(E) Time of delivery or availability; 
(F) Location of the construction project; 
(G) Name and address of the proposed supplier; and 
(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(4) of this clause. 

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this clause. 

(iii) The cost of construction material shall include all delivery costs to the construction site and any applicable duty. 

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination. 

(ii) If the Government determines after contract award that an exception to section 1605 of the Recovery Act or the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable cost of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause. 

(3) Unless the Government determines that an exception to section 1605 of the Recovery Act or the Buy American Act applies, use of foreign construction material is noncompliant with section 1605 of the American Recovery and Reinvestment Act or the Buy American Act. 

(d) Data. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers: 

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS COST COMPARISON

<table>
<thead>
<tr>
<th>Construction material description</th>
<th>Unit of measure</th>
<th>Quantity</th>
<th>Cost (dollars)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item 1:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Foreign construction material</td>
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<td></td>
<td></td>
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<tr>
<td>Domestic construction material</td>
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<td></td>
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<tr>
<td>Item 2:</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Foreign construction material</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Domestic construction material</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response, if oral, attach summary.]

*Include all delivery costs to the construction site.]

(End of clause)
Federal Acquisition Regulation

25.604, the Government will evaluate an offer requesting exception to the requirements of section 1605 of the Recovery Act or the Buy American Act by adding to the offered price of the contract—

(i) 25 percent of the offered price of the contract, if foreign manufactured construction material is incorporated in the offer based on an exception for unreasonable cost of comparable manufactured domestic construction material; and

(ii) 6 percent of the cost of foreign unmanufactured construction material included in the offer based on an exception for the unreasonable cost of comparable domestic unmanufactured construction material.

(2) If the solicitation specifies award on the basis of factors in addition to cost or price, the Contracting Officer will apply the evaluation factors as specified in paragraph (c)(1) of this provision and use the evaluated price in determining the offer that represents the best value to the Government.

(3) Unless paragraph (c)(2) of this provision applies, if two or more offers are equal in price, the Contracting Officer will give preference to an offer that does not include foreign construction material excepted at the request of the offeror on the basis of unreasonable cost of comparable domestic construction material.

(d) Alternate offers. (1) When an offer includes foreign construction material not listed by the Government in this solicitation in paragraph (b)(3) of the clause at FAR 52.225–21, the offeror also may submit an alternate offer based on use of equivalent domestic construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate Standard Form 1442 for the alternate offer and a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of the clause at FAR 52.225–21 for the offer that is based on the use of any foreign construction material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of the clause at FAR 52.225–21 does not apply, the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested—

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

Alternate 1 (MAR 2009). As prescribed in 25.1102(e), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) Requests for determinations of inapplicability. An offeror requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act) or the Buy American Act shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225–21.


As prescribed in 25.1102(e), insert the following clause:


(a) Definitions. As used in this clause—

**Component** means an article, material, or supply incorporated directly into a construction material.

**Construction material** means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the construction site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site.

**Designated country** means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, or United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa