25.504–1 Buy American Act.

(a)(1) Example 1.
Offer A .... $12,000 Domestic end product, small business.
Offer B .... 11,700 Domestic end product, small business.
Offer C .... 10,000 U.S.-made end product (not domestic), small business.

(2) Analysis: This acquisition is for end products for use in the United States and is set aside for small business concerns. The Buy American Act applies. Since the acquisition value is less than $25,000 and the acquisition is set aside, none of the trade agreements apply. Perform the steps in 25.502(a).

Offer C is evaluated as a foreign end product because it is the product of a small business but is not a domestic end product (see 25.502(c)(4)). Since Offer B is a domestic offer, apply the 12 percent factor to Offer C (see 25.105(b)(2)). The resulting evaluated price of $11,200 remains lower than Offer B. The cost of Offer B is therefore unreasonable (see 25.105(c)). Award on Offer C at $10,000 (see 25.502(c)(4)(i)).

(b)(1) Example 2.
Offer A .......................................... $11,000 Domestic end product, small business
Offer B .......................................... $10,700 Domestic end product, small business
Offer C .......................................... $10,200 U.S.-made end product (not domestic), small business

(2) Analysis: This acquisition is for end products for use in the United States and is set aside for small business concerns. The Buy American Act applies. Perform the steps in 25.502(a).

Offer C is evaluated as a foreign end product because it is the product of a small business but is not a domestic end product (see 25.502(c)(4)). After applying the 12 percent factor, the evaluated price of Offer C is $11,424. Award on Offer B at $10,700 (see 25.502(c)(4)(ii)).


25.504–2 WTO GPA/Caribbean Basin Trade Initiative/FTAs.

Example 1.

<table>
<thead>
<tr>
<th>Offer</th>
<th>Price</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>304,000</td>
<td>U.S.-made end product (not domestic).</td>
</tr>
<tr>
<td>B</td>
<td>303,000</td>
<td>U.S.-made end product (domestic), small business.</td>
</tr>
<tr>
<td>C</td>
<td>300,000</td>
<td>Eligible product.</td>
</tr>
<tr>
<td>D</td>
<td>295,000</td>
<td>Noneligible product (not U.S.-made).</td>
</tr>
</tbody>
</table>

Analysis: Eliminate Offer D because the acquisition is covered by the WTO GPA and there is an offer of a U.S.-made or an eligible product (see 25.502(b)(1)). If the agency gives the same consideration given eligible offers to offers of U.S.-made end products that are not domestic offers, it is unnecessary to determine if U.S.-made end products are domestic (large or small business). No further analysis is necessary. Award on the low remaining offer, Offer C (see 25.502(b)(2)).


25.504–3 FTA/Israeli Trade Act.

(a) Example 1.
Offer A .... $105,000 Domestic end product, small business.
Offer B .... 100,000 Eligible product.

Analysis: Since the low offer is an eligible offer, award on the low offer (see 25.502(c)(1)).

(b) Example 2.
Offer A .... $105,000 Eligible product.
Offer B .... 103,000 Noneligible product.

Analysis: Since the acquisition is not covered by the WTO GPA, the contracting officer can consider the noneligible offer. Since no domestic offer was received, make a nonavailability
determination and award on Offer B (see 25.502(c)(2)).

(c) Example 3.
Offer A ..... $105,000 Domestic end product, large business.
Offer B ..... 103,000 Eligible product.
Offer C ..... 100,000 Noneligible product.

Analysis: Since the acquisition is not covered by the WTO GPA, the contracting officer can consider the non-eligible offer. Because the eligible offer (Offer B) is lower than the domestic offer (Offer A), no evaluation factor applies to the low offer (Offer C). Award on the low offer (see 25.502(c)(3)).

25.504–4 Group award basis.

(a) Example 1.

<table>
<thead>
<tr>
<th>Item</th>
<th>Offers</th>
<th>A</th>
<th>B</th>
<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>DO = $55,000</td>
<td>EL = $56,000</td>
<td>NEL = $50,000</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>NEL = 13,000</td>
<td>EL = 10,000</td>
<td>EL = 13,000</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>NEL = 11,500</td>
<td>DO = 12,000</td>
<td>DO = 10,000</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>NEL = 24,000</td>
<td>EL = 28,000</td>
<td>NEL = 22,000</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>DO = 18,000</td>
<td>NEL = 10,000</td>
<td>DO = 14,000</td>
<td></td>
</tr>
</tbody>
</table>

121,500 116,000 109,000

Key: DO = Domestic end product; EL = Eligible product; NEL = Noneligible product.

(b) Example 2.

Problem: Offeror C specifies all-or-none award. Assume all offerors are large businesses. The acquisition is not covered by the WTO GPA.

Analysis: (see 25.503)

STEP 1: Evaluate Offers A & B before considering Offer C and determine which offer has the lowest evaluated cost for each line item (the tentative award pattern):

Item 1: Low offer A is domestic; select A.
Item 2: Low offer B is eligible; do not apply factor; select B.

STEP 2: Evaluate Offer C against the tentative award pattern for Offers A and B:

<table>
<thead>
<tr>
<th>Item</th>
<th>Offers</th>
<th>A</th>
<th>B</th>
<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>DO = $55,000 *NEL = $53,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>EL = 10,000 EL = 13,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>DO = 12,000 DO = 10,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>NEL = 24,000 NEL = 22,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>*NEL = 10,600 DO = 14,000</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

111,600 112,000

*Offer + 6 percent.

On a line item basis, apply a factor to any noneligible offer if the other offer for that line item is domestic.

For Item 1, apply a factor to Offer C because Offer A is domestic and the acquisition was not covered by the WTO GPA. The evaluated price of Offer C, Item 1, becomes $53,000 ($50,000 plus 6 percent). Apply a factor to Offer B. Item 5, because it is a noneligible product and Offer C is domestic. The evaluated price of Offer B is $10,600 ($10,000 plus 6 percent). Evaluate the remaining items without applying a factor.

STEP 3: The tentative unrestricted award pattern from Offers A and B is lower than the evaluated price of Offer C. Award the combination of Offers A and B. Note that if Offer C had not specified all-or-none award, award would be made on Offer C for line items 1, 3, and 4, totaling an award of $82,000.

(b) Example 2.