

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]