

This content is from the eCFR and is authoritative but unofficial.

Title 48 – Federal Acquisition Regulations System

Chapter 1 – Federal Acquisition Regulation

Subchapter D – Socioeconomic Programs

Part 25 – Foreign Acquisition

Subpart 25.1 – Buy American – Supplies

Authority: 41 U.S.C. 1121(b); 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

Source: 64 FR 72419, Dec. 27, 1999, unless otherwise noted.

25.101 General.

(a) The Buy American statute restricts the purchase of supplies that are not domestic end products. For manufactured end products, the Buy American statute, E.O. 13881, and E.O. 14005 use a two-part test to define a domestic end product.

(1) The article must be manufactured in the United States; and

(2)

(i) Except for an end product that consists wholly or predominantly of iron or steel or a combination of both, the cost of domestic components shall exceed 60 percent of the cost of all the components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029. But see paragraph (d) of this section. In accordance with 41 U.S.C. 1907, this domestic content test of the Buy American statute has been waived for acquisitions of COTS items (see 12.505(a)) (but see paragraph (a)(2)(ii) of this section).

(ii) For an end product that consists wholly or predominantly of iron or steel or a combination of both, the cost of foreign iron and steel must constitute less than 5 percent of the cost of all the components used in the end product (see the definition of "foreign iron and steel" at 25.003). The cost of foreign iron and steel includes but is not limited to the cost of foreign iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the end product and a good faith estimate of the cost of all foreign iron or steel components excluding COTS fasteners. This domestic content test of the Buy American statute has not been waived for acquisitions of COTS items in this category, except for COTS fasteners.

(b) The Buy American statute applies to small business set-asides. A manufactured product of a small business concern is a U.S.-made end product, but is not a domestic end product unless it meets the domestic content test in paragraph (a)(2) of this section.

(c) Exceptions that allow the purchase of a foreign end product are listed at 25.103. The unreasonable cost exception is implemented through the use of an evaluation factor applied to low foreign offers that are not eligible offers. The evaluation factor is not used to provide a preference for one foreign offer over another. Evaluation procedures and examples are provided in subpart 25.5.

(d)

- (1) A contract with a period of performance that spans the schedule of domestic content threshold increases specified in paragraph (a)(2)(i) of this section shall be required to comply with each increased threshold for the items in the year of delivery, unless the senior procurement executive of the contracting agency allows for application of an alternate domestic content test for that contract under which the domestic content threshold in effect at time of contract award will apply to the entire period of performance for the contract. This authority is not delegable. The senior procurement executive shall consult the Office of Management and Budget's Made in America Office before allowing the use of the alternate domestic content test.
- (2) When a senior procurement executive allows for application of an alternate domestic content test for a contract—
 - (i) See 25.1101(a)(1)(ii) or 25.1101(b)(1)(v) for use of the appropriate Alternate clause to reflect the domestic content threshold that will apply to the entire period of performance for that contract; and
 - (ii) Use the fill-in at 52.213-4(b)(1)(xviii)(B) instead of including 52.225-1 Alternate I when using 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services).

[64 FR 72419, Dec. 27, 1999, as amended at 74 FR 2722, Jan. 15, 2009; 79 FR 24208, Apr. 29, 2014; 86 FR 6187, Jan. 19, 2021; 87 FR 12790, Mar. 7, 2022; 89 FR 101831, Dec. 16, 2024]