

PART 225—FOREIGN ACQUISITION

■ 5. Add sections 225.70WW, 225.70WW-1, 225.70WW-2, 225.70WW-3, and 225.70WW-4 to subpart 225.70 to read as follows:

* * * * *

Sec.
225.70WW Restriction on acquisition of fuel for overseas contingency operations.
225.70WW-1 Scope.
225.70WW-2 Prohibition.
225.70WW-3 Procedures.
225.70WW-4 Solicitation provision.
* * * * *

225.70WW Restriction on acquisition of fuel for overseas contingency operations.**225.70WW-1 Scope.**

This section implements section 843 of the National Defense Authorization Act for Fiscal Year 2022 (Pub. L. 117-81), for the acquisition of fuel for overseas contingency operations.

225.70WW-2 Prohibition.

Contracting officers shall not award, for an overseas contingency operation, a contract for fuel, in whole or in part, or derivatives of such fuel, that is sourced from nations or regions prohibited from selling petroleum to the United States. See FAR subpart 25.7 for prohibited sources.

225.70WW-3 Procedures.

(a) For contracts for the acquisition of fuel for overseas contingency operations, including contracts using FAR part 12 procedures, expected to exceed the simplified acquisition threshold, the contracting officer—

(1) May request records from the apparent successful offeror to verify compliance with the following statutes and regulations only when the head of the contracting activity determines in writing that it is necessary:

(i) The Foreign Corrupt Practices Act (15 U.S.C. 78dd-1 *et seq.*).

(ii) International Traffic in Arms Regulations at 22 CFR 120 through 130 (see PGI 225.7901-2).

(iii) Export Administration Regulations at 15 CFR 730 through 774 (see PGI 225.7901-2).

(iv) Relevant regulations promulgated by the Office of Foreign Assets Control of the Department of the Treasury. Sanction information for specific countries and programs is available at <https://ofac.treasury.gov/sanctions-programs-and-country-information>.

(2) To the maximum extent practicable, shall not disqualify an otherwise responsible offeror on the basis of an unsupported denial of access to a facility or equipment by a host-nation government. The provision at

252.225-70XX, Restriction on Acquisition of Fuel for Overseas Contingency Operations, requires offerors to report promptly to the contracting officer, prior to award, any instance of unsupported denial of access to a facility or equipment by a host-nation government that may prevent it from complying with the terms and conditions of the solicitation.

(b) See 215.101-71 for the requirement to consider using a tradeoff process.

225.70WW-4 Solicitation provision.

Use the provision at 252.225-70XX, Restriction on Acquisition of Fuel for Overseas Contingency Operations, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services, that are for the acquisition of fuel for overseas contingency operations and are expected to exceed the simplified acquisition threshold.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. Add section 252.225-70XX to read as follows:

252.225-70XX Restriction on Acquisition of Fuel for Overseas Contingency Operations.

As prescribed in 225.70WW-4, use the following provision:

Restriction on Acquisition of Fuel for Overseas Contingency Operations (Date)

(a) *Prohibition.* For an overseas contingency operation, DoD may not procure fuel in whole or in part, or derivatives of such fuel, that is sourced from nations or regions prohibited from selling petroleum to the United States. See Federal Acquisition Regulation subpart 25.7 for prohibited sources.

(b) *Certification.* Offerors shall complete the certification in paragraph (b)(1) of this provision and submit the certification with their offer.

(1) The Offeror does [] does not [] certify that the fuel, in whole or in part, or derivatives of such fuel, to be provided under any contract resulting from this solicitation is not sourced from a nation or region prohibited from selling petroleum to the United States.

(2) Only Offerors who certify that the fuel to be provided is not sourced from a prohibited nation or region will be eligible for award.

(c) Compliance.

(1) When requested by the Contracting Officer, the apparent successful Offeror shall submit records necessary to demonstrate compliance with applicable laws and regulations regarding export-controlled items and anticorruption statutes and regulations including—

(i) The Foreign Corrupt Practices Act (15 U.S.C. 78dd-1 *et seq.*);

(ii) International Traffic in Arms Regulations (ITAR) at 22 CFR 120 through 130 (also see Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.225-7048, Export-Controlled Items);

(iii) Export Administration Regulations (EAR) at 15 CFR 730 through 774 (also see DFARS clause 252.225-7048); and

(iv) Relevant regulations promulgated by the Office of Foreign Assets Control of the Department of the Treasury. Sanction information for specific countries and programs is available at <https://ofac.treasury.gov/sanctions-programs-and-country-information>.

(2) The Offeror shall contact the Department of State regarding ITAR compliance and the Department of Commerce regarding EAR compliance.

(d) *Reporting requirement.* The Offeror shall, prior to contract award, promptly report to the Contracting Officer any instance of unsupported denial of access to a facility or equipment by a host-nation government that may prevent it from complying with the terms and conditions of the solicitation.

(End of provision)

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DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System****48 CFR Parts 212, 227, and 252**

[Docket DARS-2024-0005]

RIN 0750-AL21

Defense Federal Acquisition Regulation Supplement: Use of DoD Program Nomenclature (DFARS Case 2021-D002)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to introduce coverage of trademarks and similar designations, such as popular names and program names. In addition to the request for written comments on this proposed rule, DoD will hold a public meeting to hear the views of interested parties.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 15, 2024, to be considered in the formation of a final rule.

Public Meeting: A virtual public meeting will be held on March 22, 2024, from 1:00 p.m. to 5:00 p.m., Eastern

time. The public meeting will end at the stated time, or when the discussion ends, whichever comes first.

Registration: Registration to attend the public meeting must be received no later than close of business on March 15, 2024. Information on how to register for the public meeting is provided under the **SUPPLEMENTARY INFORMATION** section of this proposed rule.

ADDRESSES:

Public Meeting: A virtual public meeting will be held using Zoom video conferencing software.

Submission of Comments: Submit comments identified by DFARS Case 2021–D002, using either of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Search for DFARS Case 2021–D002. Select “Comment” and follow the instructions to submit a comment. Please include “DFARS Case 2021–D002” on any attached documents.

- **Email:** osd.dfars@mail.mil. Include DFARS Case 2021–D002 in the subject line of the message.

Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: David E. Johnson, telephone 202–913–5764.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to revise the DFARS to implement coverage of contract-specific designations, such as popular names and program names. DoD intends this coverage to avoid or minimize conflict between DoD and offerors and contractors over rights to such designations. In particular, this proposed rule creates a mechanism to foster transparency between DoD and offerors and contractors regarding claimed ownership of such designations.

By providing for such information exchange, this proposed rule is intended to allow the parties to identify possibly conflicting claims to designations before contract award. This will encourage the early and efficient resolution of potential disputes over ownership and use of designations. This proposed rule is therefore intended to work both prospectively and proactively to prevent such claims or disputes from happening as DoD establishes designations.

II. Public Meeting

DoD is interested in a dialogue with experts and interested parties both in the Government and the private sector regarding amending the DFARS to implement coverage of trademarks and similar designations, such as popular names and program names.

Registration: Individuals wishing to participate in the virtual meeting must register by March 15, 2024, to facilitate entry to the meeting. Interested parties may register for the meeting by sending the following information via email to osd.dfars@mail.mil and include “Public Meeting, DFARS Case 2021–D002” in the subject line of the message:

- Full name.
- Valid email address, which will be used for admittance to the meeting.
- Valid telephone number, which will serve as a secondary connection method. Registrants must provide the telephone number they plan on using to connect to the virtual meeting.
- Company or organization name.
- Whether the individual desires to make a presentation.

Pre-registered individuals will receive instructions for connecting using the Zoom video conferencing software not more than one week before the meeting is scheduled to commence.

Presentations: Presentations will be limited to 5 minutes per company or organization. This limit may be subject to adjustment, depending on the number of entities requesting to present, in order to ensure adequate time for discussion. If you wish to make a presentation, please submit an electronic copy of your presentation via email to osd.dfars@mail.mil no later than the registration date for the specific meeting. Each presentation should be in PowerPoint to facilitate projection during the public meeting and should include the presenter’s name, title, organization affiliation, telephone number, and email address on the cover page.

Correspondence, Comments, and Presentations: Please cite “Public Meeting, DFARS Case 2021–D002” in all correspondence related to the public meeting. There will be no transcription of the meeting. The submitted presentations will be posted to the following website at the conclusion of the public meeting: https://www.acq.osd.mil/dpap/dars/technical_data_rights.html.

III. Discussion and Analysis

This proposed rule places the coverage of contract-specific designations in a new subpart in DFARS part 227, Patents, Data, and Copyrights.

The new subpart 227.7X, Contract-Specific Designations, defines the term “Government designation” to cover the larger set of trademarks and designations of potential concern to DoD. Further, this proposed rule defines the term “contract-specific designation” to cover designations and names of particular concern for specific contracts. “Contract-specific designations” are therefore a subset of “Government designations.” This proposed rule requires contracting officers to include in solicitations a list of contract-specific designations relevant to the acquisition.

The contract clause proposed at DFARS 252.227–70YY, Contractor Use of Government Designations, applies only to “contract-specific designations.” However, the defined term “Government designation” is relevant for acquisition-planning purposes, including whether such marks or designations are or should be associated with a given contract to become “contract-specific designations” for that contract.

This proposed rule also defines the term “asserted marks” to recognize trademarks and other designations in which offerors claim ownership or control. An offeror’s submission of an asserted-marks list facilitates recognition of offeror-owned marks or designations, and it supports a process for required assertions analogous to that in the solicitation provision at DFARS 252.227–7017, Identification and Assertion of Use, Release, or Disclosure Restrictions, for assertions of contractor restrictions on use of technical data and computer software.

DFARS 227.7X01 and 252.227–70YY include definitions of the terms “asserted marks,” “contract-specific designation,” and “Government designation.” The solicitation provision proposed at 252.227–70XX, Identification of Asserted Marks, also includes a cross-reference to these definitions contained in 252.227–70YY. The proposed rule prescribes both new provision 252.227–70XX, Identification of Asserted Marks, and new clause 252.227–70YY, Contractor Use of Government Designations, for use when the acquisition is expected to exceed the simplified acquisition threshold and will involve use of one or more Government designations.

The provision at 252.227–70XX requires offerors both to include an asserted-marks list in their offers and to update the asserted-marks list prior to contract award. The provision notes that, like assertions of data rights restrictions in DFARS 252.227–7017, submission of an asserted-marks list

does not constitute the Government's agreement to the rights asserted therein.

With respect to contract-specific designations, DFARS clause 252.227-70YY, paragraph (b) contains requirements on the part of the contractor and authorizations for the contractor to conduct certain activities. DFARS 252.227-70YY, paragraph (c) obligates the contractor to provide notice if it becomes aware of unauthorized use or infringement of contract-specific designations by third parties and, in addition, to cooperate with the Government and not to attempt to enforce rights in any contract-specific designation.

IV. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT), for Commercial Products Including Commercially Available Off-the-Shelf (COTS) Items, and for Commercial Services

This proposed rule includes a new provision and a new clause: (1) DFARS 252.227-70XX, Identification of Asserted Marks, and (2) DFARS 252.227-70YY, Contractor Use of Government Designations. The provision at DFARS 252.227-70XX is prescribed at DFARS 227.7X04 for use in solicitations that include the clause at DFARS 252.227-70YY. The clause at DFARS 252.227-70YY is prescribed at DFARS 227.7X04 for use in solicitations and contracts, including solicitations and contracts using Federal Acquisition Regulation part 12 procedures for the acquisition of commercial products, including COTS items, and commercial services, that are expected to exceed the SAT and will involve use of one or more Government designations. Not applying this provision and clause to contracts for commercial products would exclude contracts intended to be covered by this rule and undermine the overarching purpose of the rule. Consequently, DoD plans to apply the rule to contracts for the acquisition of commercial products, including COTS items, and commercial services.

V. Expected Impact of the Rule

The DFARS currently does not directly address ownership of trademarks and similar marks or designations, such as popular names or program names. While there is protection for common law trademarks and registered trademarks in the Lanham (Trademark) Act, this protection may not apply to all types of marks and designations used and owned by DoD and contractors. The proposed rule, when finalized, will require contracting officers to include in solicitations a list of contract-specific

designations relevant to the acquisition. This proposed rule requires offerors to submit in their offers an asserted-marks list to facilitate recognition of contractor-owned marks or designations. This proposed rule is intended to create a transparency mechanism for each party to identify designations, marks, or trademarks that may overlap prior to contract award to encourage early and efficient resolution of potential disputes over ownership of marks or designations. The proposed rule will proactively prevent disputes arising from overlapping claims before contract award.

VI. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, as amended.

VII. Regulatory Flexibility Act

DoD does not expect this proposed rule, when finalized, to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the economic impact of the proposed rule on offerors is expected to be slight or negligible. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD is proposing to amend the DFARS to add text ensuring that DoD and its authorized contractors are not restricted in the use of certain DoD program nomenclature, such as program names and assigned DoD systems designations (*e.g.*, a type of mission-design-series designator, approved item name, or approved popular name) that are assigned and approved by the Government pursuant to established procedures.

The objectives of the proposed rule are to balance and protect the varied interests and equities that both DoD and its contractors might possess in DoD program nomenclature, including but not limited to trademarks. The legal

basis for the proposed rule is 41 U.S.C. 1303.

This proposed rule may impact small entities that are awarded DoD contracts for major programs, to include Acquisition Category 1 programs. Based on data from the Federal Procurement Data System and Electronic Data Access for fiscal year 2018 through fiscal year 2020, DoD estimates that an average of 222 unique small entities are awarded an average of 364 total contract actions on an annual basis that likely implicate DoD program nomenclature.

The changes in this proposed rule would add a requirement for offerors to submit an asserted-marks list, accurate at time of offer. "Asserted marks" means all trademarks, service marks, collective marks, certification marks, or other marks used as indicators of origin or source, whether registered or not, that the offeror or contractor asserts that it owns or controls, that are associated with a specific contract or program, and that are included in the asserted-marks list made part of the contract. Such asserted marks might include, but are not limited to, the following: corporate names, trade names, logos, acronyms, slogans, insignia, seals, emblems, domain names, website addresses, and hashtags. An offeror may submit an updated asserted-marks list any time before contract award.

This proposed rule applies to all offerors, including both large and small entities, responding to solicitations containing the solicitation provision proposed at DFARS 252.227-70XX, Identification of Asserted Marks. This proposed rule therefore imposes new recordkeeping and compliance requirements for small entities. Senior-level staff will most likely possess the skills necessary to prepare the offeror's asserted-marks list.

This proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known alternatives that would accomplish the stated objectives.

DoD invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2021-D002), in correspondence.

VIII. Paperwork Reduction Act

This proposed rule contains information collection requirements that require the approval of the Office of

Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35). Accordingly, DoD has submitted a request for approval of a new information collection requirement concerning Use of DoD Program Nomenclature (DFARS Case 2021–D002) to the Office of Management and Budget.

A. Estimate of Public Burden

Public reporting burden for this collection of information is estimated to average 1.8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows:

Respondents: 2,656.

Responses per respondent:
Approximately 1.3.

Total annual responses: 3,320.

Preparation hours per response: 1.8 hours.

Total response burden hours: 5,976.

B. Request for Comments Regarding Paperwork Burden

Written comments and recommendations on the proposed information collection, including suggestions for reducing this burden, should be submitted using the Federal eRulemaking Portal at <https://www.regulations.gov> or by email to osd.dfars@mail.mil. Comments can be received up to 60 days after the date of this proposed rule.

Public comments are particularly invited on: whether this collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of DoD's estimate of the public burden of this information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

To obtain a copy of the supporting statement and associated collection instruments, please email osd.dfars@mail.mil. Include DFARS Case 2021–D002 in the subject line of the message.

List of Subjects in 48 CFR Parts 212, 227, and 252

Government procurement.

Jennifer D. Johnson,
Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212, 227, and 252 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR parts 212, 227, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 212—ACQUISITION OF COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES

■ 2. Amend section 212.301 by adding new paragraphs (f)(xii)(D) and (E) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial products and commercial services.

* * * * *

(f) * * *

(xii) * * *

(D) Use the provision at 252.227–70XX, Identification of Asserted Marks, as prescribed in 227.7X04(a).

(E) Use the clause at 252.227–70YY, Contractor Use of Government Designations, as prescribed in 227.7X04(b).

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PART 227—PATENTS, DATA, AND COPYRIGHTS

■ 3. Add subpart 227.7X to read as follows:

SUBPART 227.7X—CONTRACT-SPECIFIC DESIGNATIONS

Sec.

227.7X00 Scope of subpart.

227.7X01 Definitions.

227.7X02 General.

227.7X03 Procedures.

227.7X04 Solicitation provision and contract clause.

SUBPART 227.7X—CONTRACT-SPECIFIC DESIGNATIONS

227.7X00 Scope of subpart.

This subpart prescribes procedures regarding the identification and use of Government designations, such as trademarks and program names, and the identification of offerors' and contractors' asserted marks.

227.7X01 Definitions.

As used in this subpart—

Asserted marks means all trademarks, service marks, collective marks,

certification marks, or other marks used as indicators of origin or source, whether registered or not, that the offeror or contractor asserts that it owns or controls, that are associated with a specific contract or program, and that are included in the asserted marks-list made part of the contract. Such asserted marks may include but are not limited to the following: corporate names, trade names, logos, acronyms, slogans, insignia, seals, emblems, domain names, website addresses, and hashtags.

Contract-specific designation means any Government designation included in the contract-specific designation list, where such Government designation identifies or is intended to identify or describe the following:

(1) Goods, systems, materiel, or products developed, manufactured, or delivered in performance of the contract.

(2) Services rendered in performance of the contract.

(3) Program names, project names, or other organizational or requiring, sponsoring, or contracting activity names related to the contract.

Government designations means—

(1) Trademarks, service marks, collective marks, certification marks, or other marks used as indicators of origin or source, owned by, or controlled by the Government, whether registered or not; and

(2) Other identifiers that the Government identified, selected, adopted, created, controlled, or managed, including but not limited to the following: mission design series designators, program names, weapon system names, popular names (e.g., as defined or discussed in DoD Instruction 4120.15, Designating and Naming Military Aerospace Vehicles), materiel names, names of the Armed Forces of the United States (as defined in 10 U.S.C. 101), logos, acronyms, insignia, seals, emblems, domain names, website addresses, and hashtags.

227.7X02 General.

(a) Trademark law requires trademark owners to exercise control over the use of their marks with respect to the nature and quality of relevant goods and services to maintain enforceability of the marks. Failure to include quality control provisions in a trademark license, or “naked licensing”, can result in loss of trademark rights.

(b) The clause at 252.227–70YY, Contractor Use of Government Designations, paragraph (b)(5), concerns the nature and quality of goods or services associated with a contract-specific designation, or the designation itself, to avoid naked licensing and

retain Government control over the use of contract-specific designations that are also trademarks.

227.7X03 Procedures.

(a) *Planning for contract-specific designations.* Before issuing a solicitation exceeding the simplified acquisition threshold that will involve use of one or more Government designations, the contracting officer shall obtain the Government's preliminary contract-specific designation list from the requiring activity. See PGI 227.7X03(a).

(b) *Contract-specific designation list.* The contracting officer shall include, in a solicitation that will involve use of one or more Government designations, a list of contract-specific designations relevant to the acquisition. The contracting officer shall attach the contract-specific designation list to any resulting contract. See PGI 227.7X03(b).

(c) *Asserted-marks list.* The contracting officer shall attach to the resulting contract the asserted-marks list that the contractor submitted in response to the solicitation, as required by 252.227-70XX, Identification of Asserted Marks. See PGI 227.7X03(c).

(d) *Postaward updates to the asserted-marks list and contract-specific*

designation list. After award of the contract, based only on new information or inadvertent omission, the Government may update the contract-specific designation list, and the contractor may update the asserted-marks list, only by mutual agreement of the parties. The contracting officer shall incorporate the agreed-upon updated list(s) into the contract.

227.7X04 Solicitation provision and contract clause.

(a) Use the provision at 252.227-70XX, Identification of Asserted Marks, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial products and commercial services, that contain the clause at 252.227-70YY.

(b) Use the clause at 252.227-70YY, Contractor Use of Government Designations, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial products and commercial services, that are expected to exceed the simplified acquisition threshold and will involve use of one or more Government designations.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Add sections 252.227-70XX and 252.227-70YY to read as follows:

252.227-70XX Identification of Asserted Marks.

As prescribed in 227.7X04(a), use the following provision:

Identification of Asserted Marks (Date)

(a) *Definitions.* As used in this provision—
Asserted marks, contract-specific designation, and Government designation have the meanings provided in the clause 252.227-70YY, Contractor Use of Government Designations.

(b) *Submission of asserted-marks list.* The Offeror shall include in its offer an asserted-marks list, complete at time of initial offer. The Offeror shall submit an updated asserted-marks list reflecting any additions or deletions in any proposal revisions. Submission of the asserted-marks list does not constitute the Government's agreement to the Offeror's assertions of rights to the asserted marks.

(c) *Format for asserted-marks list.* The Offeror shall submit its asserted-marks list as an attachment to its offer in the following format, dated and signed by an official authorized to contractually obligate the Offeror:

ASSERTED-MARKS LIST

[The Offeror asserts that it owns or controls the following marks associated with this solicitation]

Asserted mark ¹	Goods or services ²	Basis for assertion and jurisdiction(s) in which rights are claimed ³	Date of first use, if any	List other related government contract or program, if any	Is the asserted mark still in use?
(LIST)	(LIST)	(LIST)	(LIST)	(LIST)	(Yes/No).

¹ For "Asserted Mark", list (or reference in an attachment) the designation in which the Offeror asserts rights.

² For "Goods or Services", list the goods and/or services in connection with which the mark from the "Asserted Mark" column is used. Do not merely list classification numbers.

³ Indicate whether the Offeror owns a registration or has applied for registration of the mark listed in the "Asserted Mark" column. If so, include the registration or application number, including jurisdiction. This could include a Federal, State, or foreign registration, or a pending application. If the Offeror claims rights based on something other than registration or application (*i.e.*, common law rights), indicate so and list the territory in which rights are claimed.

Date _____

Printed Name: _____

Title: _____

Signature: _____

[End of Asserted-Marks List]

(End of provision)

252.227-70YY Contractor Use of Government Designations.

As prescribed in 227.7X04(b), use the following clause:

Contractor Use of Government Designations (Date)

(a) *Definitions.* As used in this clause—
Asserted marks means all trademarks, service marks, collective marks, certification marks, or other marks used as indicators of origin or source, whether registered or not, that the offeror or contractor asserts that it

owns or controls, that are associated with a specific contract or program, and that are included in the asserted-marks list made part of the contract. Such asserted marks may include but are not limited to the following: corporate names, trade names, logos, acronyms, slogans, insignia, seals, emblems, domain names, website addresses, and hashtags.

Contract-specific designation means any Government designation included in the contract-specific designation list, where such Government designation identifies or is intended to identify or describe the following:

(1) Goods, systems, materiel, or products developed, manufactured, or delivered in performance of this contract.

(2) Services rendered in performance of this contract.

(3) Program names, project names, or other organizational or requiring, sponsoring, or contracting activity names related to this contract.

Government designation means—

(1) Trademarks, service marks, collective marks, certification marks, or other marks used as indicators of origin or source, owned by, or controlled by the Government, whether registered or not; and

(2) Other identifiers that the Government identified, selected, adopted, created, controlled, or managed, including but not limited to the following: mission design series designators, program names, weapon system names, popular names (*e.g.*, as defined or discussed in DoD Instruction 4120.15, Designating and Naming Military Aerospace Vehicles), materiel names, names of the Armed Forces of the United States (as defined in 10 U.S.C. 101), logos, acronyms,

insignia, seals, emblems, domain names, website addresses, and hashtags.

(b) *Contractor acknowledgement and agreement.* The Contractor acknowledges and agrees that—

(1) The Government has the right and authority to use, assert rights in, license, attempt to register, and preclude others, including the Contractor, from using any contract-specific designations, unless such designations are also on the asserted-marks list included in this contract;

(2) This contract authorizes the Contractor to use any contract-specific designation solely to perform this contract except as stated in paragraph (b)(6) of this clause;

(3) Authorization granted by this contract shall terminate at the earlier of—

(i) The end of the period of performance of this contract; or

(ii) Contract termination;

(4) Contractor use of contract-specific designations, unless such designation is also on the asserted-marks list included in this contract, shall inure solely to the benefit of the Government, and the Government owns any goodwill related to the contract-specific designations; and

(5) The Contractor shall comply with all—

(i) Contract specifications, standards, and other contract requirements, regarding the nature and quality of the goods, services, or both, delivered or performed under the contract and associated with the contract-specific designation; and

(ii) Requirements for use of the contract-specific designation, unless such designation is also on the asserted-marks list included in this contract.

(6) Unless the designation is on the asserted-marks list included in this contract, the Contractor shall not take, or attempt to take, the following actions:

(i) Develop or acquire any right, title, or interest independent of the Government in any contract-specific designation.

(ii) Challenge any mark or assert any claim against the Government or its contractors and

subcontractors, in any jurisdiction, based either on trademark or any other cause of action based on rights the Contractor believes it has in any contract-specific designation.

(iii) Assert any ownership rights or any interest in, contest, dispute, challenge, oppose, or seek to cancel the Government's right, title, or interest in any contract-specific designation.

(iv) Seek royalties from the Government, or its contractors or their subcontractors, for use of any contract-specific designation.

(v) Undertake any acts that will or may invalidate or jeopardize the Government's rights in any contract-specific designation.

(vi) Apply for or obtain, or assist any person in applying for or obtaining, any registration of any contract-specific designation.

(vii) Use, combine, or alter a contract-specific designation in a manner that would—

(A) Disparage the Government;

(B) Reflect adversely on the Government; or

(C) Weaken or damage any goodwill associated with any contract-specific designation.

(viii) Extend its authorization to use any contract-specific designation to any third party, other than a subcontractor performing under this contract.

(ix) Register domain names or other forms of any contract-specific designation, whether alone or as part of a domain name or other form of intellectual property owned or controlled by the Government.

(x) Use a domain name or other form of intellectual property that is confusingly similar to any contract-specific designation.

(xi) Use or incorporate any contract-specific designation in any manner unconnected with the contract, including marketing, outreach, or advertising, or as domain names, without prior written permission of the Contracting Officer.

(xii) Cause or authorize any third party to take any of the foregoing actions.

(c) *Notification of infringement or unauthorized use.* The Contractor shall promptly notify the Contracting Officer in writing if it becomes aware of a potential infringement, or any other use not authorized by the Government, of any contract-specific designation by a third party. The Contractor shall reasonably cooperate, upon request, with the Government in connection with any action defending the Government's right to any contract-specific designation. The Contractor shall not attempt to enforce rights in any contract-specific designation, either for itself or on behalf of the Government, unless such designation is also on the asserted-marks list included in this contract.

(d) *Marks other than contract-specific designations and asserted marks.* Nothing contained in this clause affects the Contractor's or the Government's right, title, and interest in any marks other than contract-specific designations and asserted marks.

(e) *Updates to asserted-mark list or contract-specific designation list.* Based only on new information or inadvertent omission, the Contractor may request an update to the asserted-marks list by submitting a request to the Contracting Officer. The Government may update the contract-specific designation list, and the Contractor may update the asserted-marks list, only by mutual agreement of the parties. The same mark or designation may not be added to the contract-specific designation list and the asserted-marks list except by mutual agreement of the parties.

(f) *Subcontracts.* The Contractor shall include this clause, including this paragraph (f), in subcontracts or similar contractual instruments, including subcontracts for commercial products and commercial services.

(End of clause)

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