52.225-3 Buy American-Free Trade Agreements-Israeli Trade Act.

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

Buy American-Free Trade Agreements-Israeli Trade Act (Nov 2023)

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

Bahraini, Moroccan, Omani, Panamanian, or Peruvian end product means an article that—

(1) Is wholly the growth, product, or manufacture of Bahrain, Morocco, Oman, Panama, or Peru; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain, Morocco, Oman, Panama, or Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the *end product* includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

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.

Free Trade Agreement country means Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore.

Free Trade Agreement country end product means an article that-

(1) Is wholly the growth, product, or manufacture of a *Free Trade Agreement country*; or

(2) In the case of an article that consists in whole or in part of materials from another country, has

been substantially transformed in a *Free Trade Agreement country* into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the *end product* includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Israeli end product means an article that—

(1) Is wholly the growth, product, or manufacture of Israel; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Israel into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

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

(c) *Delivery of end products*. 41 U.S.C. chapter 83, Buy American statute, 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*. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor *shall* deliver under this contract only *domestic end products* except to the extent that, in its *offer*, it specified delivery of *foreign end products* in the provision entitled "Buy American-Free Trade Agreements-Israeli Trade Act Certificate." If the Contractor specified in its *offer* that the Contractor would supply a *Free Trade Agreement country end product* (other than a *Bahraini, Moroccan, Omani, Panamanian, or Peruvian end product*) or an *Israeli end product*, then the Contractor *shall* supply a *Free Trade Agreement country end product* (other than a *Bahraini, Moroccan, Omani, Panamanian, or Peruvian end product*), an *Israeli end product* or, at the Contractor's *option*, a *domestic end product*.

(End of clause)

Alternate I [Reserved]

Alternate II (Jan 2025). As prescribed in 25.1101 (b)(1)(ii), substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) *Delivery of end products*. 41 U.S.C. chapter 83 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*. In addition, the *Contracting Officer* has determined that the Israeli Trade Act applies to this *acquisition*. Unless otherwise specified, this trade agreement applies to all items in the Schedule. The Contractor *shall* deliver under this contract only *domestic end products* except to the extent that, in its *offer*, it specified delivery of *foreign end products* in the provision entitled "Buy American—Free Trade Agreements—Israeli Trade Act Certificate." If the Contractor specified in its *offer* that the Contractor would supply an *Israeli end product*, then the Contractor *shall* supply an *Israeli end product* or, at the Contractor's *option*, a *domestic end product*.

Alternate III (Feb 2024). As prescribed in 25.1101 (b)(1)(iii), delete the definition of "Bahraini, Moroccan, Omani, Panamanian, or Peruvian *end product*" and add in its place the following definition of "Korean *end product*" in paragraph (a) of the basic clause; and substitute the following paragraph (c) for paragraph (c) of the basic clause:

Korean end product means an article that—

(1) Is wholly the growth, product, or manufacture of Korea (Republic of); or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Korea (Republic of) into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the *end product* includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(c) *Delivery of end products*. 41 U.S.C. chapter 83 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*. In addition, the *Contracting Officer* has determined that the Korea (Republic of) FTA and the Israeli Trade Act apply to this *acquisition*. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor *shall* deliver under this contract only domestic end *products* except to the extent that, in its *offer*, it specified delivery of *foreign end products* in the provision entitled "Buy American—Free Trade Agreements—Israeli Trade Act Certificate." If the Contractor specified in its *offer* that the Contractor would supply a Korean *end product* or an *Israeli end product*, then the Contractor *shall* supply a Korean *end product*, an Israeli end product, or at the Contractor's *option*, a domestic end product.

Alternate IV (Oct 2022). As prescribed in 25.1101 (b)(1)(iv) 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]