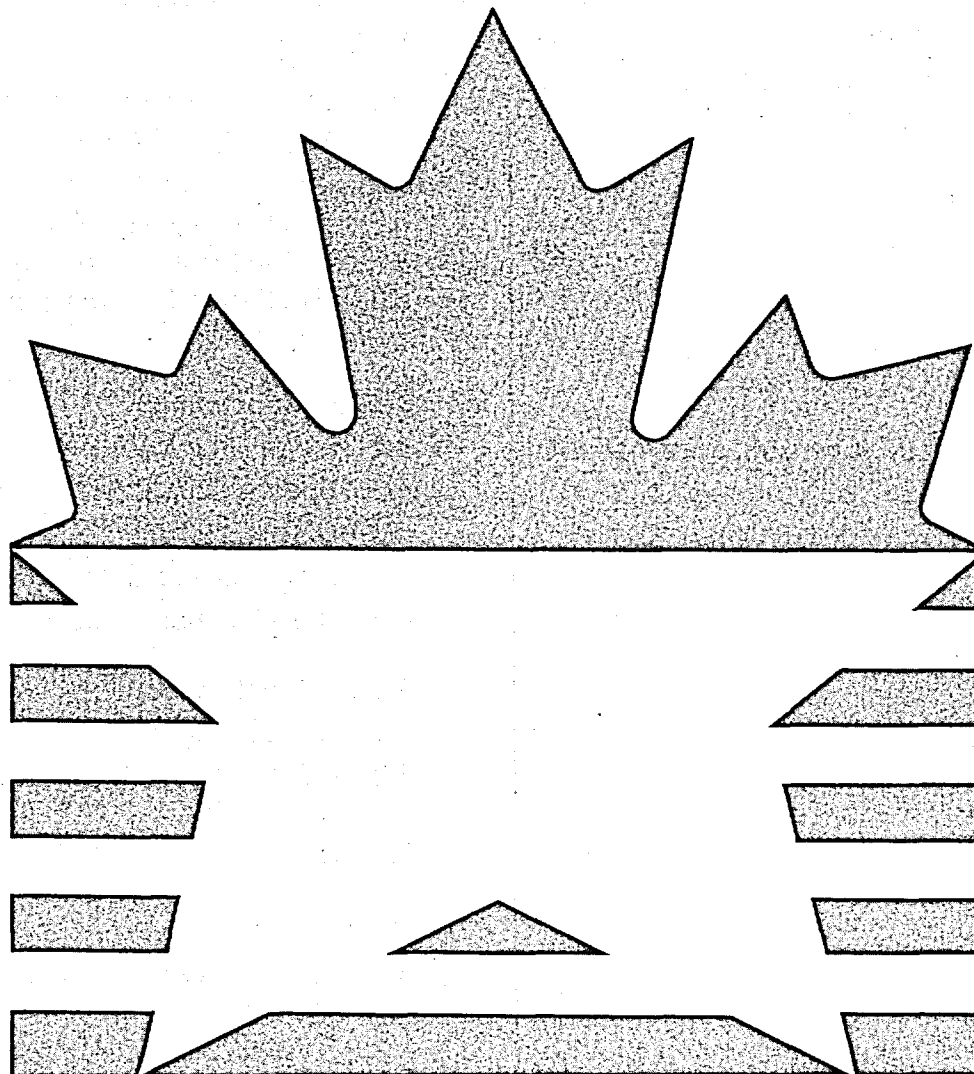


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# Canadian Industry and the United States Defence Market



# Canadian Industry and the United States Defence Market



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## Acronyms Referred to in this Publication

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AFCEA	— Armed Forces Communications and Electronics Association
BML	— Bidders Mailing List
CCC	— Canadian Commercial Corporation
CBD	— <i>Commerce Business Daily</i>
DCASMA	— U.S. Defense Contract Administration Services Management Area
DCASR	— U.S. Defense Contract Administration Services Region
DDSA/DDSP	— Canada-U.S. Defence Development Sharing Arrangement/Program
DDSS	— Directorate Defence Sales Support (DND)
DGQA	— Director General Quality Assurance (DND)
DFAR	— U.S. Defense Supplement — Federal Acquisition Regulations
DEMPS	— Directorate Engineering and Maintenance Planning and Standardization (DND)
DIPP	— Canadian Defence Industry Productivity Program
DISCO	— U.S. Defense Industrial Security Clearance Office
DLA	— U.S. Defense Logistics Agency
DND	— Canadian Department of National Defence
DNR	— Canadian Department of National Revenue
DO	— A U.S. priority rating
DPB/DEA	— Defence Program Bureau, Department of External Affairs
DRIE	— Department of Regional Industrial Expansion
DX	— A U.S. priority rating
FARS	— U.S. Federal Acquisition Regulation
IFB	— Invitation for Bid
IPP	— Industrial Preparedness Program
ITARR	— U.S. International Traffic in Arms Regulations
ISS	— U.S. Department of Defense Index and Specifications and Standards
JCO	— Joint Certification Office
MILSPECS	— Military Specifications
MAP	— Military Assistance Program
QPL	— Qualified Products List
QA	— Quality Assurance
RFP	— Request for Proposal
RFQ	— Request for Quote
SBSA	— Small Business Set-Asides
SSC	— Supply and Services Canada

# 1.0 Summary — Guide to Market Entry

Note: (CH) Indicates that there is more detail in the noted chapter.

## 1.1 General

Canada and the United States of America are the world's largest trading partners; within this activity, the United States Department of Defense buys more goods and services than any other potential customer.

The Canada-United States Defence Production and Defence Development Sharing Agreements, with the waiver of the Buy America Act and Duty, generally allow Canadian suppliers access to this market.

A company which has a quality product at a competitive price should consider taking advantage of this access.

## 1.2 Canadian Access (CH 3.0)

The conditions of access to this market by Canadian companies through the Canadian-United States Defence Production and Development Sharing Agreements are embodied in the United States Federal Acquisition Regulations, Department of Defense Supplement (DFARS) part 25.71 and Appendix T-201.

## 1.3 Market Constraints (CH 4.0)

While Canadian companies have general access to this market, there are constraints. The major restrictions are:

- i) Food
- ii) Textiles
- iii) Construction material
- iv) Small business set-asides, and
- v) Ship building

There are also occasions where United States technology is considered to be in the U.S. national interest and not releasable outside the United States.

## 1.4 Market Check-List

To be successful, a company will have to devote considerable effort in penetrating this market, but before expending this effort, please contact:

The Department of External Affairs  
Defence Programs Bureau  
125 Sussex Drive  
Ottawa, Ontario  
K1A 0G2  
(613) 996-1836

Some of the factors you will have to address including the following:

- a) The identification of your products by the U.S. federal classification code (U.S. Product and Services Code). (See DEA or CCC)
- b) The identification of buying agencies in order to list your products (CH 6 and 7)

### Contracting to the U.S. Department of Defense (DoD)

- i) see "Selling to the Military"
- ii) identify purchasing officer in U.S. agency
- iii) visit U.S. buyer *yourself* to establish feasibility

- iv) become source-listed through the Canadian Commercial Corporation (CCC)
- v) follow-up (with/without agent)

### Contracting to U.S. Prime Contractors

- i) consult the U.S. DoD "Subcontracting Directory" (list of U.S. prime contractors)
- ii) identify companies
- iii) send letter to appropriate trade commissioner(s)
- iv) contact buyer *yourself*
- v) follow-up (with/without agent)
- c) Reassess cost and benefit of pursuing this market.
- d) Subscribe to the U.S. *Commerce Business Daily*. (CH 5 and 6) This is the most important publication for this market. It identifies solicitations, buyers and contract awards. Annual subscription is about U.S. \$250 and is available from:

Superintendent of Documents  
Government Printing Office  
Washington, D.C. 20402  
U.S.A.  
(202) 783-3238

- e) To assess defence products and opportunities with prime U.S. contractors, visit defence expositions in Washington, D.C. (contact the Canadian embassy). These are sponsored by U.S. military associations and there is normally no charge for viewing the exhibits.

Navy — end March/early April  
(Sea-Air-Space)

AFCEA — June (Armed Forces Communication and Electronics Association)

Marines — July

Army — September

Air Force — October

To gain admission, two pieces of identification are required, one with a photo and one from your company.

- f) Assess Facility and Personnel Security Clearance Requirements (Supply and Services Canada/Industrial Security) (613) 953-3613. (CH 11.0)
- g) Register with Joint Certification Office (JCO) Battle Creek, Michigan (DD Form 2345) available from DPB/DEA or JCO at (616) 962-6511, ext. 6814. (CH 10)
- h) Establish U.S. Export Permit Requirement. If there is a possibility that you will have to receive security materials or documentation, check with the Canadian embassy in Washington or DEA. (CH 10.0)
- i) Assess/study U.S. Federal Acquisition Regulations and its Defence Supplement (DFARS); particularly sub parts 25, 52 and Appendix T. 201. While the entire regulations are available from the U.S. Government Printing Office, you may obtain extracts from the Department of External Affairs (DEA), Canadian Commercial Corporation (CCC) or the Defense Contract Administration Services Management Area (DCASMA) office, Ottawa.

- j) Assess Quality Assurance requirements, check with DCASMA or the Department of National Defence, Director General Quality Assurance (DND/DGQA) (CH 8).
- k) Assess Product Qualification/First Article Testing Requirements. Check with buyer. DND and DCASMA can provide advice. (CH 8.0)
- l) Acquisition of specifications and drawings (CH 8.0)  
Naval Publications and Forms Centre  
5801 Tabor Avenue  
Philadelphia, PA 19120  
(215) 697-3321  
There are at least two Canadian companies which can provide a more rapid service with a fee. (MICROMEDIA and CALIAN Technology, both in the Ottawa area).
- m) Establish contacts:
  - 1) External Affairs/Defence Programs Bureau (125 Sussex Drive, Ottawa, Ontario K1A 0G2) (DPB) at (613) 996-1836
  - 2) Department of Regional Industrial Expansion, (DRIE) Ottawa Sector Branch or through your local regional DRIE Office
  - 3) Canadian Commercial Corporation (50 O'Connor Street, Ottawa, Ontario, K1A 0S6) (613) 995-9144
  - 4) Department of National Defence/Defence Sales Support (613) 992-9605
  - 5) U.S. Department of Defense, DCASMA Ottawa (613) 992-2687
  - 6) Trade commissioners in U.S.A. — see appendix
  - 7) Provincial department of trade/industry
- n) Before deciding whether to engage an agent, you should discuss your requirements with the Canadian local trade commissioner in the Canadian embassy in Washington, consulates or trade offices.

NOTE: (1) The U.S. defence market requires considerable marketing effort, not only in gathering market intelligence, but in the identification of the buyer of your specific product plus the constant pursuit of solicitations. (Bid sets, Requests for Proposals, Requests for Quotations, and Invitations for Bid).

(2) There is considerable help in pursuing this market, both in the federal and provincial levels of governments. Because of regulations, procedures and interpretations, these personnel should be consulted prior to your expending time, money and effort on this market.

## 2.0 Government Departments — Responsibilities

U.S. defence marketing assistance is available from several government departments and agencies:

- a) Department of External Affairs:
  - Responsible for management of the Canada-U.S. Defence Production and Development Sharing Agreements
  - Marketing advice
  - Financial assistance through the Program for Export Market Development (PEMD)
  - Arranges incoming and outgoing marketing missions
  - Trade fairs
  - Trade Commissioner Service
- b) Department of Regional Industrial Expansion:
  - Responsible for industrial development
  - Administers the Defence Industry Productivity Program (DIPP)
  - Responsible for managing Canada-U.S. cost sharing development projects
  - Regional offices provide access to federal agencies
- c) Department of National Defence (DND):
  - Purchases its own defence equipment through the Department of Supply and Services, therefore provides a national market.
  - Provides sales support (Director Defence Sales Support (DDSS)), quality assurance (Director General Quality Assurance (DGQA) and product qualification (Director Engineering and Maintenance Planning and Standardization — DEMPS)
- d) Supply and Services Canada (SSC):
  - Responsible for the Canadian defence industrial base
  - Contract response for DIPP shared development projects and CCC contracts
  - Provides security clearance services as required
  - Provides audit services cost, analysis and profit guidelines
- e) Canadian Commercial Corporation (CCC):
  - CCC acts as prime contractor for U.S. Department of Defense acquisitions with the Canadian supplier acting as subcontractor for 100 per cent of their requirement
  - Provides the mandatory certification and endorsement of bidders mailing list (BML) and bids (companies and products)
  - Sources for the U.S. Department of Defense buying agencies
  - Assists contractors in the preparation of bids
  - Guarantees performance of its subcontractor
  - Collects and disburses contract payments
  - Manages the U.S. Industrial Preparedness Program in Canada and conducts facility surveys of Canadian planned producers

- f) U.S. Defense Logistics Agency/Defense Contract Administration Services Management Area (DCASMA) office in Ottawa administers U.S. Department of Defense contracts in Canada:
  - Provides advice on most aspects of Department of Defense contracting including packaging, labeling, transportation, quality assurance and payment
  - Plant clearance for U.S. government property
- g) Department of National Revenue/Customs and Excise
  - Duty remissions
  - Duty drawback
- h) Many provincial governments have defence marketing specialists and support programs. Check with the appropriate provincial trade/industry department.

### **3.0 Access to U.S. Defence Market**

Access to this market by Canadian companies is made possible by the Canada-United States Defence Production and Development Sharing Agreements which are embodied in the United States Federal Acquisition Regulations, Department of Defense Supplement (DFARS) part 25.71 and Appendix T-201.

#### **3.1 The Defence Production Sharing Agreement**

The Defence Production Sharing Agreement provides Canadian companies the opportunity to supply the United States Armed Forces a wide range of goods and services in competition with U.S. companies. Much of Canada's defence industry is considered part of the North American Defence Industrial Base, Canadian companies can be U.S. Planned Producers and in many areas, Canadian companies are considered by U.S. military equipment buyers as if they were U.S. domestic sources.

#### **3.2 The Defence Development Sharing Agreement**

A parallel program, the Canada-United States Defence Development Sharing Agreement, provides for joint Canada-United States government funding of research and development projects where the prime contractor is a Canadian company and the Canadian share is funded under the Defence Industry Productivity Program (DIPP). The U.S. government authority is DFAR Appendix T-201.2.

#### **3.3 U.S. Federal Acquisition Regulations**

The U.S. Federal Acquisition Regulations regulate the acquisition of U.S. government products and services. The Defense Supplement (DFAR) provides the direction and regulations for the solicitation and contracting of Department of Defense acquisition.

These regulations may be amended several times a year, therefore caution should be exercised when making a commitment to ensure that up-to-date information is used.

FARs and DFARS are maintained by the following Ottawa offices:

- Defence Programs Bureau, External Affairs
- CCC
- DCASMA, Ottawa



## 4.0 Market Constraints

### 4.1 Major Restrictions

While Canadian companies have general access to the U.S. defence market, there are constraints which are identified in the U.S. Federal Acquisition Regulations Defense Supplement (DFARS) and the annual United States Appropriations Act. The major restrictions are:

- i) Ships
- ii) Food
- iii) Textiles
- iv) Construction material and
- v) Small business "set-asides"

There are also occasions where close control of certain United States technology is considered to be in the United States national interest and not releasable outside the United States.

### 4.2 Special Conditions

At various times special conditions have been introduced in U.S. defence spending legislation which may restrict the usage of authorized funds to the benefit of U.S. domestic producers. These legislative restrictions tend to become perpetuated in subsequent annual Defense Appropriations Acts, and sometimes they permanently restrict the scope of Canadian participation in U.S. defence programs. Some of these restrictions are outlined below.

### 4.3 DFARS 25.70

DFARS 25.70 implements the Defense Appropriations Act restrictions with regard to the following:

- Food, clothing, cotton, wood, woven silk, woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric, specialty metals and tools. This is known as the Berry Amendment
- Buses (25.7006)
- R and D contracting (25.7007 — Bayh Amendment)
- Construction of major components of the hull or superstructure of any naval vessel (25.7005 — Burns Tollefson Amendment)
- Manual typewriters (25.7004)
- Construction contracts

NOTE: Periodically, there are waivers to the above restrictions such as specialty metals, therefore if your defence exports contain these items, check with the Defence Programs Bureau.

### 4.4 Small Business Set-Asides

The U.S. Small Business Administration has developed programs with the U.S. Department of Defense under which government acquisitions are set aside, in whole or in part, for tendering by U.S. small business firms on a competitive basis. (FAR Part 19). Similar set-asides occur in:

- Labour surplus areas
- Small disadvantaged businesses
- Depressed industries
- Women-owned businesses

NOTE: While Canadian companies do not qualify as U.S. small business for prime contracts they are *not* precluded from subcontracting.

### 4.5 U.S. National Disclosure

The U.S. government has a policy which defines those areas of technology and weapon systems which it considers to be not in the national interest of the U.S. to disclose to any other country.

This National Disclosure Policy, which itself is unavailable to Canada, is known from experience to prohibit disclosure to any country, including Canada.

## 5.0 Market Identification

### 5.1 Contracting Alternatives

There are three routes into the U.S. defence market:

- a) as a prime contractor to the U.S. Department of Defense, (currently for less than \$25,000)
- b) as a contractor to the U.S. Department of Defense through Canadian Commercial Corporation (currently for more than \$25,000)
- c) as a subcontractor to a U.S. defence prime contractor (any amount)

In all cases, the objective is to become source listed with a potential buyer.

### 5.2 U.S. DoD Buying Offices/Contracting

There are two methods of identifying potential DoD buying offices:

- a) The booklet entitled *Selling to the Military* lists the major buying offices,
- b) The *Commerce Business Daily* lists all U.S. government solicitations in excess of U.S. \$10,000. Not only does it list the buyer but also lists contract awards. *This solicitation publication and the regulations in the DFARS form the backbone of U.S. defence marketing and procurement.*

NOTE: For information on any of the above, contact the Defence Programs Bureau, regional offices or appropriate trade commissioner.

Either before or after a buyer is identified, your company and products must be identified to CCC using U.S. forms SF. 129 and DD. 558 (available through CCC).

### 5.3 U.S. Contractors/Subcontracting

There are several ways of identifying potential U.S. defence contractors:

- a) The "Subcontracting Directory" lists over 1,000 U.S. defence prime contractors. It is printed by the U.S. government printing office and is normally available from the Defence Programs Bureau, External Affairs.
- b) Canadian trade commissioners throughout the U.S. can provide lists of defence contractors in their area of responsibility.
- c) The contracts awards section of the *Commerce Business Daily* lists successful bidders under the appropriate classification section.
- d) The perusal of defence-oriented trade magazines can help identify defence industries; and
- e) Defence expositions are held annually in Washington in which U.S. and foreign defence contractors exhibit their products and capabilities.

## 6.0 Contracting

### 6.1 United States Military Acquisition Agencies

The United States military structure is headed by the Secretary of Defense whose Department of Defense (DoD) is the policy group. Each of the three Armed Services is organized into an operational Military Department, designated the Departments of the Army, Navy and Air Force. Each of these Military Departments is responsible for acquiring material and services peculiar to its requirements.

In addition to the armed services departments, the following agencies of the Department of Defense acquire material and services:

- a) The Defense Logistics Agency (DLA) — requirements not peculiar to sophisticated defence systems or to a single Military Department — DLA in turn has established several Defense Supply Centers, each responsible for acquiring a number of different commodity areas
- b) Defense Communications Agency
- c) Defense Nuclear Agency

The acquisition policies of the Department of Defense and of the Military Departments are codified in a publication known as the *Federal Acquisition Regulations (FAR)*. Canadian companies can consult the *FAR* by contacting DPB or CCC.

### 6.2 Canadian Commercial Corporation (CCC)

The Canadian Commercial Corporation (CCC), a Canadian Crown corporation, acts primarily as a contracting agency when other countries or international agencies wish to purchase Canadian supplies and services from Canadian government sources. On a government-to-government basis CCC subcontracts to Canadian industry. On U.S. contracts under \$25,000 a Canadian company may contract directly with the purchasing agency.

### 6.3 U.S. Military Solicitation and Bidding Procedure

CCC acts as a "prime contractor" to appropriate U.S. defense acquisition agencies. As such, it receives and distributes to Canadian sellers the solicitation documents ("bid sets") relating to U.S. military requirements. The bid sets, which originate with U.S. military acquisition agencies, are mailed directly to both CCC and the Canadian firms whose names appear on the U.S. agencies' Bidders Mailing Lists (BMLs) (see paragraph 6.11).

Canadian companies interested in pursuing the U.S. military market must be registered with CCC (See 6.11). U.S. bid sets may take the form of an INVITATION FOR BIDS, REQUEST FOR PROPOSALS, or a REQUEST FOR QUOTATION as follows:

### 6.4 Invitation for Bid (IFB) (Competitive)

The use of the IFB is a formally advertised or sealed bidding method of competitive procurement. It is the

acquisition method used for the purchase of about 80 per cent by number of all U.S. military acquisitions. Because considerable competition is expected for each IFB, it is conducted in strict accordance with clearly defined procedures. Acceptance by the U.S. agency of a bid will result in an immediate award and thus the bid document must be considered as a binding contract at the time of submission.

The IFB will define, in its clauses, any restrictions which would preclude the award of a contract to a particular bidder.

The accepted bid immediately becomes a legally binding contract, therefore care must be taken to avoid errors in prices and delivery commitments and misinterpretations of packaging requirements, specifications, etc. Changes to a bid cannot be made after bid opening unless the successful bidder wishes to make his bid more attractive to the U.S. agency.

Since many clauses in U.S. bid documents do not apply to Canadian companies, any questions regarding these clauses should be cleared with CCC.

Original bids should be submitted to the office designated in the IFB in order to be received no later than the exact date and time set for the closing of the bids. If a bid is not received to meet the closing date, it will still be considered if it can be proved that it was mailed at least five (5) days in advance of the opening date. The only acceptable proof of mailing date is an automated cancellation of the wrapper of the package containing the bid. Bids normally must be submitted in writing, but can be modified by telex, telegram or facsimile prior to bid opening, if bid sets so direct.

A copy of the bid must also be submitted to CCC not later than five working days prior to the exact time set for the closing of bids.

### **6.5 Request for Proposals (RFP) (Negotiated)**

The RFP is a competitive acquisition in most instances, usually directed to firms which are specifically known by the procurement agency to possess the capability to respond. It is the acquisition method used for the purchase of about 80 per cent of the dollar value of all U.S. military procurements. It is normally the subject of competition. However an RFP can be issued on a sole source base, with subsequent negotiations conducted with the prospective contractor. Your response to an RFP should be submitted in the manner described above for an IFB.

A proposal in response to an RFP is a firm offer for the period of time stated in the proposal. It may be withdrawn by notice in writing to the U.S. acquisition agency prior to acceptance of the proposal (6.9). Although the RFP is used for negotiated acquisition, award may be made and a binding contract issued on the basis of the initial proposal. Should the U.S. acquisition agency initiate negotiations to vary the terms of the initial proposal, signature of both CCC and the U.S. agency is required for a contract to exist.

### **6.6 Request for Quotation (RFQ)**

The RFQ is a solicitation of price and availability and consequently the response to an RFQ is not irrevocably binding. A response to an RFQ is considered by the U.S. agency to be information rather than a firm offer, and a time period may be stated for which the information in the quotation is valid. An order placed on the basis of a response to an RFQ is subject to acceptance by the offerer.

### **6.7 Currency**

Bids shall be in terms of U.S. currency. Contracts placed as a result of such sealed competitive bidding shall not be subject to adjustment for losses or gains resulting from fluctuation in exchange rates.

Proposals and quotations, however, may be in U.S. or Canadian currency. Canadian firms usually, at the time of submitting the offer, elect to quote and receive payment in U.S. currency. Contracts arising provide for payment in U.S. currency and are not subject to adjustment for losses or gains resulting from fluctuation in exchange rates.

### **6.8 CCC's Solicitation Activity**

When bid sets from U.S. military acquisition agencies are received by the CCC they are submitted to close scrutiny to determine whether they are suitable for solicitation of Canadian firms. Suitability depends upon the following:

- a) adequacy of time for bid preparation;
- b) knowledge of one or more Canadian sources with a known capability or interest;
- c) the absences of terms or conditions which would restrict or prohibit the possibility of an award to a Canadian seller.

### **6.9 Submission of Offers**

Canadian firms must submit their offers according to 6.4. An exception to this procedure may occur for small purchases of U.S. \$25,000 and less, in which case the U.S. military acquisition agency may solicit Canadian firms, receive bids, and issue a contract directly to the successful bidder.

When Canadian companies receive solicitation documents from sources other than the Canadian Commercial Corporation, they should immediately notify CCC of their intent to bid.

### **6.10 Sources of Contract Opportunities**

Many sources of information are available to Canadian firms to keep informed of and explore contract opportunities offered by the U.S. procurement agencies. Some of the sources are identified in the following paragraphs.

### **6.11 U.S. Bidders Mailing Lists**

A Bidders Mailing List is usually maintained by the U.S. acquisition agencies for each commodity. Canadian firms wishing to be listed for the appropriate commodities must apply to CCC, which will ask for detailed information of the company's engineering, manufacturing and financial capabilities before endorsing a company's request for listing.

By DoD Supplement to the FAR (DFAR 25.7104(a) (1) (i)) U.S. military agencies may not list a Canadian seller unless CCC approves and forwards the application for listing. Listed sources receive copies of relevant solicitations directly from acquisition agencies.

However, Canadian companies can request bid sets directly from a U.S. agency even though they were not selected from the respective agencies source list. A review of the *Commerce Business Daily* (CBD) referred to in 6.12, will identify opportunities.

Retention of names on Bidders Mailing Lists at U.S. military buying agencies is dependent upon a response to each IFB, RFP and RFQ by a bid, proposal, or quotation or a brief note giving the reason for not otherwise responding. This notice must be sent directly to the U.S. agency concerned if the document is received directly from the agency, with a copy of the notice to CCC. When the IFB, RFP or RFQ is received from CCC, the Failure to Quote Notice enclosed with the solicitation, should be completed and returned to CCC. The agency will then be advised by the Corporation on behalf of the Canadian company. U.S. military buying agencies have made a practice of removing company names from Bidders Mailing Lists after a failure by a prospective bidder either to submit a bid, proposal or quotation or to otherwise not respond.

### **6.12 Commerce Business Daily**

The *Commerce Business Daily*, published by the U.S. Department of Commerce, provides valuable information to companies interested in bidding into the U.S. defence market. Information on contract awards, current requirements, Pre-Invitation Notices and Advance Planning Procurement Information (APPI) is published regularly. Interested Canadian companies should subscribe to the *Commerce Business Daily* by forwarding an application to:

Superintendent of Documents  
Government Printing Office  
Washington, D.C. 20402  
Telephone: (202) 783-3238

The annual subscription of about U.S. \$250 (first class mailing) and a six-month trial subscription is available. Remittances should be sent to the U.S. Government Printing Office by cheque payable to Superintendent of Documents. It will take at least two months for delivery of the first issue.

### **6.13 Industrial Preparedness Program (IPP)**

Under the Industrial Preparedness Program the U.S. Department of Defense is continuously re-appraising the production capabilities of the U.S. industrial base to ensure that it is capable of producing adequate and timely quantities of materials as may be required to support the U.S. Armed Forces in times of emergency. DoD policy allows selected Canadian firms to participate on an equal basis with U.S. firms as Registered Planned Producers for a wide range of defence items under this program. Through an agreement negotiated with the DoD, CCC is responsible for the management of Canadian industrial participation in the program, in particular, the establishing of Canadian firms with the

U.S. military Acquisition Agencies as Registered Planned Producers. A Registered Planned Producer of a defence item is guaranteed an opportunity to compete for current acquisition of that item.

A non-participating Canadian firm may initiate action to become a Registered Planned Producer in the program by indicating its desire to be a Registered Planned Producer for a particular item by writing to CCC. This letter should include a indication of production capabilities and a listing of current and past military production contracts, if any, of the proposed item.

## 7.0 Subcontracting

### 7.1 Company-to-company basis

Contracting between Canadian and U.S. manufacturers for defence goods is strictly on a company-to-company/commercial basis. The Canadian company offered a defence subcontract should operate in a normally prudent manner, just as in a non-defence commercial venture. The terms and conditions under which payment will be received, and under which special tooling technical data and other assistance may be furnished by the customer, should be clearly understood at the outset. These may be partially dependent on the terms and conditions of the prime contract between the U.S. government and the U.S. prime. The Canadian subcontractor has no claim on either the Canadian or the U.S. government.

### 7.2 Standards of Management

There is an increasing tendency for the U.S. government to demand that its prospective defence contractors meet high standards of management practice as well as technical and production capability. This is reflected in the demands of large U.S. defence contractors that their prospective suppliers satisfy, in advance of orders, the same criteria. Therefore a Canadian company discussing defence orders with U.S. firms may well find itself being asked by the U.S. firms to permit surveys of its management control and quality control systems, its engineering and manufacturing capabilities and an assessment of its financial competence.

### 7.3 Conditions

The U.S. Federal Acquisition Regulations may require that CCC certifies that the bid is "fair and reasonable" if the U.S. agency makes such a request. The U.S. Department of Defense has agreed:

- a) that such data may be submitted to the Department of Defense contracting agency through DCASMA Ottawa, rather than to the prime contractor; and
- b) that the appropriate Canadian DSS form may be used rather than the U.S. DoD Form and the U.S. will accept the findings of the Canadian government (CCC).

### 7.4 Sales Representatives

Because defence contractors in the U.S. are very widely dispersed throughout the country, many of those companies may choose to ignore lists of approved suppliers issued by the U.S. and Canadian governments and rely upon personal contact instead. The necessity of company personnel or representatives to maintain persistent contact with U.S. companies cannot be over-emphasized. Such contact is essential in order that these companies become aware of Canadian suppliers and develop a willingness to consider them as suppliers in defence programs.

## 8.0 Contractual Requirements

### 8.1 General

There are several requirements in a typical U.S. defence contract; the details are provided in the solicitations. Section 52 of the DFARS is the section which defines most of these requirements.

There are specific requirements which will be reviewed in this chapter:

- 1) Specifications and Standards
- 2) Quality Assurance
- 3) Production Qualification
- 4) Auditing and Cost Analysis
- 5) Priorities and Allocations.

### 8.2 Specifications and Standards

The need for some defence material to withstand severe handling and operational environments dictates the need for components and materials to meet strict standards of quality. Military specifications (MILSPECS) have been developed for most materials and components and the supplier must meet these specifications. The specific requirements to be met on any particular solicitation are listed, or "called up" in the bid set.

Military specifications, standards and drawings are available by mail from:

The Commanding Officer  
Naval Publications and Forms Center  
5801 Tabor Ave  
Philadelphia, PA 19120

When a company, urgently requires specifications in order to respond to a U.S. bid set, a telegraphic request, stating the solicitation number and the need for the document in order to bid, will receive a quicker response. There are also Canadian companies which offer a more rapid service. (MICROMEDIA of Toronto and Hull plus CALIAN Technology in Ottawa.)

One available aid to identification is the *DoD Index of Specifications and Standards (DoD ISS)* which lists approximately 25,000 current specifications and 10,000 standards. It is available on an annual subscription basis from:

Superintendent of Documents  
Government Printing Office  
Washington, D.C. 20402

The U.S. National Bureau of Standards has a research service available to the public and publishes an index of *U.S. Voluntary Engineering Standards* which contains a listing of some 20,000 documents and the source from which they may be ordered. This publication can also be ordered from the Superintendent of Documents.

#### 8.2.1 Specifications by Subscriptions

*Military and Federal Specifications and Standards* including *Qualified Products Lists* can be obtained on a subscription basis with automatic mailing.

Subscription will be accepted on the basis of the Federal Supply Classification for a single class or for as many individual classes as the subscriber chooses. Applicable classes may be determined by referring to the list of *Federal Supply Groups and Classes, Cataloging Handbook H2-1*, which is available free of cost from:

The Director  
Navy Publications and Printing Service Office,  
700 Robbins Avenue  
Philadelphia, PA 1911

The Federal Supply Classification System is the basis for inventory and supply management systems of all U.S. government agencies.

### 8.2.2 Prime Contracts/Specifications

Canadian companies receiving solicitations from U.S. military agencies, including those received through CCC, will normally find that MILSPECS for components, material, testing, packaging, packing, etc. and federal standards are not provided with the bid package. The procedures outlined above should be followed to obtain all unclassified specifications and standards. To receive classified specifications and bid support documents, a request must be made to CCC. The request must include the solicitation number, the U.S. agency issuing it, the closing date of the bid, and the name and telephone number of the U.S. contracting officer, if known.

It should be noted that statements of work to be performed, drawings, etc. can be obtained only from the agency originating the solicitation. Normally, the name, address, and telephone number of the person to contact at the soliciting agency office is in the bid package.

### 8.2.3 Subcontracts/Specifications

Drawings, specifications, and other unclassified technical data required to perform the work are normally furnished by the U.S. prime contractor. Standard specifications should be obtained as described in 8.1.

A Canadian firm wishing to obtain classified material from a U.S. defence contractor in connection with subcontract work should seek assistance from CCC which will make the necessary arrangements.

## 8.3 Quality Assurance

The production of defence supplies in accordance with military quality standards is an essential element of military acquisition. An intergovernmental agreement exists between Canada and the United States, whereby Government Quality Assurance (GQA) of military supplies and services (including, when appropriate, raw materials, components and intermediate assemblies) is provided upon request. This is based upon NATO agreements which call for the provision of host nation quality assurance on a no-cost, reciprocal basis.

### 8.3.1 Method of Application

By virtue of this arrangement, the Canadian Department of National Defence (DND) will, upon request from the U.S. Department of Defense (DoD) or other U.S. military agencies through DCASMA, Ottawa, arrange for Canadian DND personnel to conduct GQA on behalf of

the U.S. government with respect to contracts placed with either CCC or directly to suppliers and with respect to subcontracts placed in Canada by U.S. defence contractors. DND GQA services are provided on a no-charge basis to the U.S. military procurement agencies. In addition, either DND or the U.S. military acquisition agency may arrange for GQA by its own organization in the other's country in appropriate or exceptional circumstances.

In Canada, the QA function is carried out by the DND Director General Quality Assurance. Complete information or guidance on military requirements for a Contractor's Quality Control/Inspection system may be obtained by application to the Director General Quality Assurance of DND.

## 8.4 U.S. Product Qualification and Qualified Products List (QPL)

Qualification is defined as the testing of products for compliance with the requirements of a specification, in advance of and independent of any acquisition action. Only a small percentage of commodities are required to be qualified prior to award of a contract. Qualification is made only when one or more of the following conditions exist:

- a) Time required for testing the product after a contract award would unduly delay delivery of the supplies being purchased.
- b) The cost of repetitive testing would be excessive.
- c) Tests require expensive or complicated testing apparatus not commonly available.
- d) Assurance is required, prior to award of contract, that the product is satisfactory for its intended use.
- e) Determination of acceptability would require performance data to supplement technical requirements contained in the specification.

### 8.4.1 Qualified Products Lists

In such cases, the specification provides for advance testing of products and listing the products which success fully pass these tests, on lists known as Qualified Products Lists (QPL).

An agreement has been negotiated between Canada and the United States, entitled "U.S./Canada Agreement for Qualification of Products of Non-Resident Manufacturers". The agreement allows one country's products to be listed by the other country in its Qualified Products List (QPL).

### 8.4.2 Procedure For Canadian Manufacturers

When a Canadian manufacturer wishes to supply a product covered by a specification requiring qualification approval, he should first review the specification and determine by actual test whether his product complies with the design and/or performance limits of the specification.

If the product falls into one of the classes covered by the reciprocal agreement the manufacturer should request qualification action from:

Department of National Defence  
Director Engineering and Maintenance Planning  
and Standardization (DEMPS)  
101 Colonel By Drive  
Ottawa, Ontario  
K1A 0K2

Having received qualification approval in Canada a Canadian company seeking a listing on a U.S. QPL must adhere to the following procedure to obtain listing on a U.S. QPL.

- a) The Canadian manufacturer requests DND to apply to the appropriate qualification authority in the United States for recognition of the Canadian approval and listing on the U.S. QPL. DND, upon receipt of this request, will forward to the U.S. qualifying agency the necessary technical information including test reports and related engineering data for its consideration. If the tests upon which qualification were based were done in a facility located in the Canadian plant, then a report on the test facility will also be forwarded.
- b) The qualifying agency has 60 days upon receipt of the application to advise the Canadian manufacturer if it is prepared to recognize the approval and subsequently place the name of the Canadian company on the U.S. QPL. If for some reason the U.S. qualifying agency does not regard the supporting data as adequate, DND will be so advised and requested to supply further information.

**NOTE: The Canadian manufacturer must have received his Canadian qualification approval to the specification of the issue and date currently in effect in the U.S.**

## 8.5 Auditing and Cost Analysis

### 8.5.1 Pre-Contract Cost Analysis

Canadian firms, before receiving contracts from U.S. firms holding DoD contracts under certain circumstances, may be requested to supply to the U.S. firm, or the DoD contracting officer, a completed "Cost Price Analysis" on U.S. DoD form SF-1411. Before responding to such requests advice should be sought from:

Director General  
Supply Policy Directorate  
Supply and Services Canada  
11 Laurier Street  
Hull, Quebec  
K1A 0S5  
Tel: (819) 997-7119

### 8.5.2 Post-Contract Cost Audits

Post-contract cost audits of U.S. defence contracts placed in Canada, either through CCC or directly by U.S. firms holding DoD contracts will be performed by the Audit Services Bureau (ASB) of the Department of Supply and Services on behalf of the U.S. Defense Contract Audit Agency (DCAA). These audits, when required, will be arranged by:

Director, Contractual Cost and Financial Review  
The Comptroller, Supply Administration  
Supply and Service Canada  
11 Laurier Street  
Hull, Quebec  
K1A 0S5  
Tel: (819) 997-7119

Further information with regard to these audits may be obtained from the above.

### 8.5.3 Special Audits by the U.S. General Accounting Office (G.A.O.) and other Agencies

Canadian firms who receive requests from U.S. government offices to submit an audit should immediately contact the Director General, Supply Policy Directorate at the above address.

## 8.6 Priorities and Allocations

In the U.S., the distribution of defence materials is controlled by formal systems of priority and controlled material allotments. It is mandatory that all defence orders carry priority of allotment designation.

There are three priority levels:

- a) Unrated
- b) DO rating (takes precedence over unrated)
- c) DX rating (takes precedence over unrated and DO ratings)

Canada's participation in the U.S. system is implemented by forms, instructions and regulations agreed upon by the Department of Commerce of the United States and the Canadian government through Supply and Services Canada. The agreement ensures that Canadian purchase orders for material from the U.S. for use in Canada or U.S. defence programs are given equal consideration with comparable U.S. orders. Canadian orders without U.S. priority or allotment identification can be treated only as regular commercial orders.

All contracts issued by Canadian Commercial Corporation to Canadian suppliers for U.S. requirements will, when issued, include the necessary priority rating and allotment. All other Canadian importers of U.S. defence supplies will use the forms and applications prescribed by DSS, Materiel Priorities Officer, indicated below. When any assistance is required to secure an allotment of U.S. controlled materials or delivery on a purchase order placed with a Canadian or U.S. supplier, or for changes in allotments or dollar limitations on purchases made under priority rating, application shall be made to:

Materiel Priorities Officer  
Supply Information and Data Management Branch  
Supply and Services Canada  
Place du Portage  
11 Laurier Street  
Hull, Quebec  
K1A 0S5  
Tel: (819) 997-5644

## 9.0 U.S. Tariffs and Duty-Free Entry

### 9.1 Special Authorization

The Department of Defense of the United States has special statutory authorization to arrange duty-free entry for acquisition of goods (including spare parts) from other countries. This arrangement also extends to the importation of Canadian defence supplies by U.S. companies carrying out defence contracts.

### 9.2 Entry Certificate

The responsibility for issuing a Duty-Free Entry Certificate rests with: The Transportation Officer, DCASR New York. (DFARS 25.603 and 52.225-7008):

Attn: Customs Functions  
201 Varick Street  
New York 10014  
c.c.: DCASMA, Ottawa

### 9.3 Imported Materials

Canadian Order-in-Council PC 1970-1913 has simplified matters for Canadian manufacturers requiring imported materials for U.S. defence work. The Order-in-Council is implemented by Department of National Revenue memorandum D53-11.

### 9.4 Essential Conditions

Subcontractors to U.S. primes are to ensure that two items appear in their contract:

- a) A clause which stipulates Duty-Free Entry (DFAR 52.225-7008), and
- b) The U.S. DoD contract number.

Failure to comply with the above can cause DUTY to be collected.

### 9.5 Drawback on Goods Manufactured or Produced in Canada and Exported

Canadian Customs regulations permit the payment of drawback of duty when Canadian duty has been levied on imported goods that are used in the manufacture of goods subsequently exported from Canada in a new and unused condition. Upon export, the importer may apply for recovery of that portion of the duty and taxes paid on the imported goods incorporated into the exported article.

Although most instances of Canadian firms importing material and/or parts from the U.S. for defence production sharing work will be eligible for duty remission under Department of National Revenue (DNR) Memorandum D53-11, cases exist where payment of Canadian duty is required before the goods may be imported.

### 9.6 Remission of Duty on Goods Imported for Processing and Subsequent Export

The provision of Order-in-Council P.C. 1979-615 (DNR Memorandum D17-30), entitled an "Order Respecting the Remission of Customs Duty on Goods Imported for Processing and Subsequent Export", provides for the

remission of duty on imported goods used in the manufacture of goods for export. A manufacturer that has an established pattern of export sales or a *bona fide* contract or sales agreement may be authorized, upon approval of an application to the Minister of National Revenue, to import under this Order.

### 9.7 Temporary Importation of Goods — United States to Canada

Materials or equipment owned by the U.S. government qualify for a general duty exemption under Customs Tariff Item 70800-1. The Department of National Revenue will provide details regarding the procedures for claiming exemption in such cases.

There is no general statement of exemption from duty for privately owned equipment entering Canada from the United States on loan for production, research or test purposes except that which follows. Each request for exemption is handled individually. Further information on procedures and regulations may be obtained from the Deputy Minister, Department of National Revenue, Customs and Excise, Ottawa. The Canadian contractor who is borrowing the equipment should write to the Deputy Minister, well in advance of the shipping date, stating the purpose and circumstances under which the proposed loan is to be made. If an urgent situation arises, the Headquarters Operations Directorate of the Department of National Revenue should be asked for assistance.

### 9.8 Temporary Importing for Manufacturing Purposes

Canadian firms awarded contracts to manufacture products under the Defence Production Sharing Program may import moulds, patterns, tooling, cutting tools, dies, testing machines and instruments which are committed by design and for use exclusively in the production or testing of goods produced under the terms of the contract. (Refer to paragraphs 2 and 3 of DNR Memorandum D53-11.)

### 9.9 Temporary Importation of Goods — Canada to United States

Schedule 8, Part 5, of the Tariff Schedule of the United States includes a number of tariff items under which articles may be admitted free of duty, under bond. Attention is invited especially to items 864.30 and 864.55 which may be relevant for Canadian companies wishing to bring product samples into the United States. Canadian companies contemplating such activity are urged to obtain specific guidance in advance concerning each individual case from U.S. Customs at the proposed port of entry.



### **9.10 Returning Goods from the U.S. to Canada for Repairs, Alterations, Adjustment or Testing**

There may be occasions when goods which have been exported to the United States are not acceptable to the customer and have to be returned for reprocessing, repair, adjustment or testing. The repaired goods are then re-exported.

### **9.11 U.S. Customs Form 4455 "Certificate of Registration"**

U.S. Customs regulations state that before the exportation of any article from the U.S. for repairs or alteration or processing effected abroad, or declaration and application must be filed in duplicate on Customs Form 4455 by the owner or exporter with the District Director of U.S. Customs at such a time before the departure of the exporting conveyance from the U.S. that will permit an examination of the articles. U.S. Customs will retain one copy of Form 4455 and return the other to the carrier. A copy of this form should be attached to the invoice when the Canadian firm ships the article back to the company in the U.S.

## **10.0 Export of Defence Material from the U.S.**

In the pursuit of both prime and sub defence contracts, there could well be a requirement to have material or documentation sent from the U.S. to Canada.

There are three categories in the export of these materials from the U.S.:

### **10.1 Unclassified Material/Documentation**

The U.S. International Traffic in Arms Regulation (ITAR, Section 123.12 and 126.5 of Title 22m) permits with some exceptions, (fully automatic firearms, nuclear weapons and design naval nuclear propulsion, submersibles and certain categories of aircraft) the export, without a licence, of any UNCLASSIFIED defence article or any UNCLASSIFIED technical data to Canada for end-use in Canada or subsequent return to the United States.

NOTE (1): There may still be a requirement to comply with Article 123.10(e) (exports in excess of U.S. \$14 million may require Congressional approval) and 123.25 (Filing of Shippers Declaration with United States Customs).

NOTE (2): The Canadian government requires an Export Permit when shipments are consigned to a third country through the U.S. The U.S. requires an In-transit License.

### **10.2 Unclassified Technical Data Disclosing Critical Technology**

A Canadian contractor may register with the Joint Certification Office\* which will allow the Canadian company to take the responsibility for safeguarding "Unclassified Data Disclosing Critical Technology". (Unclassified Technical Data" means technical data other than that which in the interest of national security is subject to a system of security classification in the interest of national security.

\*United States-Canada Joint Certification Office  
Defense Logistics Services Center  
Federal Center  
Battle Creek, Michigan  
49017-3084  
(616) 962-6511 EXT 6814

Under the Joint Certification Program (JCP), certified Canadian contractors will be able:

- a) to respond quickly to DoD contract opportunities where specifications involve technical data which can only be released to certified contractors
- b) to attend DoD sponsored restricted access conference where export-controlled data are presented
- c) to more readily access certain DoD technical data which could stimulate both their military and commercial R and D efforts

### **10.3 Classified/Unclassified (Export Licence Required)**

The United States Department of State, Office of Munitions Control regulates the export of defence articles and services.

The procedure for applying for an export license is as follows:

- a) The United States prime contractor or DoD program manager forwards a Non-Transfer and Use Certificate (DSP-83) to the Canadian subcontractor who certifies the document as "End-User". It is then returned to the United States Prime/Project Office;
- b) The United States project officer or prime now forwards to the United States State Department, Office of Munitions Control the following:
  - i) form DSP-83, and
  - ii) application for export of classified defence articles/technical data DSP-85.
- c) The Office of Munitions Control will either:
  - i) approve the application or
  - ii) send to the following for a recommendation:
    - Assistant Secretary of Defense (International Programs and Technology) Export Control,
    - Navy, Army or Air Force Technology Transfer Office. i.e.: Navy is OP-623 (Technology Transfer).
- d) If approved, the Department of Defense, Defense Investigative Service (DIS) will be notified to release the equipment/document(s) to Supply and Services Canada Industrial Security, for delivery to the customer.

## 11.0 Defence Industrial Security

Whether responding to a solicitation, making a marketing call or working on a classified project there may be a requirement for facility and/or personnel clearances.

Prior to becoming involved in any U.S. defence activity, whether it be a DoD agency or prime contractors you should verify security and visit requirements.

### 11.1 Security Clearance

To facilitate these procedures, agreements have been entered into between the United States and Canada whereby Canadian contractor personnel, with security clearance in Canada, can be sponsored by the Department of Supply and Services (SSC) for access to U.S. projects. Subject to the approval of the U.S. DoD, visits to U.S. contractors or manufacturer establishments can then be made.

Clearance requests for either facilities or personnel should be directed to:

The Director  
Security Branch  
Supply and Services Canada  
Place du Portage III  
Hull, Quebec  
K1A 0S5  
Tel: (819) 953-3613

In the case of visits to U.S. agencies the minimum processing time is 45 days.

### 11.2 Visits by Canadian Personnel to the United States

It should be determined, when making exploratory enquiries of U.S. service personnel concerning visit arrangements, whether formal visit approvals are required to enter their facility. It will probably be necessary to process a visit request even for access to unclassified U.S. information and/or to discuss purely Canadian industrial capabilities and products.

There are U.S. visa requirements for Canadian contracting personnel working in the U.S.

When cleared Canadian government and/or industrial personnel wish to visit U.S. government and/or industrial establishments on classified matters, or unclassified matters where visitor controls are exercised, formal visit approvals are obtained as follows:

- a) The request is submitted by the plant/department security office to the Security Branch, SSC, giving the following details:
  - i) full name of agency or company submitting the request;
  - ii) alphabetical listing of individuals concerned in the proposed visit, giving their full name, citizenship, date and place of birth, social insurance number and security clearance. The prerequisite here is that such personnel must have a Canadian security clearance granted by the Security Branch, Department of Supply and Services;

- iii) full address of place to be visited, including street address, and if applicable, the name, rank, title and telephone number of the person to be visited;
  - iv) *specific purpose* of the proposed visit, including the type of information or equipment to which access is required and the particular areas of interest and capability of the applicant's company;
  - v) to obtain a renewal of a previous approval, quote the previous SSC request number, U.S. approval number, expiry date of previous clearance and, when applicable, the number of visits made under this previous authority.
- b) Canadian government sponsorship is granted by the SSC Security Branch if the request is submitted in sufficient detail and if the purpose of the visit is within the known capabilities of the company.
  - c) SSC then submits the request through its Washington office to the appropriate U.S. DoD agency, according to the project involved, and to the U.S. service which has security cognizance over the facility to be visited. It should be noted that these are not necessarily identical.
  - d) If, after processing, the U.S. DoD authorities approve the requested visit, they allot a visit clearance for the particular request, and SSC is so advised. The SSC Security Branch then notifies the company of the clearance number and duration of the clearance. The facility to be visited is also notified of this clearance number, which should be quoted by the visitor in making his arrangements for a specific visit.

*\*It should be noted that the U.S. services normally require 30 days in which to conduct the required processing of a visit request. An additional 15 days is required for the Canadian portion. In general, you should submit your request two months in advance.*

A visit clearance to a U.S. establishment permits access to classified information on an oral and visual basis only.

Visit clearance may be approved for either single or repetitive visits over a one-year period. In addition, similar clearance routes are available for visit arrangements where Canadian classified information is involved.

### 11.3 Visits by U.S. Personnel to Canada

In the event that U.S. businessmen wish to visit Canadian companies involved in classified projects, the procedure is as follows:

- a) Application is made by the U.S. plant security officer to the local representative of the U.S. DoD which has plant cognizance, including such details as are required by normal U.S. visit procedure, i.e. names, purpose of visit, etc.
- b) The security clearance of the applicant is verified by the U.S. DoD representative and, if no release of U.S. manufacturer classified information is involved in the proposed visit, the request may then be transmitted through the Defence Industrial Security Clearance Office (DISCO), Columbus, Ohio, to the U.S. embassy in Ottawa for forwarding to the SSC Security Branch.

- c) Where release of classified U.S. manufacturer information is involved, the local DoD representative processes the request through his headquarters and, if approved, the requests are then transmitted to the Manufacturer Attaché of the U.S. embassy in Ottawa for direct transmission to the Security Branch, SSC.
- d) When the visit request is approved by the Security Branch, a visit clearance number for particular request is allotted and the requesting company is advised through the U.S. embassy. The Canadian company to be visited is also notified by the SSC Security Branch.
- e) Personnel who are thus cleared must advise the Canadian company at least 48 hours in advance of their arrival.
- f) The Canadian portion of the visit clearance procedure can normally be accommodated within three to five working days.

Visit requests by U.S. service personnel, on either classified or unclassified matters, are handled as outlined in sub paragraphs c), d) and e) above.

### 11.4 Contractual Requirements

Award of a prime or subcontract to a Canadian firm by the U.S. Armed Services or their prime contractors is *prima facie* evidence that releasability and need-to-know have been established to the satisfaction of the U.S. security authorities. While visit requests are still required, the handling of such requests can be expedited with the inclusion of all contract and/or subcontract details in the formal visit submission.

### 11.5 Facilities Clearance for Canadian Firms

To enable a U.S. contractor or U.S. government procurement agency to determine the security status of a potential Canadian contractor, the following action is taken:

- a) The U.S. DoD transmits a written request for facility clearance to the SSC/Security Branch through the channels indicated above. If the Canadian company is already established as a cleared facility, immediate advice can be returned to the U.S. DoD. If no previous facility clearance has been recorded with the SSC/Security Branch, it will be necessary to institute inspection and clearance procedures before the U.S. DoD can be advised of the company's status. This can take considerable time.
- b) Industrial Security Division (ISD) advises the cognizant U.S. DoD in writing of the facility clearance of the Canadian company.
- c) Should a classified contract or subcontract subsequently be awarded to the Canadian company, the SSD/Security Branch assumes responsibility for security of the information or work on behalf of the U.S. DoD. Security requirements must be adhered to for the duration of such contract or subcontract.

## 11.6 Transmission of Documents and Materials

It should be noted that a visit clearance to a U.S. establishment permits access to classified information and/or material on an oral and visual basis only. If an exchange of classified documents (for example, plans, specifications, etc.) or material (hardware, etc.) is envisaged, the Canadian company should so notify the SSC/Security Branch as soon as possible, preferably during the negotiation phase when a contract is being established. It is stressed that exchange of classified documents and/or material can be effected on a government-to-government basis only.

When negotiations with Canadian firms for defence work are conducted through the Canadian Commercial Corporation, classified bid sets and similar material are supplied to Canadian firms through that office after the facility security clearance and other industrial security requirements have been confirmed by the SSC Security Branch.

When Canadian companies are subcontracting to a U.S. prime and classified or designated unclassified, prime documents are required; the U.S. prime must be reminded to originate a request through the DoD Project Office and Office of Munitions Control/U.S. State Department for an Export Permit.

## 11.7 U.S. Representation

Canadian firms must often decide whether their own domestic sales force or locally appointed sales representatives can best penetrate the U.S. defence market. Where products or services are totally unclassified and there is no requirement to enter U.S. government or industrial facilities where material considered to affect the U.S. classified equipment is located, a Canadian firm should encounter few problems in employing U.S. citizens to promote their products.

On the other hand, should U.S. classified information, equipment or areas within facilities require security clearances, problems can be expected. These include determining how the U.S. citizens can establish themselves as cleared representatives of a Canadian firm under U.S. industrial security regulations. Even when U.S. citizens have been previously cleared on their own requirements, such a clearance may be affected when representing non-U.S. firms.

Before finalizing such relationships, the U.S. representatives should be advised to consult with the local office of the Defense Contract Administration Services (DCAS Regional, District or Office) nearest to his geographical location. Canadian firms should consult with the SSC/Security Branch for further information. Where possible, SSC will co-ordinate the matter with the DCAS.

## 11.8 Summary

The information in this section does not cover all aspects of security, and it is suggested, therefore, that specific guidance in this regard be obtained from the Security Branch of SSC in the initial phases of participation in the Canada-United States Production Sharing Program which might involve classified projects. There are three general rules to be adhered to

when applying for clearances in connection with this program:

- a) It is essential that complete and explicit reasons for visits be given to SSC/Security Branch outlining the exact subject matter to be discussed. The major source of delay in securing approvals is lack of adequate explanation of the "need-to-know".
- b) The request should be made as far in advance as possible to allow for the required processing.
- c) The focal point for all contact and follow-up on visit clearance and initial documentary exchange procedures is:

The Director  
Security Branch  
Supply and Services Canada  
Place du Portage, Phase III  
Hull, Quebec K1A 0S5  
Tel: (819) 953-3613

## 12.0 Miscellaneous

This chapter briefly defines various miscellaneous aspects of the U.S. defence market:

1. Military Assistance Program
2. Foreign Military Sales
3. Canadian Federal Sales Tax
4. Provincial Sales Tax

### 12.1 Military Assistance Program (MAP)

Statutory regulations normally preclude U.S. Military Assistance Program (MAP) acquisition outside the U.S.; however, there are exceptions (DoD FAR SUPP 25-72). Only United States end products are normally delivered in the U.S. Military Assistance Program, but such an end product means "an end product manufactured in the United States if the cost of the components thereof, which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components". (DoD FAR SUPP 52-225-7016). This means that Canadian firms could be subcontractors under this program.

### 12.2 Foreign Military Sales

Generally, Canadian firms may supply items for U.S. Foreign Military Sales. There are, however, exceptions to this rule. This may be particularly important to Canadian firms because the foreign customers may stipulate the source of the item (DOD FAR SUPP 25.7307). Where a Canadian firm has been a partial supplier to the U.S., it has proven possible to influence the customer to stipulate the Canadian supplier as his designated source.

### 12.3 Canadian Federal Sales Tax

Federal Sales Tax does not apply to goods exported from Canada to the United States, provided the goods have not been used in Canada. This applies to goods for both civilian and military use, and is provided for in the Excise Tax Act, which statute imposes the sales tax.

Canadian firms are entitled to a refund of the sales tax previously paid on unused goods sold to the U.S. government.

Department of National Revenue Memorandum D-17-17, dated October 25, 1978 provides for the remission of sales taxes (in addition to customs duties and excise taxes) in cases where Canadian manufactured goods are shipped to the U.S. Military Services at sites in Canada. This applies even though the goods remain permanently or temporarily in Canada as long as the title or ownership is vested in the U.S. government.

Certificates, stating that the goods in question are or will become the property of the U.S. government, and are to be used solely and exclusively in joint Canada/United States projects or U.S. establishments in Canada, and signed by an authorized representative, are required.

NOTE: If goods are delivered through the U.S. to a third nation, an export licence may be required (see CH 10.2)

If the sale of the goods is by a Canadian manufacturer, licensed as such, or by a wholesaler holding a federal sales tax licence, it will not be necessary to pay the tax and then claim a refund. The sale may be effected without the application of sales tax provided the conditions outlined in the above paragraph are observed. If during the completion of a prime or subcontract for the U.S. Services, inventory is used on which sales tax has already been paid, refund may be claimed provided it can be proved that the goods were used under exempt conditions as outlined above, and provided further that the claim is submitted within two years of the time the claimant sold the goods to the U.S. government.

### 12.4 Canadian Provincial Sales Taxes

Most provinces levy sales tax established by provincial legislation and regulations. It is therefore impossible to give a general ruling on the applicability of provincial sales tax on Canadian goods sold directly or by subcontracting to the U.S. government.

# APPENDIX

## Addresses of Canadian Trade Officers in the United States

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### WASHINGTON, D.C.

Canadian Embassy  
2450 Massachusetts Avenue, N.W.  
Washington, D.C. 2008-2881  
Phone: (202) 483-5505, Ext. 370/380  
Telex: 0089664 (DOMCAN A WSH)  
Territory: U.S. government departments and agencies in the Metropolitan area

### ATLANTA

Canadian Consulate General  
400 South Tower  
One CNN Center  
Atlanta, Georgia 30303-2705  
Phone: (404) 577-6810  
Telex: 054-2676 (DOMCAN ATL)  
Territory: Alabama, Florida, Georgia, Mississippi, North and South Carolina, Tennessee, Puerto Rico, U.S. Virgin Islands

Canadian Government Trade Office  
Atlanta Bank Building, Suite 1403  
20 North Orange Avenue  
Orlando, Florida 32801  
Phone: (305) 236-9784

### BOSTON

Canadian Consulate General  
Three Copley Place, Suite 400  
Boston, Massachusetts 02116  
Phone: (617) 262-3760  
Telex: 94-0625 (DOMCAN BSN)  
Territory: Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

### BUFFALO

Canadian Consulate  
One Marine Midland Center  
Suite 3550  
Buffalo, New York 14203-2884  
Phone: (716) 852-1247  
Telex: 0091329 (DOMCAN BUF)  
Territory: Western, Central and Upstate New York

### CHICAGO

Canadian Consulate General  
310 South Michigan Avenue  
12th Floor  
Chicago, Illinois 60604-4295  
Phone: (312) 427-1031 (Night line: (312) 427-1035)  
Telex: 00254171 (DOMCAN CGO)  
Territory: Illinois, Missouri, Wisconsin, the Quad-City region of Iowa

### CLEVELAND

Canadian Consulate  
Illuminating Building  
55 Public Square, Suite 1008  
Cleveland, Ohio 44113-1983  
Phone: (216) 771-0150  
Telex: 00985364 (DOMCAN CLV)  
Territory: Ohio, Kentucky, West Virginia, Western Pennsylvania

Defence Production  
(USAF Aeronautical Division)  
Wright Patterson AFB/MCLDDP  
Area "B", Bldg. 11A, Room 148  
Dayton, Ohio, 45433  
Phone: (513) 225-4382 or 225-4537

### DALLAS

Canadian Consulate General  
St. Paul Place, Suite 1700  
750 North St. Paul Street  
Dallas, Texas 75201-3281  
Phone: (214) 922-9806  
Telex: 00732637 (DOMCAN DAL)  
Territory: Texas, Arkansas, Kansas, Louisiana, New Mexico, Oklahoma

### DETROIT

Canadian Consulate General  
1920 First Federal Building  
1001 Woodward Avenue  
Detroit, Michigan 48226-1966  
Phone: (313) 965-2811  
Telex: 23-0715 (DOMCAN DET)  
Territory: City of Toledo, States of Michigan and Indiana

### LOS ANGELES

Canadian Consulate General  
300 South Grand Avenue  
10th Floor, California Plaza  
Los Angeles, California 90071  
Phone: (213) 687-7432  
Telex: 00674119 (DOMCAN LSA)  
Territory: States of Arizona, California (10 southern counties), Clark County in Nevada

### California

Defence Contract Administration  
Services Management Area (DCASMA)  
Canadian Defence Liaison  
(CDLO — 11th Floor)  
222 North Sepulveda Blvd.  
El Segundo, California, 90245  
Phone: (213) 335-4439  
FAX: 910 328 6111

#### MINNEAPOLIS

Canadian Consulate General  
701 Fourth Avenue South  
Minneapolis, Minnesota  
55415-1078  
Phone: (612) 333-4641  
Telex: 29-0229 (DOMCAN MPS)  
Territory: Iowa, Nebraska, Minnesota, North Dakota,  
South Dakota, Montana

#### NEW YORK

Canadian Consulate General  
1251 Avenue of the Americas  
New York City,  
New York 10020-1175  
Phone: (212) 586-2400 (Night line: (212) 586-2406)  
Telex: 00126242 (DOMCAN NYK)  
Territory: Connecticut, New Jersey, Southern New York

#### PHILADELPHIA

Call the Department of External Affairs for information at  
(613) 996-1836

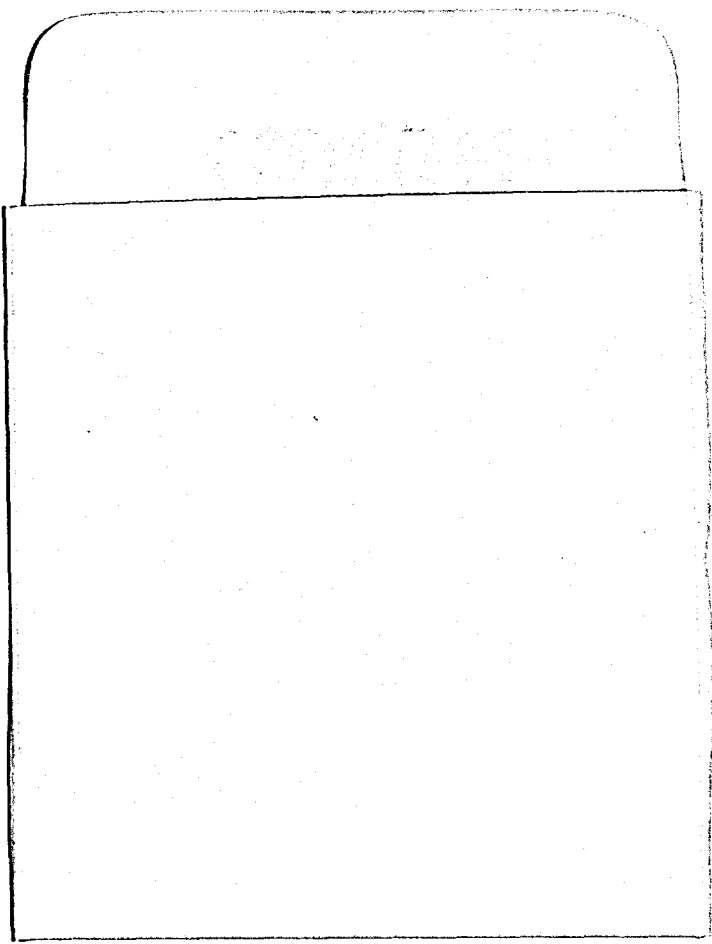
#### SAN FRANCISCO


Canadian Consulate General  
One Maritime Plaza, Suite 1100  
Alcoa Bldg., Golden Gateway Center  
San Francisco, California  
94111-3468  
Phone: (415) 981-2670  
Telex: 0034321 (DOMCAN SFO)  
Territory: California (except the ten southern counties),  
Colorado, Hawaii, Nevada (except Clark County), Utah,  
Wyoming

#### SEATTLE

Canadian Consulate General  
412 Plaza 600, Sixth and Stewart,  
Seattle, Washington 98101-1286  
Phone: (206) 443-1777  
Telex: 032-8762 (DOMCAN SEA)  
Territory: Alaska, Idaho, Oregon, Washington

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