a UAS, or any related services or equipment, that is manufactured—

(i) In the People's Republic of China; or

(ii) By an entity domiciled in the People's Republic of China.

(b) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (b), in all subcontracts or other contractual instruments, including subcontracts for the acquisition of commercial items.

(End of clause)