

52.225-1 Buy American-Supplies

As prescribed in 25.1101(a)(1), insert the following clause:

Buy American-Supplies (Oct 2022)

(a) *Definitions*. As used in this clause—

Commercially available off-the-shelf (COTS) item—

(1) Means any item of supply (including *construction* material) that is—

(i) A *commercial product* (as defined in paragraph (1) of the definition of “*commercial product*” at Federal Acquisition Regulation (FAR) 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C.40102(4), such as agricultural *products* and petroleum *products*.

Component means an article, material, or supply incorporated directly into an *end product*.

Cost of components means—

(1) For *components* purchased by the Contractor, the *acquisition* cost, including transportation costs to the place of incorporation into the *end product* (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For *components* manufactured by the Contractor, all costs associated with the manufacture of the *component*, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. *Cost of components* does not include any costs associated with the manufacture of the *end product*.

Critical component means a *component* that is mined, produced, or manufactured in the *United States* and deemed critical to the U.S. supply chain. The list of *critical components* is at FAR 25.105.

Domestic end product means—

(1) For an *end product* that does not consist wholly or *predominantly of iron or steel or a combination of both*—

(i) An unmanufactured *end product* mined or produced in the *United States*;

(ii) An *end product* manufactured in the *United States*, if—

(A) The cost of its *components* mined, produced, or manufactured in the *United States* exceeds 60 percent of the cost of all its *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. *Components* of foreign origin of the same class or kind as those that the agency

determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. *Components* of unknown origin are treated as foreign. *Scrap* generated, collected, and prepared for processing in the *United States* is considered domestic; or

(B) The *end product* is a COTS item; or

(2) For an *end product* that consists wholly or *predominantly of iron or steel or a combination of both*, an *end product* manufactured in the *United States*, if the cost of *foreign iron and steel* constitutes less than 5 percent of the cost of all the *components* used in the *end product*. 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*. Iron or *steel components* of unknown origin are treated as foreign. If the *end product* contains multiple *components*, the cost of all the materials used in such *end product* is calculated in accordance with the definition of "*cost of components*".

End product means those articles, materials, and *supplies* to be acquired under the contract for public use.

Fastener means a hardware device that mechanically joins or affixes two or more objects together. Examples of *fasteners* are nuts, bolts, pins, rivets, nails, clips, and screws.

Foreign end product means an *end product* other than a *domestic end product*.

Foreign iron and steel means iron or *steel products* not produced in the *United States*. Produced in the *United States* means that all manufacturing processes of the iron or *steel must* take place in the *United States*, from the initial melting stage through the application of coatings, except metallurgical processes involving refinement of *steel* additives. The origin of the elements of the iron or *steel* is not relevant to the determination of whether it is domestic or foreign.

Predominantly of iron or steel or a combination of both means that the cost of the iron and *steel* content exceeds 50 percent of the total cost of all its *components*. The cost of iron and *steel* is the cost of the iron or *steel mill products* (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or *steel components* excluding COTS *fasteners*.

Steel means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.

United States means the 50 States, the District of Columbia, and *outlying areas*.

(b) 41 U.S.C. chapter 83, Buy American, provides a preference for *domestic end products* for *supplies* acquired for use in the *United States*. In accordance with 41 U.S.C. 1907, the domestic content test of the Buy American statute is waived for an *end product* that is a COTS item (see 12.505(a)(1)), except that for an *end product* that consists wholly or *predominantly of iron or steel or a combination of both*, the domestic content test is applied only to the iron and *steel* content of the *end product*, excluding COTS *fasteners*.

(c) *Offerors* may obtain from the *Contracting Officer* a list of foreign articles that the *Contracting Officer* will treat as domestic for this contract.

(d) The Contractor *shall* deliver only *domestic end products* except to the extent that it specified

delivery of *foreign end products* in the provision of the *solicitation* entitled "Buy American Certificate."

(End of clause)

Alternate I (Oct 2022). As prescribed in 25.1101 (a)(1)(ii) substitute the following sentence for the first sentence of paragraph (1)(ii)(A) of the definition of "*domestic end product*" in paragraph (a):

(A) The cost of its *components* mined, produced, or manufactured in the *United States* exceeds ___ percent of the cost of all its *components*. [*Contracting officer to insert the percentage.*]

Parent topic: 52.225 [Reserved]