

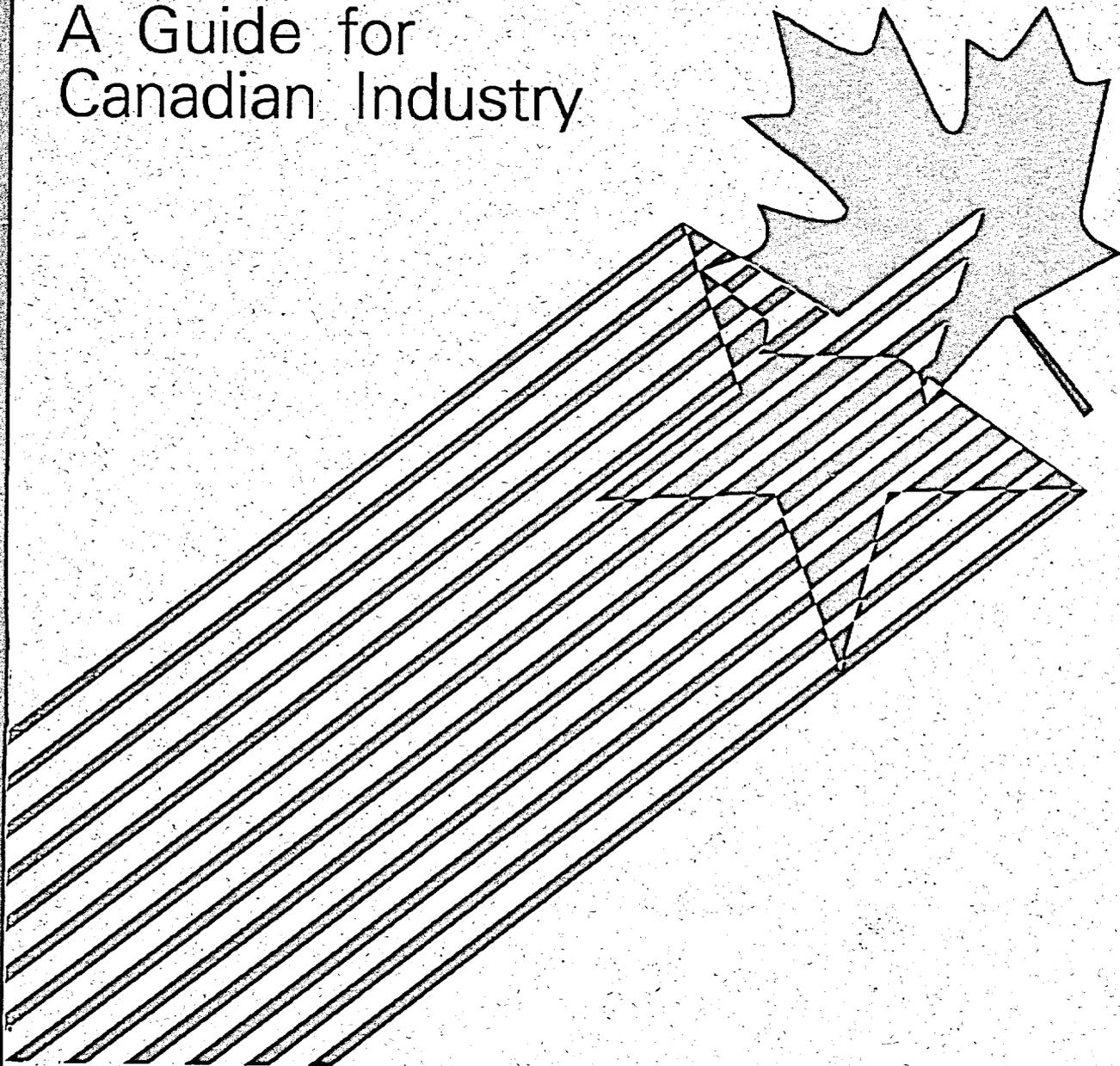
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ACCESSING THE UNITED STATES DEFENCE MARKET

A Guide for
Canadian Industry

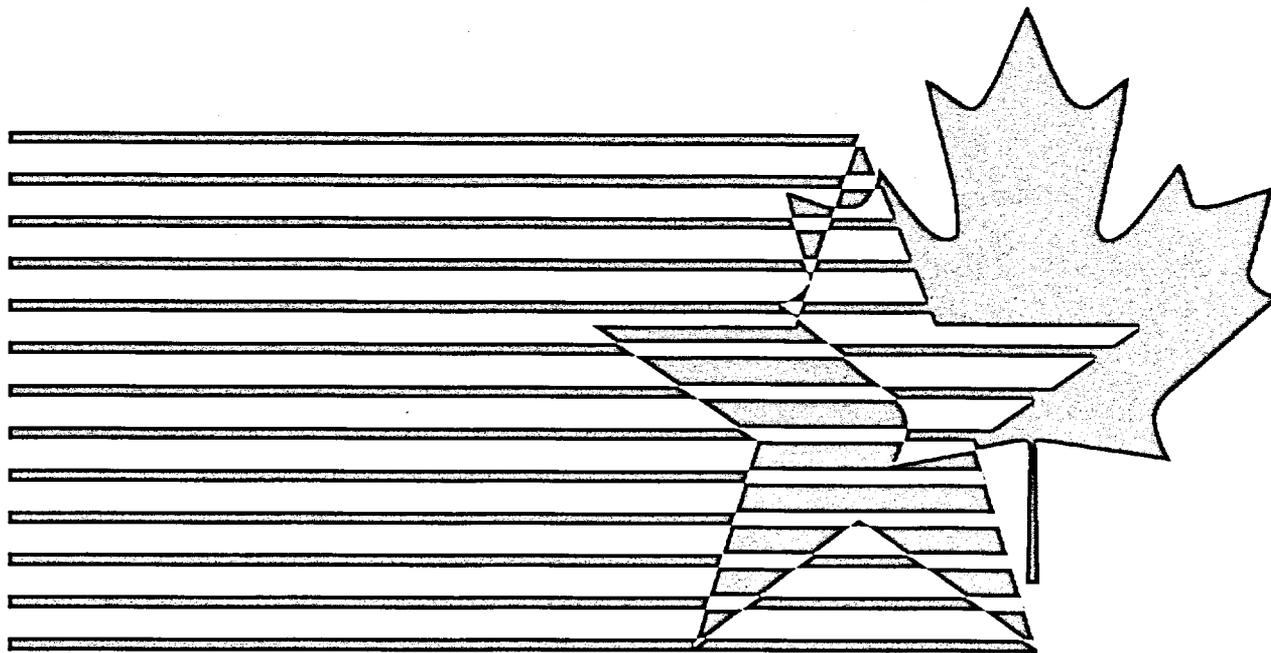


External Affairs and
International Trade Canada

Canada

ACCESSING THE UNITED STATES DEFENCE MARKET

A Guide for Canadian Industry



Dept. of External Affairs
Min. des Affaires extérieures

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**ACCESSING THE UNITED STATES DEFENCE MARKET
A GUIDE FOR CANADIAN INDUSTRY**

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ACCESSING THE UNITED STATES DEFENCE MARKET -- A GUIDE FOR CANADIAN INDUSTRY

1. GENERAL MARKET ADVICE TO INDUSTRY

1.1 Introduction

Under the Canada-USA Defence Production Sharing Arrangement (DPSA), Canadian companies are allowed to compete for US defence contracts directly, or as subcontractors to US defence contractors on the same basis as American companies, with some exceptions described herein.

The United States defence market is large, and competitive. Canadian companies are encouraged to address this market. While US acquisition rules and procedures may sound ominous, they differ little from selling to the Canadian Government. You have a lot of help available to provide guidance.

There are two main access routes to this market;

- a) direct to a US defence acquisition agency, normally through the Canadian Commercial Corporation (CCC) and,
- b) subcontracting to a US defence contractor.

The defence market conforms to its own acquisition procedures and generally is outside the Canada-US Free Trade Agreement. There are restrictions; however, Canadian companies generally have access to this multi billion dollar market.

The overriding advice to potential defence exporters is that it is your responsibility to initiate and pursue action. While Government offices and Trade Commissioners (Annex A) can provide guidance in entering and staying in

this market, you must always take the initiative and understand the rules; there is nothing automatic about selling your product or service. The successful exporters are patient and aggressive marketers.

NOTE: If you are a construction, clothing or food company, you should not expend any further resources until you check with External Affairs and International Trade Canada (EAITC).

1.2 Industry Checklist

A new exporter to the US defence market should check the following list:

- Identify your product/services (Supply & Services Canada Supply List);
- Identify contacts in the Canadian Government which could provide assistance (see Annex A);
- Identify potential customer/buying agency by perusing US publications such as "Selling to the Military" and the "Subcontracting Directory" (check with External Affairs & International Trade Canada (EAITC), Ottawa, Washington Embassy or Trade Commissioner);
- Acquire a copy of the "Exporters Shipping Guide" which should assist in your cross-border activities (available from EAITC, CCC or Trade Commissioner);
- Consider attending/participating in a US defence show;
- Determine industrial security requirements i.e., visit clearance request and classified document transmission procedures (contact Supply & Services Canada (SSC), Industrial & Corporate Security Branch, Tel: (819) 956-3646);
- If you wish to be considered as a potential prime contractor to the US Department of Defense you should now contact the Canadian Commercial Corporation (CCC),

Tel: (613) 995-9137, and submit a Bidders' Mailing List Application;

- If you have a subcontract with a US contractor, you should maintain close communication with your customer. If the subcontract provides for quality assurance, (QA) transportation, or any other government function at your plant, you should also contact the Department of National Defence QA representative or the US Defense Contract Management Area Operation (DCMAO) in Ottawa at (613) 992-2687;
- Contact/visit the appropriate US procurement office and ascertain:
 - (i) Magnitude of market - how often do they buy?
 - (ii) Restrictions such as National Security, Small Business Set-Asides, or any other restriction which may preclude your participation. Note: if there is a restriction, check with EAITC;
 - (iii) The competition; and,
 - (iv) Drawings/Specifications and qualification requirements;
- Register with the US-Canada Joint Certification Office, Battle Creek, Michigan, Tel: (616) 961-7431. This can ease visit requests and document transfers;
- Ascertain appropriate US acquisition regulations of which you should be aware (EAITC, Embassy, CCC). Annex "B" lists some of these regulations;
- If your product or its end use, may be used in US classified programs, ascertain procedures for acquiring documentation (EAITC, Embassy, SSC), and check your own security requirements; and,
- If you are a potential prime contractor, subscribe to the Commerce Business Daily.

NOTE: Annex C lists some typical questions and answers on this market.

2. US DEFENCE MARKET ACCESS PROCEDURES

2.1 Introduction

Access to the US defence market is made under the Canada-US Defence Production Sharing Arrangement (DPSA) and is embodied in the Defense Supplement of the US Federal Acquisition Regulations (DFAR 225.870).

NOTE: Copies of these regulations are held by EAITC, The Embassy and CCC.

2.2 General Terms

- US Buy American Act is waived;
- Duty Free Entry;
- Canadian companies generally compete on the same terms as their US counterparts; and,
- If a prime contractor, you generally contract through CCC.

2.3 Solicitations

The US defence acquisition agencies are required to advertise most expected purchases in the Commerce Business Daily. The solicitation documents (Bid Sets) are distributed to those companies on the Bidders' Mailing Lists (BML). (Canadians must submit BML applications through CCC).

US Bid Sets take the form of an Invitation for Bid (IFB), Request for Proposal (RFP) or Request for Quotation (RFQ). Details are available from CCC, EAITC or Trade Commissioners.

2.4 Commerce Business Daily (CBD)

This daily announcement of solicitations and notices comes in both paper and electronic edition. The CBD is primarily for marketing intelligence. When a solicitation appears, the vendor of a system or sub system should already have been aware of it by other means; for example through visits and submission of Bidders' Mailing List Applications through CCC. This prepositioning may not be required for parts/components vendors. For more information on the CBD, you should contact EAITC or CCC.

2.5 Making Contact

In order to make your capabilities known and become a competitor in this market, you should visit the contracting officer, assess the value of using an agent/sales representative and consider teaming with a US company.

NOTE: *The importance of establishing and maintaining good relations with the contracting officer cannot be overstated.*

3. RESTRICTIONS/SUPPORT

3.1 General

Canadian companies should be aware of those restrictions which could either prevent them from competing or could limit their participation. On the other hand, if a Canadian company does encounter what is perceived to be unfair practices, the US Department of Defense does support an advocacy program throughout the acquisition system. When in doubt, contact EAITC, or Embassy for advice.

3.2 Restrictions

- National Security

Many sectors including communication security, acoustics, electronic warfare, submarine technology, nuclear and other aspects are deemed to be in the national security interests of the United States. Therefore foreign, including Canadian, participants are generally excluded.

- Small Business Set-Asides

While Canadians can be sub-contractors to US small businesses, they cannot qualify as US small businesses, regardless of size. Where Small Business Set-Asides are used in the acquisition process, Canadian suppliers which are registered planned producers on that product (with CCC) are allowed to compete as a prime contractor.

- Public Law Restrictions

A Canadian may own a US small business without jeopardizing the US company's ability to qualify for set-asides.

Restrictions incorporated into US Public Law, normally through the annual budget process, precludes foreign suppliers, including Canadians, from providing food clothing and certain other products to the US military. (This is referred to as the Berry Amendment and is embodied in DFAR 225). Canada however, enjoys waivers in some of the "other" products.

The annual restriction on shipbuilding and repair, known as the Byrnes-Tollefson Amendment, precludes Canadian, and other foreign suppliers, from providing ships/vessels or major parts thereof.

Construction and construction engineering contracts are normally under the Buy American Act restrictions, therefore companies in this business are advised to contact EAITC before expending resources on these solicitations.

- **Miscellaneous**

Periodically, either as a result of an aggressive competitor bringing local political pressure to bear or through fear of an eroding defence industrial base, Congress may rule that certain products must be supplied by a US located source.

***NOTE:** Canadian entities are only considered as a US domestic source in the context of emergency planning and not in routine peace-time acquisition. Emergency planning is embodied in the North American Defence Industrial Base Organization.*

4. INDUSTRIAL SECURITY REQUIREMENTS

4.1 General

Companies involved with the US defence market as prime contractors, or a subcontractors, must be aware of the industrial security requirements related to classified contracting. There are NO shortcuts to the security protocol, therefore, advance planning is required.

The Industrial and Corporate Security Branch (ICSB), Supply and Services Canada (SSC), is responsible for the administration of Industrial Security arrangements, as they apply to US DoD/CCC bidding and contracting activities. For further information on the program, write to the Director of ICSB at the following address:

The Director
Industrial Corporate Security Branch
Supply & Services Canada
Place du Portage, PH III, 10B3
Hull, Quebec K1A OS5
Tel: (819) 956-3646
Fax: (819) 956-5140

4.2 Classified Contracting

Should your firm be considered for a CLASSIFIED project/contract, you are advised to contact ICSB as quickly as possible, in order that they might initiate action for a Facility Security Clearance (FSC) and Personnel Security Clearance (PSC), for those individuals of your firm who will be working on the project/contract. These clearance procedures can take several months to complete, depending on the size of your company, and the extent of your involvement in the project/contract. It is to your advantage, therefore, to initiate clearance action as soon as the requirement is known.

4.3 Classified/Unclassified Visit Clearance Requests (VCR)

A CLASSIFIED VCR is required for access to US sites in support of a CLASSIFIED project/contract. Proper VCR documentation must be submitted to SSC/ICSB, through designated security personnel in your company.

In some cases the US Department of Defense may require a VCR to visit a US military base or defence contractor, even though your product may be UNCLASSIFIED, or a commercial product.

The onus is on the firm to determine whether or not a visit clearance request is required. To do this, you will have to contact the Base Commander, or his staff, to determine the protocol specific to security at that base. (A lead-time of up to 45 days may be required). Companies that are registered with the US/Canada Joint Certification Office can use the certification process to facilitate procurement-related UNCLASSIFIED visits to US military bases or defence contractors.

Arrangements for this type of visit are made directly with the base or contractor. These are known as Directly Arranged Visits (DAV).

5. DOCUMENT/TECHNOLOGY TRANSFER FROM THE US

5.1 General

When acquiring documentation or equipment from the US Department of Defense or its contractors, you and your US transmitting source may have to conform to established US export procedures. These will depend on whether the materials fall under one of three categories; Unclassified, Unclassified Data Disclosing Critical Technology or Classified/Unclassified (Export Licence required).

NOTE: A Canadian Export Permit is NOT required for transferring data/documents/equipment to the USA.

5.2 Unclassified

Unclassified material, not controlled by the Department of Defense, is normally handled through the ordinary mail system.

5.3 Unclassified DoD/Controlled Technical Data

Although the US State Department's International Traffic in Arms Regulations (ITAR) part 126.5 generally exempts Canada from requiring an Export Licence for UNCLASSIFIED material, DoD will not authorize release of its export-controlled technical data to a Canadian company unless it is registered with the Joint Certification office.

5.4 Classified/Export Licence Required

The US State Department, Office of Defense Trade Controls issues Export Licences for Classified and Unclassified material outside 5.2 and 5.3. Your DoD program officer or contractor is responsible for making the

application; however, you will have to remind them of this requirement and follow-up.

It should be noted that transmission of CLASSIFIED information between Canada and the US must be via approved government-to-government channels. For more information, contact SSC, Industrial and Corporate Security Branch.

6. DEVELOPMENT/ASSISTANCE PROGRAMS

6.1 General

Should a Canadian company possess a unique technology and a US defence agency has a firm requirement for that technology, there are two programs which could assist the company in the market; the Canada-US Defence Development Sharing Agreement (DDSA) and the US Foreign Comparative Test Program (FCT).

6.2 Canada-US Defence Development Sharing

This program requires an approved US requirement, a well defined development program to meet this requirement and an identifiable market. Although EAITC has the overall responsibility for this program, ISTC manages it, using funds from the Defence Industry Productivity Program (DIPP).

Prior to making any commitments in this program, you should consult the cognizant officers in both departments. It should be noted that the Canadian Department of National Defence (DND), which normally acts as a technical advisor, need not be a participant.

6.3 US Foreign Comparative Test Program

This US funded program is designed to investigate foreign hardware (non-developmental items) against a defined US military requirement. It is not a shared

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.

7.8 Equipment Specification

The US Department of Defense has an elaborate system for product qualifications. Some of these equate to the Canadian/NATO AQAP system.

Federal Specifications are issued by the General Services Administration (GSA) and are in the form of written descriptions, drawings, commercial designation and reference to industry standards.

Military Specifications (MILSPECS) provide standards and requirements unique to the military.

Canadian companies requiring specifications and standards may acquire these from:

The Canadian Defence Production Office
Naval Aviation Supply Office
700 Robbins Avenue
Philadelphia, PA 19111
Tel: (215) 697-126
Fax: (215) 697-1265

7.9 Planned Producers

Canadian companies are considered to be US domestic sources for mobilization planning. They can therefore become a Planned Producer if their product is in the critical category. More information can be provided by CCC at (613) 995-9137 (DFAR 208.72).

Not only does a Planned Producer enjoy being a preferred contractor, but it can ensure that contracts for your product will not be totally set-aside for Small Business.

7.10 Agents/Representatives

Agents, sales representatives and legal counsels all have their place in assisting Canadians in the US defence market. Prior to engaging such services, you should discuss their use with the appropriate Trade Commissioner.

In establishing your early market contacts, it is recommended that a knowledgeable company

employee make the initial calls on potential buyers.

7.11 Audits, Quality Assurance and Acceptance

When the US buying agency needs contract audit, government quality assurance, or acceptance at source, these activities are achieved through DCMAO Ottawa.

ANNEX A

US DEFENCE MARKET CONTACTS IN CANADA

<p>Marketing Advice:</p>	<p>International Marketing Bureau Aerospace & Defence Programs External Affairs & Int'l Trade Canada 125 Sussex Drive Ottawa, Ontario K1A OG2 Tel: (613) 996-3437 Fax: (613) 996-9265</p>
<p>Industrial Security Requirements:</p>	<p>Industrial & Corporate Security Br., Supply & Services Canada 10B3 Place du Portage, Ph III 1 Laurier Street Hull, Quebec K1A OS5 Tel: (819) 956-3646 Fax: (819) 956-5140</p>
<p>Unclassified Visits and Document Transfer:</p>	<p>US-Canada Joint Certification Office Defense Logistic Service Center Federal Center 74 N. Washington Avenue Battle Creek, MI 49002 Tel: (616) 961-7431 Fax: (616) 961-4528</p>
<p>US Defence Contract Administration:</p>	<p>(Quality Assurance, Audits & General Contracting Information) US Defense Logistics Agency Defense Contract Management Area Operations (DCMAO) 365 Laurier Street, W., P.O. Box 3416, Station "D" Ottawa, Ontario K1P 6L4 Tel: (613) 992-2687 Fax: (613) 996-5340</p>
<p>Canadian Prime Contractors/Planned Producers:</p>	<p>Canadian Commercial Corporation 50 O'Connor Street Ottawa, Ontario K1A OS6 Tel: (613) 996-0034 Fax: (613) 995-2121</p>
<p>Industrial Development:</p>	<p>Industry Science & Technology Canada 235 Queen Street Ottawa, Ontario K1A OH5 Defence Electronics/Marine/Land/Aeronautics Tel: (613) 954-3328 (Elect) (613) 954-3526 (Aerospace) (613) 954-3751 (Marine) Fax: (613) 954-4246</p>

INTERNATIONAL TRADE CENTRES ACROSS CANADA	
Calgary	Trade Commissioner 11th Floor 510-5th Street, S.W. Calgary, Alberta T2P 3S2 (403) 292-6409 T (403) 292-4578 F
Charlottetown	Trade Commissioner Confederation Court Mall 134 Kent Street, Suite 400 P.O. Box 1115, Charlottetown, Prince Edward Island C1A 7M8 (902) 566-7443 T (902) 566-7450 F
Edmonton	Trade Commissioner Canada Place, Suite 450 Edmonton, Alberta T6J 4C3 (403) 495-2944 T (403) 495-4507 F
Halifax	Trade Commissioner Central Guarantee Trust Building 1801 Hollis Street P.O. Box 940, Station "M" Halifax, Nova Scotia B3J 2V9 (902) 426-6125 T (902) 426-2624 F
Moncton	Trade Commissioner Assumption Place, 770 Main Street P.O. Box 1210 Moncton, New Brunswick, E1C 8P9 (506) 851-6440 T (506) 851-6429 F
Montreal	Trade Commissioner Tour de la Bourse 800, Place Victoria, C.P. 247 Montreal, Quebec H4Z 1E8 (514) 283-6796 T (514) 283-8794 F
Regina	Trade Commissioner 4th Floor, 1955 Smith Street Regina, Saskatchewan S4P 2N8 (306) 780-6108 T (306) 780-6679 F

INTERNATIONAL TRADE CENTRES ACROSS CANADA

St. John's	Trade Commissioner 215 Water Street Suite 504 P.O. Box 8950 St. John's, Newfoundland A1B 3R9 (709) 772-5511 T (709) 772-2373 F
Saskatoon	Trade Commissioner Suite 401, 119-4th Avenue South Saskatoon, Saskatchewan S7K 5X2 (306) 975-5318 T (306) 975-5334 F
Toronto	Trade Commissioner 4th Floor Dominion Public Building 1 Front Street W Toronto, Ontario M5J 1A4 (416) 973-5049 T (416) 973-8161 F
Vancouver	Trade Commissioner Scotia Tower 900 - 650 West Georgia Street P.O. Box 11610 Vancouver, British Columbia V6B 5H8 (604) 666-1438 T (604) 666-8330 F
Winnipeg	Trade Commissioner Suite 603, 330 Portage Avenue Winnipeg, Manitoba R3C 2V2 (204) 983-4099 T (204) 983-2187 F

CANADIAN TRADE OFFICES IN THE UNITED STATES	
Atlanta	Consulate General of Canada 400 South Tower One CNN Centre Atlanta, Georgia 30303-2705 (404) 577-6810 T (404) 524-5046 F
Boston	Consulate General of Canada Suite 400, Three Copley Place Boston, Massachusetts 02116 (617) 262-3760 T (617) 262-3415 F
Buffalo	Consulate General of Canada One Marine Midland Center Suite 3150 Buffalo, New York 14203-2884 (716) 852-1247 T (716) 852-4340 F
Chicago	Consulate General of Canada Two Prudential Plaza 180 N. Stetson Avenue, Suite 2400 Chicago, Illinois 60601 (312) 616-1860 T (312) 616-1877 F
Cincinnati	Canadian Government Trade Office 15000 Columbia Plaza 250 E. Street Cincinnati, Ohio 45202 (513) 762-7655 T (513) 762-7802 F
Cleveland	Consul and Trade Commissioner Canadian Consulate General Illuminating Building, Suite 1008 55 Public Square Cleveland, Ohio 44113-1983 (216) 771-0150 T (216) 771-1688 F
Dallas	Consul and Trade Commissioner Canadian Consulate General St. Paul Place, Suite 1700 750 N. St. Paul Street Dallas, Texas 75201-3281 (214) 922-9806 (214) 922-9815

CANADIAN TRADE OFFICES IN THE UNITED STATES	
Dayton	Canadian Government Defence Trade Office MCLDDP, Area B, Building 11A, Room 144 Wright Patterson AFB Ohio 45433-6503 (513) 255-4382 T (513) 255-1821 F
Detroit	Canadian Consulate General 600 Renaissance Center, Suite 1100 Detroit, Michigan 48243-1704 (313) 567-2340 T (313) 567-2164 F
El Segundo	Consul and Trade Commissioner Canadian Consulate General Defence Liaison Division 222 N. Sepulveda Blvd, 11th Floor El Segundo, California 90245 (213) 335-4439 T (213) 335-4493 F
Houston	Canadian Government Trade Office 3935 Westheimer Street, Suite 301 Houston, Texas 77027 (713) 627-7433 T (713) 621-0193 F
Los Angeles	Consulate General of Canada 300 South Grand Avenue, 10th Floor, Los Angeles, California 90071 (213) 687-7423 T (213) 620-8827 F
Miami	Canadian Government Trade Office 801 Brickell Avenue, 9th Floor Miami, Florida 33131 (305) 372-2352 T (305) 374-6774 F
Minneapolis	Consulate General of Canada 701 Fourth Avenue S., Minneapolis, Minnesota 55415-1078 (612) 333-4641 T (612) 332-4061 F
New York	Consulate General of Canada 1251 Avenue of the Americas New York, New York 10020-1165 (212) 768-2400 T (212) 768-2440 F

CANADIAN TRADE OFFICES IN THE UNITED STATES	
Orlando	Canadian Trade Office 20 North Orange Avenue, Suite 1400 Orlando, Florida, 32801 (407) 841-7337 T (407) 425-6408 F
Philadelphia	Canadian Defence Production Office NASO (CNDA) 700 Robbins Avenue Philadelphia, PA 19111 (215) 697-1264 T (215) 697-1265 F
Pittsburgh	Canadian Government Trade Office Gateway One 9th Floor, South Wing Pittsburg, PA 15222 (412) 392-2308 T (412) 392-2317 F
Princeton	Canadian Government Trade Office Princeton Corporate Center 5 Independence Way Princeton, New Jersey 08540 (609) 452-9027 T (609) 452-2632 F
San Diego	Canadian Consulate Trade Office 4350 La Jolla Village Drive Suite 300 San Diego, California 92122 (619) 546-4467 T (619) 457-2844 F
San Francisco	Consulate General of Canada 50 Fremont Street Suite 2100 San Francisco, California 94105 (415) 495-6021 T (415) 541-7708 F
San Juan	Canadian Government Trade Office Plaza Scotia Bank, 6th Floor 273 Ponce de Leon Avenue Hato Rey, Puerto Rico 00917 (809) 250-0367 T (809) 252-0369 F

CANADIAN TRADE OFFICES IN THE UNITED STATES

Santa Clara	Consul and Trade Commissioner Canadian Consulate Trade Office 4677 Old Ironsides Drive Suite 270 Santa Clara, California 95054 (408) 988-8355 T (408) 988-6315 F
Seattle	Consul and Trade Commissioner Canadian Consulate General 412 Plaza 600 Sixth and Stewart Streets Seattle, Washington, 98101-1286 (206) 443-1777 T (206) 443-1782 F
Washington	Canadian Embassy 501 Pennsylvania Avenue, N.W., Washington, D.C. 20001 (202) 682-7743 T (202) 682-7795 F

ANNEX B

1. US ACQUISITION REGULATIONS

The regulations which affect acquisition in the US Department of Defense are contained in two sets of regulations;

- a) The Federal Acquisition Regulations (FAR) contains the basic criteria for US Government acquisition, including defence;
- b) The Defence Supplement to the FAR (DFARs).

2. 1991 DEFENSE SUPPLEMENT OF THE US FEDERAL ACQUISITION REGULATIONS (DFARS) - PARTS WITH APPLICATION TO CANADIAN COMPANY MARKET ACCESS

The following Parts of the DFARs are considered to have an application to Canadian companies selling to the US defence market. Part 225.870, which specifically covers Canadian contracts, is summarized in paragraph 3 of this Annex.

NOTE: *Since these regulations undergo periodic changes you should check with the Embassy, EAITC or CCC, all of which maintain the current regulations.*

DFAR	SUBJECT
205.203	Bid response time for Canadians can be 45 days
206.302-3/4	Access by Mobilization & International Agreements
208.4	Federal Supply Schedules/GSA
208.71	Authority for NASA Purchases
208.72	Industrial Preparedness Planning - Canada
209.1	Responsible Contractors - Canadian Commercial Corporation
209.3	First Article Testing
219.502-1	DDSA products cannot be set-aside (SBSA)
219.704	Sub Contracting Plans for Small Businesses
211.7005	Contract Clauses
225	Foreign Contracting (Including Canada)
225.1	Buy American Act
225.105	Evaluation of offers/Canadian accessibility
225.2	Buy American Act - Construction Restriction
225.6	Customs and Duties
225.7	Restrictions on Foreign Purchases
225.70	Berry, Byrnes Tollefson and other restrictions

DFAR	SUBJECT
225.7002	Waiver on Specialty Metals, NBC Clothing, etc.
225.7004	Canadian waivers on valves, tools, PAN, night vision, etc.
225.7008	Restrictions on R+D (Bayh Amendment)
225.73	Foreign Military Sales
225.8	International Agreements
225.802-70	Defines Canada with US and NOT as Foreign
225.870	Canadian Contracting (See following section)
225.872	Qualifying Countries - Solicitation procedures
225.872-2	Mobilization Base restrictions waived for Canada
225.872-8	Sub Contractors access
227	Patents, Data & Copyrights
233.2	Protests, Disputes & Appeals
235	R+D Contracting
236	Construction (NOT open to Canadians)
242	Contract Administration
242.102	Canadian Audits
246.406	Quality Assurance - NATO/Canadian Procedures
246.7	Warranties
249.700	Termination of Contracts - with CCC
252	Solicitation Procedures & Contract Clauses
252.225-7002	Sub Contracting
252.225-7009	Duty Free Entry
252.225-7025	Foreign Source Restrictions

3. DFAR PART 225.870 - CONTRACTING WITH CANADIAN CONTRACTORS

This Part of the DFARS supports the Canada-US Defence Production Sharing Arrangement (DPSA).

PART	DESCRIPTION
225.870-1(a)	Canadian guarantees
225.870-1(b)	Canada considered part of Defense Industrial Base for Production Planning Purposes (Also 208.72).
225.870-1(c)	Contracting to be through CCC.
225.870-1(d)	DoD receives same production rights, data and information from CCC as if from a US company.
225.870-1(e)(1)	Cost & Pricing Industrial Security (Also 870-8 & 872-7) Customs documentation - Disputes
225.870-1(e)(2)	Audits by Audit Service Bureau (Also 870-5(b)(1))
225.870-1(e)(3)	Inspection (By DND)
225.870-2	Source Listing only through CCC
225.870-3	CCC is Prime Contractor
225.870-4	Contracting Procedures
225.870-4(b)	Direct communication authorized between Canadian Company and DoD agency
225.870-5	Contract Administration in Canada performed by US Defense Contract Management Command (Also 242.1).
225.870-6	Termination Procedures (Also 249.7)
225.870-7	Quality Assurance and Acceptance by DND

4. FARs (FEDERAL ACQUISITION REGULATIONS)

NOTE: Articles in the FARs have the same last two primary digits as the DFARS, i.e., Section 25 in the FARs covers the same subject as 225 in the DFARS.

FAR	SUBJECT
1.405	Deviations pertaining to treaties
3.104	Procurement Integrity/Improper Business Practices
6.302	Industrial Mobilization - Canada
9	Contractor qualifications

FAR	SUBJECT
11	Commercial Products
15/16/17	Contracting Methods
19	Small Business/Set Asides
22.6	Walsh-Healy Public Contracts
25	Foreign Acquisition
27	Patents, Data & Copyrights
30/31	Cost Accounting/Principles
33	Protests, Disputes & Appeals
52	Contract Clauses
53	Forms

ANNEX C

US DEFENCE MARKET - QUESTIONS & ANSWERS

<p>1. A manufacturer of electronic components enquires about buyers in the US defence market. How should the firm proceed?</p>	<ul style="list-style-type: none"> a) Identify the product in the SSC Supply List; b) Peruse "Selling to the Military" for defence agencies and the sub contracting booklet for potential US contractors; c) Identify that DESC Dayton purchases the component. Call the cognizant contracting officer & ascertain ("Selling to the Military") <ul style="list-style-type: none"> i) Frequency and quantity bought; ii) Size of competition; iii) Restrictions? i.e., Small Business Set Asides, national security; etc., iv) Peculiar specifications? d) Contacts CCC and submit a Bidders' Mailing List for each US defence agency identified as a buyer. As a sub-contractor to US industry, proceed as if a commercial sale.
<p>2. A precision valve manufacturer uncovers a marketing opportunity with a US contractor responsible for work in a US submarine program. What should they look out for?</p>	<ul style="list-style-type: none"> a) Availability of drawings; b) Procedures for getting the drawings to Canada. It will probably require a US Export Permit and End Use Certificate. <p style="margin-left: 20px;">This must be initiated between the US contractor and the Office of Defence Trade Controls (State Dept, Washington).</p> c) How long will these US export procedures take? A couple of months. d) Special quality assurance requirements unique to the Navy's submarine program.

US DEFENCE MARKET - QUESTIONS & ANSWERS	
<p>3. In pursuing an opportunity with the Army's Communication & Electronics Command, a company is told that the forthcoming Bid Set will be classified CONFIDENTIAL. The company wants to pursue the solicitation, however they do not have current facility and personnel security clearances with SSC, Industrial and Corporate security branch. Is it too late?</p>	<p>a) Probably yes. Personnel and facility clearances can be time-consuming, therefore, the security process should start early.</p> <p>b) If your Facility Security Clearance is valid, the Bid Set will be sent through SSC/CCC.</p>
<p>4. A company which manufactures blower motors has an opportunity to provide some of these to a US defence construction contractor; will there be any difficulties?</p>	<p>a) Probably, as the Buy American Act applies to construction contracts. However, if the motors will be installed in a unit which is being assembled off the construction site; this might be acceptable.</p> <p>b) Check with the contracting officer before finalizing your response to ensure that your product is acceptable.</p>
<p>5. A company contemplating a response to a future solicitation requires a software program held by a US defence laboratory. How do they acquire it?</p>	<p>A request is made through the Industrial Corporate Security Branch, Supply & Services Canada. The request must clearly define the program and the reason that it is required. (There could be a small cost.)</p>
<p>6. A company receives a solicitation from a US defence contractor. One of the contract clauses refers to DFAR 252.225-7025. How does the company ascertain what this clause is and what it means?</p>	<p>a) Your first contact should be with the US defence contractor. As your immediate customer, the contractor should be the best source of information.</p> <p>b) Should you require further information contact DCMAO Ottawa or any Canadian Government trade office or post.</p>
<p>7. The above company is also asked by its prime to submit a Procurement Integrity Certificate. Is this required of a Canadian supplier?</p>	<p>While it could be construed as a violation of Canadian sovereignty, the company is advised to comply if they value the business.</p>
<p>8. A budding defence exporter enquires over the requirement for a local agent or sales representative.</p>	<p>Make the first calls yourself then discuss the requirement with both the contracting officer and Trade Commissioner.</p>

US DEFENCE MARKET - QUESTIONS & ANSWERS

9. A potential exporter in the preparation of a response to an RFP is advised to attend a pre-bidding conference in a US base which requires a Visit Request. Since the meeting is the following week, they demand help in taking a short cut in approving visit request.	Providing it is an UNCLASSIFIED visit and the company is registered with the US-Canada Joint Certification Office, visit arrangements should be made directly with the US base through a Directly Arranged Visit.
10. A Canadian subcontractor supplies materials to a US prime; is contact with the US Department of Defense required?	Yes! The Canadian company should contact DCMAO Ottawa for any supplemental information, such as shipping, duty free, packaging, etc.
11. A Canadian company is invited to bid by CCC. Does the company only deal with CCC.	No! The company should contact both the US DoD contractor and the program officer, if the product is a system.

ANNEX D

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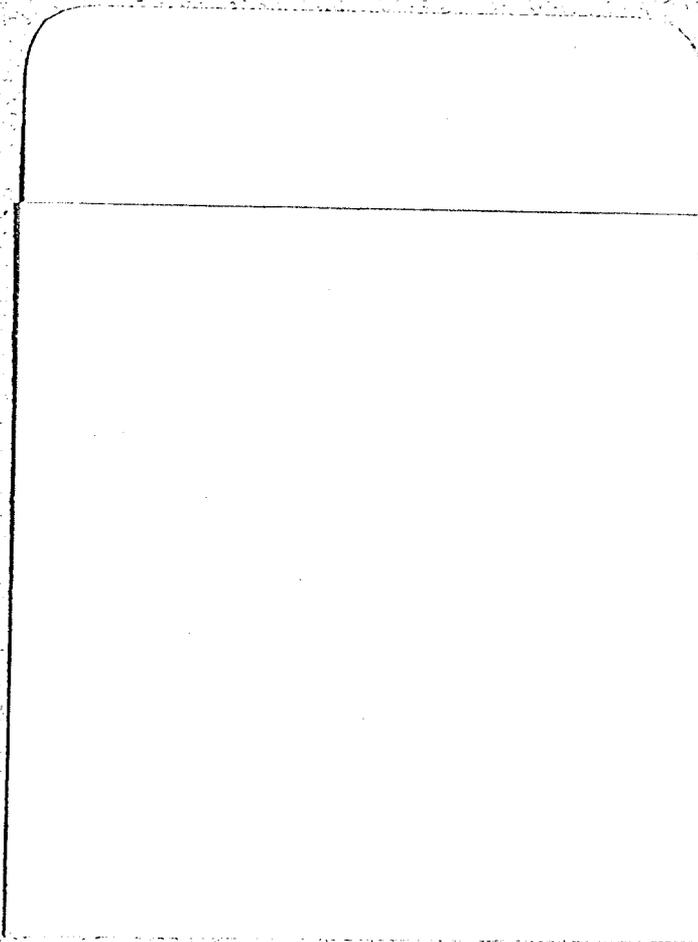
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