

(A) End products or components listed in 225.104(a).

(B) Spare or replacement parts that must be acquired from the original foreign manufacturer or supplier.

(C) Foreign drugs acquired by the Defense Supply Center, Philadelphia, when the Director, Pharmaceuticals Group, Directorate of Medical Materiel, determines that only the requested foreign drug will fulfill the requirements.

(iv) Under coordinated acquisition (see Subpart 208.70), the determination is the responsibility of the requiring department when the requiring department specifies acquisition of a foreign end product.

(c) The cost of a domestic end product is unreasonable if it is not the low evaluated offer when evaluated under Subpart 225.5.

[68 FR 15618, Mar. 31, 2003, as amended at 70 FR 2362, Jan. 13, 2005]

**225.104 Nonavailable articles.**

(a) DoD has determined that the following articles also are nonavailable in accordance with FAR 25.103(b):

- (i) Aluminum clad steel wire.
- (ii) Sperm oil.

**225.105 Determining reasonableness of cost.**

(b) Use an evaluation factor of 50 percent instead of the factors specified in FAR 25.105(b).

**225.170 Acquisition from or through other Government agencies.**

Contracting activities must apply the evaluation procedures in Subpart 225.5 when using Federal supply schedules.

**Subpart 225.2—Buy American Act—Construction Materials**

**225.202 Exceptions.**

(a)(2) A nonavailability determination is not required for construction materials listed in FAR 25.104(a) or in 225.104(a). For other materials, a non-availability determination shall be approved at the levels specified in 225.103(b)(ii). Use the estimated value

of the construction materials to determine the approval level.

[65 FR 19851, Apr. 13, 2000, as amended at 68 FR 15619, Mar. 31, 2003]

**225.206 Noncompliance.**

(c)(4) Prepare any report of non-compliance in accordance with the procedures at 209.406-3 or 209.407-3.

[64 FR 62986, Nov. 18, 1999]

**Subpart 225.4—Trade Agreements**

SOURCE: 65 FR 19852, Apr. 13, 2000, unless otherwise noted.

**225.401 Exceptions.**

(a)(2) If a department or agency considers an individual acquisition of a product to be indispensable for national security or national defense purposes and appropriate for exclusion from the provisions of FAR Subpart 25.4, it may submit a request with supporting rationale to the Director of Defense Procurement and Acquisition Policy (OUSD(AT&L)DPAP). Approval by OUSD(AT&L)DPAP is not required if—

(A) Purchase from foreign sources is restricted by statute (see Subpart 225.70);

(B) Another exception in FAR 25.401 applies to the acquisition; or

(C) Competition from foreign sources is restricted under Subpart 225.71.

[68 FR 15619, Mar. 31, 2003]

**225.401-70 End products subject to trade agreements.**

Acquisitions of end products in the following Federal supply groups (FSG) are covered by trade agreements if the value of the acquisition is at or above the applicable trade agreement threshold and no exception applies. If an end product is not in one of the listed groups, the trade agreements do not apply. The definition of Caribbean Basin country end products in FAR 25.003 excludes those end products that are not eligible for duty-free treatment under 19 U.S.C. 2703(b). Therefore certain watches, watch parts, and luggage from certain Caribbean Basin countries are not eligible products. However,