

Category VIII Munitions List Items Procurement Demilitarization Clause
Military Aircraft (Combat, Tactical Air Vehicles) and Associated Equipment

DEMILITARIZATION REQUIREMENT AND PROCEDURES

I. Demilitarization Summary:

A. This procurement action has a demilitarization requirement. The demilitarization provisions in this solicitation implement the policy and requirements of the Arms Export Control Act, 22 U.S.C. Section 2778 and the "International Traffic of Arms Regulations" (ITAR) at 22 Code of Federal Regulations (CFR) Parts 120-131. Regulatory requirements and guidance are contained in Federal Acquisition Regulation (FAR) 45.6 ("Reporting, Redistribution, and Disposal of Contractor Inventory") and Defense Federal Acquisition Regulation (DFAR) 245.604 ("Restrictions on Purchase or Retention of Contractor Inventory").

B. Demilitarization policy is an internal Department of Defense (DoD) creation, and as such is promulgated via DoD regulations and in the establishment of contract requirements. Accordingly, the Government's right to require demilitarization under this clause is a contractual right, subject to the authority and discretion of the Government Contracting Officer, when certifiable Contractor's compliance with all existing Trade Security Control (TSC) Laws is apparent.

C. The demilitarization clause (s) in this solicitation contractually implement the Department of Defense's (DoD) policy and requirements. As a contractual matter, the contracting officer is the sole government official with the responsibility, authority and discretion to interpret and implement these contract clauses.

D. The DoD's policy and requirements are contained in the Demilitarization Manual, DoD 4160.21-M-1. This manual is hereby incorporated by reference and its terms, conditions, and procedures are valid and enforceable as contractual requirements. If there is a conflict between the Demilitarization Manual and the demilitarization clauses herein, the Demilitarization Manual takes precedence.

E. This contract requires the manufacture, assembly, test, maintenance, repair, and/or delivery of military/defense items. This clause sets forth the requirements for the demilitarization, and corresponding certification and verification of disposition of "excess property" under this contract. The requirements under this clause are applicable to any contractor and/or subcontractor who perform work under this contract. This clause is a mandatory flow-down clause; accordingly, contractor/subcontractor must include this clause in subcontracts for work under this solicitation and resulting contract.

F. The demilitarization requirements apply to all materials and property (tooling, castings, forgings, parts in whatever stage of assembly, etc) bought, assembled, produced under this contract regardless of the type of contract and regardless of who has title to the material. The intent is to control military/defense items in accordance with statutory and regulatory requirements. Bidders/offerors' proposed prices under this solicitation and

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any resulting contract should include any and all cost(s) to comply with this clause and the Government's demilitarization requirements.

G. The contractor may perform demilitarization at any time throughout the contract period. The contractor will provide a copy of demilitarization certificates to the Contracting Officer within 30 days for inclusion in the contract file.

II. Definitions:

A. "Contract Excess Property" means property of the type covered by this contract for which the Contractor does not claim payment or has been denied payment. This includes but is not limited to, rejects or overruns. Excess property (whether title to the property is in the Government or not) includes completed or partially completed parts, components, subassemblies and assemblies, end items, and all associated packaging and marking. Contract excess property shall be completely destroyed or mutilated (whichever is prescribed) prior to final payment unless waived by the Government Contracting Officer

B. "Key Points" means parts, components, alignment points, attachment fittings or areas that are critical to the intended function and/or performance of the next higher assembly.

C. "Demilitarization" means the act of destroying the military offensive and defensive advantages inherent in certain types of equipment and material. The term includes mutilation, dumping at sea, cutting, crushing, scrapping, melting, burning or alteration designed to prevent the further use of this equipment and material for its originally intended military or lethal purpose. It applies equally to material in unserviceable and serviceable condition.

D. "Scrap" means material that has no value except for its basic material content.

E. "Munitions List Items (MLI)" means any item contained in the U. S. Munitions List, 22 CFR 121.

F. "Commerce Control List Item (CCLI)" means dual use (military, commercial and other strategic uses) items under the jurisdiction of the Bureau of Export Administration, U. S. Department of Commerce, through the Export Administration Regulations. The types of items under the CCL are commodities (i. e., equipment, materials, electronics, etc.), software and technology. The CCL does not include those items exclusively controlled by another department or agency of the U. S. government.

G. "Trade Security Controls (TSC)" means control procedures designed to preclude the sale or shipment of Munitions List or Commerce Control List Items to any entity whose interests are inimical to those of the United States. These controls are also applicable to such other selected entities as may be designated by the Deputy Under Secretary of Defense (Trade Security Policy).

H. "Commercial Type Property" means property not generally considered to be unique and peculiar to DoD and possessing commercial marketability.

III. Applicability:

This solicitation/contract is for the acquisition of Munitions List Items. This item (s) have been determined to require demilitarization. The contractor is required to demilitarize all excess contract material and/or property possessing military offensive or defensive characteristics, and not required within DoD. A contractor's or subcontractor's authority to purchase, retain, or dispose of contractor inventory is subject to this demilitarization clause and any other contract provisions governing the disposition of property/material that is classified as possessing military or defensive characteristics, or is dangerous to the public health, safety or welfare.

A. Property containing "key points" that the contractor is required to demilitarize. These are DEMIL coded "C" items.

1. Aircraft, including but not limited to helicopters, non-expansive balloons, drones and lighter-than-air aircraft, which are specifically designed, modified, or equipped for military purposes, this includes but is not limited to the following military purposes: gunnery, bombing, rocket or missile launching, electronic and other surveillance, reconnaissance, refueling, aerial mapping, military liaison, cargo carrying or dropping, personnel dropping, airborne warning and control, and military training. Developmental and experimental aircraft and components that have a significant military applicability such as aircraft engines, except reciprocating engines, specifically designed or modified for military aircraft: ignition system, fuel system (including the variable area nozzles and/or fuel spray systems, as applicable), and engine mounting fittings of ram-jet, and pulse-jet and scramjet engines; thrust chamber, turbine pump, balanced material orifices, gas generator (when used) and engine mounting fittings of rocket engines; associated armament equipment and subsystems.

2. Test equipment containing items that are identified in paragraphs III A or B of this clause.

B. Key-points of the property listed in paragraph III A, which the contractor is required to demilitarize. These are DEMIL coded "D", "E", "F" or "P" items.

1. Engine afterburners; thrust vectoring nozzles; components and parts incorporating radar absorbing material (RAM); cartridge-actuated devices utilized in emergency escape of personnel; airborne refueling equipment specifically designed for use with military aircraft, spacecraft and missiles; radomes; inertial navigation systems, aided or hybrid inertial navigation systems; inertial measurement units (IMU's) and attitude and heading reference systems (AHRS) specifically designed, modified, or configured for military use and all specifically designed components, parts, and accessories; ground effect machines (GEMS) specifically designed or modified for military use including but not limited to surface effect machines and other air cushion vehicles; aircraft fuselage; tail assembly;

wing spar; missile ablative shell; impact detectors and circuitry; missile guidance systems; target selection programming data; engine turbine wheel and shaft assembly of turbojet, turboprop, and turbofan engines; ignition system for ram-jet, pulse-jet and scram-jet engines; fuel system including the variable area nozzles or fuel spray systems, as applicable, for ram-jet, and pulse-jet and scramjet engines; engine mounting fittings of ram-jet, and pulse-jet and scramjet engines; thrust chamber; turbine pump; balanced material orifices; gas generator; engine mounting fittings of rocket engines; pylons for external stores (armament, fuel, etc.); gun barrels; launcher barrels; tub tubes or pods; receivers; firing mechanisms; gun rotor assemblies; delinking and declutching feeders; electric drive assemblies and mounts; ammunition containers; ammunition crossover assemblies; magazines and chute assemblies; controllers; intervalometers; gunner control panel; pilot wing control panels; reflex sights.

2. Classified equipment and classified technical data.

3. Other technical data relating to the design, engineering, development, processing, use, operation, overhaul, repair, testing, maintenance, modification or reconstruction of any item in paragraphs III A and B, to include any reproduced copies and additional drawings and working papers.

C. Property the contractor is not required to demilitarize. These are DEMIL coded "A", "B" or "Q" items.

1. All other components, parts, accessories, attachments, and associated equipment (including materials handling ground support equipment) specifically designed or modified for the articles in paragraphs III A and B of this clause and not identified as commercial type property. Although demilitarization is not required for these items, TSCs are required. These are DEMIL coded "B" or "Q" items.

2. Property meeting the definition of "Commercial Type Property" and all "common hardware" (e.g.: nuts, bolts, screws, brackets, etc.) and all wiring, cable and wiring/cable harnesses and assemblies, regardless of design or configuration except that used in nuclear triggering devices. No demilitarization or TSCs are required. These are DEMIL coded "A".

D. Method of Demilitarization.

1. Military aircraft with fixed wing, single and multiple engines, will have the area where the wing attaches and becomes a part of the fuselage structure mutilated in a manner to completely sever the wing spar to make it unfit for flight. The empennage (tail assembly) will be destroyed by mutilating the horizontal and vertical stabilizer attaching fittings area in such a manner as to make it unfit for flight. The fuselage will be destroyed by severing an area (normally at the production break) between the wing and empennage. As an option, the airframe and fuselage may be destroyed by crushing, shredding or smelting.

2. Attack helicopters and helicopters designed specifically for attack purposes will be demilitarized by crushing, shredding or smelting the entire airframe and fuselage; ensuring that the transmission mounts and supporting structural beams, engine deck in area of mounts, wing attaching mounts and support beam structure, fuselage to tail boom attaching mounts and tail rotor gear box mounts have been destroyed.

3. For turbojet, turboprop and turbofan engines, remove the turbine wheel and shaft assembly from the engine and cut a segment (two or more "fir trees") from turbine wheel bucket splines. Sever the shaft at the wheel end bearing point. When multistage turbines are involved, only the shaft and last stage turbine wheel need be demilitarized. In cases where it is not economically practicable or feasible to remove the turbine wheel and shaft assembly from the engine, gain access to them by entering through shroud either by removal or cutting hole in shroud.

4. Armament will be destroyed per the demilitarization clauses for Categories I, II or IV.

5. Explosives, including explosive bolts and squibs, will be disposed of as specified in demilitarization clause for Category III.

6. Non-expansive balloons will have specific instructions and technical guidance for demilitarization furnished by the Commander, Naval Air Systems command, Department of the Navy, Washington, D.C., upon request.

7. Demilitarize electronic items by cutting, crushing or melting to the degree required to preclude its restoration to a usable condition.

8. Demilitarize classified equipment by cutting, crushing or melting to the extent necessary to preclude its restoration to a usable condition.

9. Demilitarize classified technical data by burning, shredding or pulping.

10. Demilitarize technical data relating to the design, engineering, development, processing, use, operation, overhaul, repair, testing, maintenance, modification or reconstruction of any item in paragraphs III A and B, to include any reproduced copies, additional drawings and working papers by burning, shredding or pulping to the extent necessary to preclude its restoration to a usable condition.

11. Demilitarize all other items identified in paragraph III A and B by cutting, crushing or melting to the extent necessary to preclude its restoration to a usable condition.

IV. Demilitarization Certification and Verification (DC &V):

A. During or upon completion of manufacturing under this contract, the Prime Contractor shall notify the ACO, or his designated representative, in a timely manner so

that a government representative can physically witness all demilitarization of material accomplished under this contract whether the Prime Contractor or a Subcontractor is performing the demilitarization. Demilitarization shall be accomplished as prescribed in this clause. A contractor's representative and a technically qualified U.S. Government Official (United States citizen), as designated by the responsible Government organization, shall actually witness the demilitarization of the material; and both are required to sign and date the demilitarization certificate (provided below). The certificate shall identify the Commercial and Government Entity (CAGE) Code and Part Number or the National Stock Number (NSN) and quantity by item. It will also state that demilitarization has been accomplished.

B. Subcontractors shall notify the Prime Contractor in a timely manner so that the ACO can coordinate for a government representative to witness all demilitarization of material accomplished under this contract.

C. The ACO/PCO will ensure that a copy of the certificate is placed in the appropriate contract administration file and retained for a period of 4 years. However, a copy of all demilitarization certificates for small arms weapons/receivers will be retained indefinitely in a permanent record file by the DoD contracting activity.

DEMILITARIZATION CERTIFICATE

I, _____
 (name and title of Contractor's employee) am the officer or employee of

_____ (name of company) responsible for ensuring demilitarization requirements have been accomplished. I certify that **** (THE ITEMS AND QUANTITIES IDENTIFIED BELOW)**** were demilitarized in accordance with instructions provided in contract _____ (contract number).

CAGE and P/N or NSN	Item Name	Qty
_____	_____	_____
_____	_____	_____

 Typed name, title and signature of Contractor representative certifying (witnessing) the demilitarization.

 Typed name, title and signature of Government representative verifying (witnessing) the demilitarization.

D. This certificate, along with the final DD Form 250, will be forwarded by the Government QAR to the Administrative Contracting Officer (ACO) so that final payment can be made. The ACO will not release the final DD Form 250 for payment to the

Contractor unless the Demilitarization Certificate has been received. The Demilitarization Certificate received will become part of the contract file.

WARNING: SIGNING A FALSE CERTIFICATE CONSTITUTES A FELONY AND MAY SUBJECT THE INDIVIDUAL TO CRIMINAL PROSECUTION.

(End of Demilitarization Certificate)

V. Demilitarization Waivers:

A. The Contracting Officer has the authority to waive demilitarization contractual requirements. However, any waiver must be predicated on disposition of material in a manner that will preclude the material from entering the commercial market. All demilitarization waivers must be submitted in writing and approved prior to contractor disposition of all contract excess property and prior to the release of final DD Form 250 for payment. This will encourage timely disposition of material under this contract. All waiver requests must specify the items, quantity, disposition of the material, and any additional terms. Contact the contracting officer for additional specific guidance.

B. When the government-contracting officer grants a demilitarization waiver all packaging and Government property containing non-removable markings, required exclusively by this contract, shall have these markings permanently obliterated before any non-demilitarized disposition.

C. The contractor agrees that demilitarization performed under this contract will be conducted in accordance with this clause or DoD 4160.21-M-1, and all material disposed of will meet or exceed the definition of scrap as defined by this clause.

VI. Disputes - any disputes concerning this clause shall be addressed in accordance with the "Disputes" clause in this solicitation/contract.

End of Clause