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WORKING PAPER

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SECURE EQUIPMENT ACQUISITION TASK FORCE

POLICY ALTERNATIVE: EXCLUSION OF FOREIGN SOURCE ADPE

DEFINITIONS

a. Foreign Source ADPE means automatic data processing equipment (ADPE) either manufactured on foreign soil or manufactured by a firm under foreign ownership, control or influence.

Foreign source ADPE also includes ADPE marketed by a firm under foreign ownership, control or influence.

1. ADPE manufactured on foreign soil means ADPE in which critical subsystems or components are manufactured, or final assembly occurs, outside the continental U. S., Alaska or Hawaii; i.e., an area where it may be presumed manufacturing personnel are predominantly foreign nationals. ADPE criticals subsystem or

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components include, but are not limited to, those that perform logic, communications, memory, control or display functions and through which data would flow in the normal operation of the ADPE. Also included are those subsystems or components essential for the operation of the ADPE, irrespective of function.

2. A corporation shall be considered under foreign ownership, control or influence when any foreign investor has acquired a direct or indirect beneficial ownership interest of 5 percent or more of any class of stock in that corporation.

Policy

It is Agency policy not to procure foreign source ADPE for use in Agency automatic data processing systems. Program office

management may request that an exception to this policy be made. Requests for an exception should demonstrate the existence of a critical requirement which can only be satisfied by foreign source ADPE or an overriding operational or cost advantage in the use of foreign source ADPE. Exceptions to this policy require the concurrence of the Directors of Security and Logistics.

Procedures

1. Prior to an ADPE procurement action, a prospective vendor will be required to fill out a "Certificate Pertaining to Foreign Interest and Manufacture"*
2. A preliminary evaluation will be performed by the Contracting Officer and Contracting Officers Technical Representative (COTR). If required a Security Evaluation Team, comprised of representatives from the Offices of Security and Logistics

*To be developed, but patterned on DD Form 441s (1 Sept 1976), "Certificate Pertaining to Foreign Interests."

and the program office, will be convened to evaluate vendor responses. Further information may be requested from vendors. The team will issue a findings memorandum which will state that the proposed ADPE is acceptable or unacceptable from a foreign source standpoint and provide the rationale for its decision. If the ADPE is evaluated as unacceptable, the vendor may appeal or the program office may request an exception.

3. Vendors for which an exception is requested will be required to submit a satisfactory Security Management Plan prior to final approval to use foreign source ADPE. The plan will outline action taken by the vendor to minimize security vulnerabilities associated with foreign source ADPE.

4. A request for an exception by program office management should demonstrate the existence of a critical requirement which can only be satisfied by foreign source ADPE or an overriding operational or cost advantage in the use of foreign source ADPE.

5. A vendor may appeal an adverse foreign source finding to the Directors of Security and Logistics. Concurrence of both directors is required to overturn an adverse finding.