

Federal Acquisition Regulation

25.002

AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 64 FR 72419, Dec. 27, 1999, unless otherwise noted.

25.000 Scope of part.

This part provides policies and procedures for acquiring foreign supplies, services, and construction materials. It implements the Buy American Act, trade agreements, and other laws and regulations.

[64 FR 72419, Dec. 27, 1999, as amended at 67 FR 21534, Apr. 30, 2002]

25.001 General.

(a) The Buy American Act—

(1) Restricts the purchase of supplies, that are not domestic end products, for use within the United States. A foreign end product may be purchased if the contracting officer determines that the price of the lowest domestic offer is unreasonable or if another exception applies (see Subpart 25.1); and

(2) Requires, with some exceptions, the use of only domestic construction materials in contracts for construction in the United States (see Subpart 25.2).

(b) The restrictions in the Buy American Act are not applicable in acquisitions subject to certain trade agreements (see Subpart 25.4). In these acquisitions, end products and construction materials from certain countries receive nondiscriminatory treatment in evaluation with domestic offers.

Generally, the dollar value of the acquisition determines which of the trade agreements applies. Exceptions to the applicability of the trade agreements are described in Subpart 25.4.

(c) The test to determine the country of origin for an end product under the Buy American Act (see the various country “end product” definitions in 25.003) is different from the test to determine the country of origin for an end product under the trade agreements, or the criteria for the report on end products manufactured outside the United States (see 25.004).

(1) The Buy American Act uses a two-part test to define a “domestic end product” (manufacture in the United States and a formula based on cost of domestic components).

(2) Under the trade agreements, the test to determine country of origin is “substantial transformation” (*i.e.*, transforming an article into a new and different article of commerce, with a name, character, or use distinct from the original article).

(3) For the reporting requirement at 25.004, the only criterion is whether the place of manufacture of an end product is in the United States or outside the United States, without regard to the origin of the components.

[64 FR 72419, Dec. 27, 1999, as amended at 67 FR 21535, Apr. 30, 2002; 71 FR 20306, Apr. 19, 2006; 71 FR 57377, Sept. 28, 2006]

25.002 Applicability of subparts.

The following table shows the applicability of the subparts. Subpart 25.5 provides comprehensive procedures for offer evaluation and examples.

	Subpart	Supplies for use		Construction		Services performed	
		Inside U.S.	Out-side U.S.	Inside U.S.	Out-side U.S.	Inside U.S.	Out-side U.S.
25.1	Buy American Act—Supplies	X					
25.2	Buy American Act—Construction Materials			X			
25.3	[Reserved]						
25.4	Trade Agreements	X	X	X	X	X	X
25.5	Evaluating Foreign Offers—Supply Contracts	X	X				
25.6	[Reserved]						
25.7	Prohibited Sources	X	X	X	X	X	X
25.8	Other International Agreements and Coordination	X	X		X		X
25.9	Customs and Duties	X					
25.10	Additional Foreign Acquisition Regulations	X	X	X	X	X	X
25.11	Solicitation Provisions and Contract Clauses	X	X	X	X	X	X

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