INVITED CONTRACTOR PROGRAM INSTRUCTIONS

"STEP 1" PROCEDURE -- REQUESTING SOFA-DESIGNATION FOR THE CONTRACT

Designation as a US Invited Contractor (IC) or Technical Representative (TR) under the US-ROK Status of Forces Agreement (SOFA) is a legal requirement for all US contractors who will be performing contract requirements in the Republic of Korea (ROK) in support of United States Forces Korea (USFK). This is a unique requirement in the US-ROK SOFA.

SOFA Designation is a two (2) step process as outlined in the paragraphs below.

SOFA designation is a unilateral right of USFK. Contracting Officers (KOs) should not make SOFA status a condition of the contract without first coordinating with the USFK Assistant Chief of Staff for Acquisition Management (FKAQ) Office. Contract performance in the ROK must be coordinated and approved by FKAQ prior to the start of performance in the ROK.

A copy of the US-ROK SOFA can be found at:

https://www.usfk.mil/Portals/105/Documents/Contracting/Contractor%20Links%20Sept%2015/US-ROK%20SOFA_1966-67.pdf

USFK Instruction 4901.01 implements the US-ROK SOFA and may be found at: https://www.usfk.mil/Portals/105/Documents/Publications/Instructions/USFK-Instruction-4901-01-Invited-Contractor-and-Technical-Representative-Program.pdf

SOFA IC Designation is a two-step process.

STEP 1 ("Contract" SOFA IC Designation): The first step in the SOFA IC designation process is the designation of the contract itself. The KO for the contract is required to submit a SOFA IC designation request package to FKAQ for IC designation. The KO may submit the request to cover the total contractual period, including all options.

IDIQ ("D-Type") contracts are approved by exception only. As a rule, SOFA IC designation should be requested only for Task Orders issued under those IDIQs and not the base IDIQ itself.

Any contract which includes foreign military sales (FMS) must include a contractual document stating that "no FMS will be performed in ROK under this contract" with the request package.

Step 1 SOFA packages will be submitted to the following email address only:

usarmy.humphreys.acc.mbx.411th-csb-fkaq-workflow@army.mil

A complete SOFA designation package will include the following:

STEP 1 **Required Documents** (Details are provided below)	1	SOFA Designation Request Memo (signed by the KO)
	2	A copy of the signed Contract or Task Order (TO) showing the total period of contract performance (including options). If it is a TO against an IDIQ contract, a copy of the base IDIQ shall be included as well.
	3	The associated Performance Work Statement (PWS) or Statement of Work (SOW), if it is not already incorporated into the Contract or TO.
	4	If the Contract does not include the mandated SOFA Instruction, it will need to be modified to include it and a copy of the modification shall be provided. (See the instruction language in Table D-1 in USFKI 4901.01)

	5	If the Contract (or TO) requires continued performance in case of contingency and does not include DFARS 252.225-7040 (in full text), it will need to be modified to include that clause and a copy of the modification shall be provided.
	6	If security clearances are required for contractor performance, a copy of the associated DD Form 254, Contract Security Classification Specification.

1. SOFA Designation Request Memorandum: Before DoD contracts non-Korean businesses can receive SOFA IC designation, one of the following four exception criteria must be met:

1) Security considerations (supported by a DD 254)
2) Technical qualifications
3) Unavailability of materials or services in the ROK
4) Limitations of US law

The KO must provide sufficient justification and provide supporting evidence in paragraph 3d of the SOFA Designation Request Memo to validate use of the exception requested. If citing exception 1, the KO must provide a copy of the DD Form 254 indicating the security requirement for the contract.

If citing exception 2 or 3, the KO must adequately describe **how and what market research was conducted, and what qualifications, capabilities, and/or requirements were identified that no Korean firm is available to perform. Market research should focus on capabilities in the Korean market**.

SOFA Request Memo template:

Step 1 SOFA
Request memo Temp

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2. Signed Contract/Task Order copy: The Contract/TO must be **digitally signed or wet signed with hand-written signature**. Please highlight (1) performance period (total contract period including all options), (2) description of services performed in PWS, (3) security clearance in PWS, (4) SOFA clause, and (5) Contingency or Wartime clause.

For contracts SOFA designated across multiple years, KOs must provide copies of subsequent TOs or modifications funding the option years.

3. PWS
Provide a copy of the PWS if it is not incorporated into the contract or the TO. PWS must be identifiable as a standalone document and linked back to the contractual document. The PWS must include the contract number on the document to clearly tie it back to the contract/task order.

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4. SOFA Clause in full text.
The complete SOFA Instruction must be incorporated into the contract or task order; if the SOFA Instruction is not incorporated into the contract or task order, please process a modification to add it.

5. Continuance of Performance in Wartime Clause in full text (if applicable):
If performance is expected to continue in contingency or wartime conditions, the complete wartime clause (DFARS 252.225-7040) must be incorporated into the contract or task order for emergency essential performance; if the clause is not already incorporated into the contract or task order, please process a modification to add it.

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[W] SOFA Instruction for IC Contracts.doc	[W] DFARS 252.225-7040 Contir

6. DD Form 254 (signed) (if applicable) If security requirement is claimed as the exception, a copy of the DD Form 254 is required.	

REQUESTING EXTENSION OF A CONTRACT'S SOFA STATUS

Extension of STEP 1 Required Documents	1	SOFA Designation Request Memo (signed by contracting officer (KO))
	2	Signed Contract or Task Order showing period of performance extension
	3	Updated PWS, DD Form 254, etc. (if applicable) – any documents that changed