BUY AMERICAN ACT—BALANCE OF PAYMENTS
PROGRAM CERTIFICATE (DEC 2009)

(a) Definitions. “Commercially available off-the-shelf (COTS) item,” “component,” “domestic end product,” “foreign end product,” “qualifying country,” “qualifying country end product,” and “United States” have the meanings given in the Buy American Act and Balance of Payments Program clause of this solicitation.

(b) Evaluation. The Government—
(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and
(2) Will evaluate offers of qualifying country end products without regard to the restrictions of the Buy American Act or the Balance of Payments Program.

(c) Certifications and identification of country of origin. (1) For all line items subject to the Buy American Act and Balance of Payments Program clause of this solicitation, the offeror certifies that—
(i) Each end product, except those listed in paragraph (c)(2) or (3) of this provision, is a domestic end product; and
(ii) For end products other than COTS items, components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror certifies that the following end products are qualifying country end products:

(Line Item Number)

(Country of Origin)

(3) The following end products are other foreign end products, including end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (i) of the definition of “domestic end product”:

(Line Item Number)

(Country of Origin (If known))

(End of provision)

ALTERNATE I (DEC 2010)

As prescribed in 225.1101(2)(i), add the terms “South Caucasus/Central and South Asian (SC/CASA) state” and “South Caucasus/Central and South Asian (SC/CASA) state end product” in paragraph (a) and replace the phrase “qualifying country end products” in paragraphs (b)(2) and (c)(2) with the phrase “qualifying country end products or SC/CASA state end products.”

48 CFR Ch. 2 (10–1–11 Edition)

252.225–7001 Buy American Act and Balance of Payments Program.

As prescribed in 225.1101(2)(i), use the following clause:

BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM (SEP 2011)

(a) Definitions. As used in this clause—
(1) Commercially available off-the-shelf (COTS) item—
(i) Means any item of supply (including construction material) that is—
(A) A commercial item (as defined in paragraph (1) of the definition of “commercial item” in section 2.101 of the Federal Acquisition Regulation);
(B) Sold in substantial quantities in the commercial marketplace; and
(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
(ii) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. 40102), such as agricultural products and petroleum products.

(2) Component means an article, material, or supply incorporated directly into an end product.

(3) Domestic end product means—
(i) An unmanufactured end product that has been mined or produced in the United States; or
(ii) An end product manufactured in the United States if—
(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that—
(1) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or
(2) It is inconsistent with the public interest to apply the restrictions of the Buy American Act; or

(B) The end product is a COTS item.

(4) End product means those articles, materials, and supplies to be acquired under this contract for public use.

(b) Foreign end product means an end product other than a domestic end product.


(7) Qualifying country component means a component mined, produced, or manufactured in a qualifying country.

(b) This clause implements the Balance of Payments Program. Unless otherwise specified, this clause applies to all line items in the contract.

(c) The Contractor shall deliver only domestic end products unless, in its offer, it specified delivery of other end products in the Buy American Act Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or an SCCASA state end product, the Contractor shall deliver a qualifying country end product an SCCASA state end product, or, at the Contractor's option, a domestic end product.


252.225–7002 Qualifying country sources as subcontractors.

As prescribed in 225.1101(3), use the following clause:

QUALIFYING COUNTRY SOURCES AS SUBCONTRACTORS (APR 2003)

(a) Definition. Qualifying country, as used in this clause, means any country set forth in subsection 225.872–1 of the Defense Federal Acquisition Regulation (FAR) Supplement.

(b) Subject to the restrictions in section 225.872 of the Defense FAR Supplement, the Contractor shall not preclude qualifying country sources or U.S. sources from competing for subcontracts under this contract.

(End of clause)

[68 FR 15634, Mar. 31, 2003]