

## Federal Acquisition Regulation

25.406

(2) To determine whether the Trade Agreements Act applies to the acquisition of products by lease, rental, or lease-purchase contract (including lease-to-ownership, or lease-with-option-to purchase), calculate the estimated acquisition value as follows:

(i) If a fixed-term contract of 12 months or less is contemplated, use the total estimated value of the acquisition.

(ii) If a fixed-term contract of more than 12 months is contemplated, use the total estimated value of the acquisition plus the estimated residual value of the leased equipment at the conclusion of the contemplated term of the contract.

(iii) If an indefinite-term contract is contemplated, use the estimated monthly payment multiplied by the total number of months that ordering would be possible under the proposed contract, *i.e.*, the initial ordering period plus any optional ordering periods.

(iv) If there is any doubt as to the contemplated term of the contract, use the estimated monthly payment multiplied by 48.

(3) The estimated value includes the value of all options.

(4) If, in any 12-month period, recurring or multiple awards for the same type of product or products are anticipated, use the total estimated value of these projected awards to determine whether the Trade Agreements Act applies. Do not divide any acquisition with the intent of reducing the estimated value of the acquisition below the dollar threshold of the Trade Agreements Act.

(c) *Purchase restriction.* (1) In acquisitions subject to the Trade Agreements Act, acquire only U.S.-made end products or eligible products (designated, Caribbean Basin, or NAFTA country end products) unless offers for such end products are either not received or are insufficient to fulfill the requirements.

(2) This restriction does not apply to purchases by the Department of Defense from a country with which it has entered into a reciprocal agreement, as provided in departmental regulations.

[64 FR 72419, Dec. 27, 1999, as amended at 65 FR 36026, June 6, 2000; 67 FR 21535, Apr. 30, 2002; 67 FR 56123, Aug. 30, 2002]

### 25.404 Caribbean Basin Trade Initiative.

Under the Caribbean Basin Trade Initiative, the United States Trade Representative has determined that, for acquisitions subject to the Trade Agreements Act, Caribbean Basin country end products must be treated as eligible products.

[65 FR 24322, Apr. 25, 2000, as amended at 67 FR 6118, Feb. 8, 2002]

### 25.405 North American Free Trade Agreement (NAFTA).

(a) An acquisition of supplies is not subject to NAFTA if the estimated value of the acquisition is less than \$25,000. For acquisitions subject to NAFTA, evaluate offers of NAFTA country end products without regard to the restrictions of the Buy American Act, except that for acquisitions with an estimated value of less than \$56,190, only Canadian end products are eligible products. Eligible products from NAFTA countries are entitled to the nondiscriminatory treatment of the Trade Agreements Act. NAFTA does not prohibit the purchase of other foreign end products.

(b) NAFTA applies to construction materials if the estimated value of the construction contract is \$7,304,733 or more.

(c) The procedures in 25.408 apply to the acquisition of NAFTA country services, other than services identified in 25.401. NAFTA country services are services provided by a firm established in a NAFTA country under service contracts with an estimated acquisition value of \$56,190 or more (\$7,304,733 or more for construction).

[64 FR 72419, Dec. 27, 1999, as amended at 65 FR 36026, June 6, 2000; 67 FR 21535, Apr. 30, 2002; 67 FR 56124, Aug. 30, 2002]

### 25.406 Israeli Trade Act.

Acquisitions of supplies by most agencies are subject to the Israeli Trade Act, if the estimated value of the acquisition is \$50,000 or more but does not exceed the Trade Agreements Act threshold for supplies (see 25.403(b)(1)). Agencies other than the Department of Defense, the Department of Energy, the Department of Transportation, the