

Federal Acquisition Regulation

52.225-6

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Least developed country end product means an article that—

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

United States means the 50 States, the District of Columbia, and outlying areas.

U.S.-made end product means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

WTO GPA country end product means an article that—

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(b) *Delivery of end products.* The Contracting Officer has determined that the

WTO GPA and FTAs apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only U.S.-made or designated country end products except to the extent that, in its offer, it specified delivery of other end products in the provision entitled “Trade Agreements Certificate.”

(End of clause)

[64 FR 72435, Dec. 27, 1999, as amended at 65 FR 24322, Apr. 25, 2000; 66 FR 65350, 65371, Dec. 18, 2001; 67 FR 6119, Feb. 8, 2002; 67 FR 70520, Nov. 22, 2002; 68 FR 28086, May 22, 2003; 68 FR 56685, Oct. 1, 2003; 69 FR 1056, Jan. 7, 2004; 69 FR 34240, June 28, 2004; 69 FR 59701, Oct. 5, 2004; 69 FR 77877, Dec. 28, 2004; 71 FR 219, Jan. 3, 2006; 71 FR 20308, Apr. 19, 2006; 71 FR 36938, June 28, 2006; 71 FR 67778, Nov. 22, 2006; 72 FR 46358, Aug. 17, 2007; 72 FR 63090, Nov. 7, 2007; 74 FR 11828, Mar. 19, 2009; 74 FR 28429, June 15, 2009; 74 FR 40463, Aug. 11, 2009]

52.225-6 Trade Agreements Certificate.

As prescribed in 25.1101(c)(2), insert the following provision:

TRADE AGREEMENTS CERTIFICATE (JAN 2005)

(a) The offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled “Trade Agreements.”

(b) The offeror shall list as other end products those supplies that are not U.S.-made or designated country end products.

Other End Products

Line Item No.:

Country of Origin: _____

(List as necessary),

(c) The Government will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation. For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American Act. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for those products are insufficient to fulfill the requirements of this solicitation.

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(End of provision)

[64 FR 72436, Dec. 27, 1999, as amended at 67 FR 21537, Apr. 30, 2002; 69 FR 1056, Jan. 7, 2004; 69 FR 77877, Dec. 28, 2004]

52.225-7 Waiver of Buy American Act for Civil Aircraft and Related Articles.

As prescribed in 25.1101(d), insert the following provision:

WAIVER OF BUY AMERICAN ACT FOR CIVIL AIRCRAFT AND RELATED ARTICLES (FEB 2000)

(a) *Definition. Civil aircraft and related articles*, as used in this provision, means—

(1) All aircraft other than aircraft to be purchased for use by the Department of Defense or the U.S. Coast Guard;

(2) The engines (and parts and components for incorporation into the engines) of these aircraft;

(3) Any other parts, components, and sub-assemblies for incorporation into the aircraft; and

(4) Any ground flight simulators, and parts and components of these simulators, for use with respect to the aircraft, whether to be used as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of the aircraft, and without regard to whether the aircraft or articles receive duty-free treatment under section 601(a)(2) of the Trade Agreements Act.

(b) The U.S. Trade Representative has waived the Buy American Act for acquisitions of civil aircraft and related articles from countries that are parties to the Agreement on Trade in Civil Aircraft. Those countries are Austria, Belgium, Bulgaria, Canada, Denmark, Egypt, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, Macao, the Netherlands, Norway, Portugal, Romania, Spain, Sweden, Switzerland, and the United Kingdom.

(c) For the purpose of this waiver, an article is a product of a country only if—

(1) It is wholly the growth, product, or manufacture of that country; or

(2) In the case of an article that consists in whole or in part of materials from another country, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

(d) The waiver is subject to modification or withdrawal by the U.S. Trade Representative.

(End of provision)

[64 FR 72436, Dec. 27, 1999]

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52.225-8 Duty-Free Entry.

As prescribed in 25.1101(e), insert the following clause:

DUTY-FREE ENTRY (FEB 2000)

(a) *Definition. Customs territory of the United States* means the States, the District of Columbia, and Puerto Rico.

(b) Except as otherwise approved by the Contracting Officer, the Contractor shall not include in the contract price any amount for duties on supplies specifically identified in the Schedule to be accorded duty-free entry.

(c) Except as provided in paragraph (d) of this clause or elsewhere in this contract, the following procedures apply to supplies not identified in the Schedule to be accorded duty-free entry:

(1) The Contractor shall notify the Contracting Officer in writing of any purchase of foreign supplies (including, without limitation, raw materials, components, and intermediate assemblies) in excess of \$10,000 that are to be imported into the customs territory of the United States for delivery to the Government under this contract, either as end products or for incorporation into end products. The Contractor shall furnish the notice to the Contracting Officer at least 20 calendar days before the importation. The notice shall identify the—

- (i) Foreign supplies;
- (ii) Estimated amount of duty; and
- (iii) Country of origin.

(2) The Contracting Officer will determine whether any of these supplies should be accorded duty-free entry and will notify the Contractor within 10 calendar days after receipt of the Contractor's notification.

(3) Except as otherwise approved by the Contracting Officer, the contract price shall be reduced by (or the allowable cost shall not include) the amount of duty that would be payable if the supplies were not entered duty-free.

(d) The Contractor is not required to provide the notification under paragraph (c) of this clause for purchases of foreign supplies if—

(1) The supplies are identical in nature to items purchased by the Contractor or any subcontractor in connection with its commercial business; and

(2) Segregation of these supplies to ensure use only on Government contracts containing duty-free entry provisions is not economical or feasible.

(e) The Contractor shall claim duty-free entry only for supplies to be delivered to the Government under this contract, either as end products or incorporated into end products, and shall pay duty on supplies, or any portion of them, other than scrap, salvage, or competitive sale authorized by the Contracting Officer, diverted to nongovernmental use.