

Buy American Act Guideline - 3.4.G (09/08/04)

[Last Update: \(09/08/04\) ABachicha:kma - 3.4.G.0](#)

[Buy American Procedures - 3.4.G.1](#)

Last Update: (09/08/04) ABachicha:kma - 3.4.G.0

This guideline was extensively revised to address administrative changes throughout the document.

Definitions

A **domestic-end product** means:

- an unmanufactured end product which has been mined or produced in the United States, or
- an end product manufactured in the United States if the cost of its components mined, produced and/or manufactured in the United States exceeds 50 percent of the cost of all its components.

A **domestic offer** means an offered price for a domestic end product, including transportation to destination.

A **foreign-end product** means an end product other than a domestic-end product.

A **foreign offer** means an offered price for a foreign-end product, including transportation to destination and duty (whether or not a duty free entry certificate is issued).

Buy American Procedures - 3.4.G.1

Buy American Determinations

- This guideline does not apply to the purchase of commercial items as identified in Guideline 3.2 – Contract Price/Cost Considerations when boilerplate SF 6432-CI is used.
- The Sandia Contracting Representative (SCR) is authorized to make Buy American determinations of nonavailability using the domestic preference criteria in this guideline for procurement actions of foreign items which do not exceed \$100K for individual items under individual procurement actions.
- Approval by Department of Energy/National Nuclear Security Administration (DOE/NNSA) is required for proposed purchases of nonexempt items of foreign-end product in excess of \$100K.
- General Agreements on Tariffs and Trade Agreements (GATT) procurements from countries under the European Economic Community (EC) not exceeding \$190K for supplies and \$7,311,000 for construction are exempt from the Buy American Act.
- North American Free Trade Agreements (NAFTA) procurements for Mexican-end products valued at \$50K or less and \$6,500,000 for construction by NAFTA countries are exempt from the Buy American Act.

Buy American Exempted Items - 3.4.G.1.a

These foreign origin items are exempted from requiring DOE/NNSA approval:

- items for use outside the United States, its possessions, and Puerto Rico,
- items of foreign origin listed on a General Services Agreement (GSA), Federal Supply Schedule (FSS),

(**Note:** When ordering off a schedule that lists both foreign and domestic items, prices must be compared using rules under Domestic Item Preference Evaluations procedures in this guideline.)
- spare and replacement parts for equipment of foreign manufacture for which domestic parts are not available, and
 - supplies excepted from the Act as follows:
 - acetylene, black,
 - agar, bulk,
 - anise,
 - antimony, as metal or oxide,
 - asbestos, amosite, chrysotile and crocidolite,

- bananas,
- bauxite,
- beef, corned, canned,
- beef extract,
- bethovenium hydroxynapthoate,
- bismuth,
- books, trade, text, technical, or scientific; newspapers, magazines, periodicals; printed briefs and films not printed in the United States and for which domestic editions are not available,
- brazil nuts, unroasted,
- cadmium, ores and flue dust,
- calcium cyanamide,
- capers,
- cashew nuts,
- castor oil and castor beans,
- chalk, English,
- chestnuts,
- chicle,
- chrome ore or chromite,
- cinchona bark,
- cobalt in cathodes, rondelles, or other primary ore and metal forms,
- cocoa beans,
- coconut and coconut meat, unsweetened, in shredded desiccated or similarly prepared form,
- coffee, raw or green bean,
- colchicine alkaloid, raw,
- copra,
- cork, wood or bark and waste,

- cover glass, microscope slide,
- crane rail (85-pound per foot),
- cryolite, natural,
- dammar gum,
- diamonds, industrial, stones and abrasives,
- emetine, bulk,
- ergot, crude,
- fair linen, altar,
- fibers: abaca, abace, agave, coir, flax, jute, jute burlaps, palmyra, sisal,
- goat and kidskins,
- graphite, natural, crystalline, crucible grade,
- hand file sets (Swiss pattern),
- hand sewing needles,
- hemp yarn,
- hog bristles for brushes,
- hyoscine, bulk,
- iodine, crude,
- ipecac, root,
- kaurigum,
- lac,
- leather, sheepskin, hair type,
- lavender oil,
- manganese,
- menthol, natural bulk,
- mica,
- microprocessor chips (brought onto a government construction site as separate units for incorporation into building systems during construction or repair and

alteration of real property),

- nickel, primary, in ingots, pigs, shots, cathodes, or similar forms; nickel oxide and nickel salts,
- nitroguanidine (also known as picrite),
- nux vomica, crude,
- oiticica oil,
- olive oil,
- olives (green), pitted or unpitted, or stuffed, in bulk,
- opium, crude,
- oranges, mandarin, canned,
- petroleum, crude oil, unfinished oils and finished products,
- pine needle oil,
- platinum and related group metals, refined, as sponge, powder, ingots, or cast bars,
- pyrethrum flowers,
- quartz crystals,
- quebracho,
- quinidine,
- quinine,
- rabbit fur felt,
- radium salts, source and special nuclear materials,
- rosettes,
- rubber, crude and latex,
- rutile,
- santonin, crude,
- secretin,
- shellac,

- silk, raw and unmanufactured,
- spare and replacement parts for equipment of foreign manufacture, and for which domestic parts are not available,
- spices and herbs, in bulk,
- sugars, raw,
- swords and scabbards,
- talc, block, steatite,
- tantalum,
- tapioca flour and cassava,
- tartar, crude; tartaric acid and cream of tartar in bulk,
- tea in bulk,
- thread, metallic (gold),
- thyme oil,
- tin in bars, blocks, and pigs,
- triprolidine hydrochloride,
- tungsten,
- vanilla beans,
- venom, cobra,
- wax, carnauba,
- wire glass,
- woods: logs, veneer, lumber of the following species: Alaskan yellow cedar, angelique, balsa, ekki, greenheart, lignum vitae, mahogany and teak, and
- yarn, 50 denier rayon.

Procurements from Canadian Suppliers - 3.4.G.1.b

All purchases from Canadian suppliers are exempt from the Act. Such procurements shall be treated like domestic-end products. In most cases, the SCR shall negotiate directly with the Contractor and payment will be made in United States dollars. The Section I, Clause 3 - Price, should specify the currency.

General Agreements on Tariffs and Trade Agreements (GATT) - 3.4.G.1.c

Procurements from countries under the European Economic Community (EC) not exceeding \$190K for supplies and \$7,311,000 for construction are exempt from the Buy American Act.

The EC countries are Belgium, Denmark, Federal Republic of Germany, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, and the United Kingdom.

Under the North American Free Trade Agreements (NAFTA), procurements for Mexican-end products valued at \$50K or less and \$6,500,000 for construction by NAFTA countries are exempt from the Buy American Act.

Domestic Item Preference Evaluations - 3.4.G.1.d

When evaluating offers of both domestic and foreign-end products, preference is to be given to the domestic offer by adding a:

- Six (6) percent evaluation factor to the foreign offer, or
- Twelve (12) percent evaluation factor to the foreign offer if the low domestic quotation is from a small business or a labor surplus area concern.

Caution: Foreign offer must include all costs to Sandia dock, e.g., import duties and transportation.

If after applying the appropriate evaluation factor...

Then...

award is made to the domestic Contractor, foreign offer (except GATT countries) is still low after application of the evaluation factor,

DOE/NNSA approval is not required.

award is made to foreign Contractor.

Note: DOE/NNSA approval is required prior to award if the procurement is a nonexempt item exceeding \$100K (\$190K for supplies and \$7,311,000 for construction on procurements under the EC trade agreement).

result is a tie,

award is made to the domestic Contractor.

- the purchase will be over \$250K, and
- award is to be made based on the twelve (12) percent factor, but would not be made if the six (6) percent factor were used,

DOE/NNSA approval is required.

Exception: DOE/NNSA may approve the purchase of foreign-end products which do not meet the six (6) percent or twelve (12) percent rule for reasons of public interest or the nonavailability of domestic-end products in commercial quantities of a satisfactory quality.

DOE/NNSA Approval - 3.4.G.1.e

The SCR shall send the Procurement Action Summary (PAS), which shall include justification for the foreign buy to DOE/NNSA, Sandia Site Office, Contracting Officer. Indicate that this is a Buy American Act approval request.

If a repetitive need for specific items of foreign origin is anticipated, the SCR may request that DOE/NNSA issue blanket approval for a period not to exceed one year. The SCR should continue to review the domestic market, and if acceptable domestic supplies are found, the blanket DOE/NNSA approval shall be deemed to have expired.

All justifications submitted to DOE/NNSA for review shall contain a statement that the material/information being procured is either classified or unclassified. (See Guideline 5.4 – Security.)

Shipments from Foreign Location - 3.4.G.1.f

Where shipment of material is to be made from a foreign country, the SCR shall contact the International Contracts and Import/Export Department as soon as possible after award of contract for consultation on the advisability of duty-free status application. The SCR shall also contact the Traffic Management Team for correct routing and any other special shipping instructions. (Reference Clause Preference for U.S.- Flag Air Carriers and Preference for Privately Owned U.S.- Flag Commercial Vessels.)

Send feedback on ideas and information on this page to the Process Expert, Adolph Bachicha.



[Adolph Bachicha](#)



[Karen Archibeque](#)
