

program and only about 20% of these projects ever reach production.

7. Miscellaneous

7.1 General

The following aspects of selling to the US defence market are listed for your information. To receive more information on these topics, you should contact EAITC, the Embassy or a Trade Commissioner.

7.2 Foreign Military Sales (FMS)

When invited by a third country to participate in a US FMS case, you should be wary. If the foreign country is buying on US credit, there is very little likelihood that you will be able to participate unless your product is already in the US defence inventory. If it is a cash sale, it is far better to make the sale direct from Canada. Another caution is that an FMS case does not happen quickly (DFAR 225.73).

7.3 Rights in Technical Data

Canadian companies exporting to the US Department of Defense should be aware of US laws and regulations which govern ownership of technical data that you develop as the result of a contract. In general, there are three levels varying from Unlimited Rights for the US Government down to Limited Rights (FAR 27.4/DFAR 227).

7.4 Customs Brokers

You are encouraged to peruse the booklet "Defence Export Shipper's Guide", available from EAITC or any Trade Commissioner.

For prime contracts with a DoD activity, you may confirm with DCMAO Ottawa at (613) 996-5020/5120, whether the duty free entry data system, maintained by the International Logistics Office, New York, shows that duty free entry is authorized. For subcontractors, check

with your customer to verify duty free entry status.

Companies, particularly those subcontracting to US contractors, should consider the use of a Customs Broker (DFAR 225.6).

7.5 Protests

Exporters should be aware that protests play a part in US contracting. The Canadian company may file a protest (normally through CCC) or could be the subject of one. Timing is critical in filing protests, usually only a few days are available in which to act.

There are five protest options: Agency, Claims Court, District Court, General Accounting Office (GAO) and General Services Board of Contract Appeals. Normally, legal advice should be sought. Agency and GAO protests are normally the least expensive route, but offer less likelihood of a decision (FAR 33). A protest is an option of last resort and, unfortunately, are rarely successful.

7.6 Product Classification

Both Canada, through Supply & Services Canada (SSC), and the US, issue the same criteria for identifying products. The first two numbers of the four digit identification system are used in the Commerce Business Daily (CBD) for identifying solicitations. You should check the SSC Supply List number for your identification. In the US it is known as the Federal Supply Classification (FSC) Code. The first four digits of the National Stock Numbers are the FSC Code and the remainder identifies the individual product.

7.7 Company Identification

The Commercial and Government Entity (CAGE) Code is a coding structure that identifies contractors doing business with the US Government. Canadian companies can acquire their own CAGE Code through DND or CCC to the US Defense Logistics Services Center which issues the code.