Evidence-Based Recommendation of Client Reminder/Recall for Childhood Immunization, FOA IP10–004, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the aforementioned meeting:

Time and Date: 8 a.m.–5 p.m., June 7, 2010 (Closed).

Place: Sheraton Gateway Hotel Atlanta Airport, 1900 Sullivan Road, Atlanta, Georgia 30337, Telephone: (770) 979–1100.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters To Be Discussed: The meeting will include the initial review, discussion, and evaluation of applications received in response to "Evaluation of Offering and Documenting Influenza Vaccination for Nursing Home Residents, FOA IP10–001; Development, Implementation, and Evaluation of a Multi-Component Intervention to Vaccinate Adolescents at Risk for Vaccine-Preventable Diseases, FOA IP10–002; Evaluation and Impact of a State Law Requiring Mandatory Influenza Vaccination of Hospital Employees, FOA IP10–003; and Improving the Translation of the Evidence-Based Recommendation of Client Reminder/Recall for Childhood Immunization, FOA IP10–004".

For More Information Contact: Gregory Anderson, M.S., M.P.H., Scientific Review Officer, CDC, 1600 Clifton Road, NE., Mailstop E60, Atlanta, Georgia 30333, Telephone: (404) 498–2293.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: May 11, 2010.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2010–11886 Filed 5–17–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Notice of Issuance of Final Determination Concerning Certain Commodity-Based Clustered Storage Units

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection ("CBP") has issued a final determination concerning the country of origin of certain Commodity-based Clustered Storage Units. Based upon the facts presented, CBP has concluded in the final determination that the United States is the country of origin of Commodity-based Clustered Storage Units for purposes of U.S. government procurement.

DATES: The final determination was issued on May 11, 2010. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days from date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Alison Umberger, Valuation and Special Programs Branch: (202) 325–0267.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on May 11, 2010, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of Commodity-based Clustered Storage Units which may be offered to the U.S. Government under an undesignated government procurement contract. This final determination, in HQ H082476, was issued at the request of Scale Computing under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP has concluded that, based upon the facts presented, the Commodity-based Clustered Storage Units, assembled in the United States from parts made in China, Taiwan, India, Thailand, and Malaysia, and programmed in the United States using software developed in the United States, is substantially transformed in the United States, such that the United States is the country of origin of the finished article for purposes of U.S. government procurement.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: May 11, 2010.

William G. Rosoff,

Acting Executive Director, Regulations and Rulings.

Office of International Trade

Attachment

HQ H082476

May 11, 2010

OT:RR:CTF:VS H082476 ARU

CATEGORY: Marking

Mr. Joshua Holzer
Wilson, Sonsini, Goodrich & Rosati
1700 K Street, NW, Fifth Floor
Washington, DC 20006–3817

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. § 2511); Subpart B, Part 177, CBP Regulations; ICS Units

Dear Mr. Holzer:

This is in response to your request dated October 15, 2009, made on behalf of Scale Computing ("Scale"). You ask for a country of origin marking decision and final determination relating to government procurement pursuant to subpart B of Part 177, Customs and Border Protection ("CBP") Regulations (19 C.F.R. § 177.21 *et seq.*). Under these regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. § 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of Scale's SN1000, SN2000, and SN4000 Commodity-based Clustered Storage ("ICS") Units. We note that Scale is a party-at-interest within the meaning of 19 C.F.R. § 177.22(d)(1) and is entitled to request this final determination.

FACTS:

Scale Computing produces storage appliances that offer a multi-protocol, multi-density suite of non-controller-based, unified NAS/SAN, enterprise-class storage solutions. Scale's SN1000, SN2000, and SN4000 ICS Units are mass data storage devices similar in function to Storage Area Network ("SAN") or Network Attached Storage ("NAS") devices (i.e., special-purpose networks that interconnect different kinds of data storage devices—such as tape libraries and disk arrays—with associated data servers on behalf of a larger network of

users).[1] Their software architecture uses both proprietary and licensed technologies to create a grid storage system from multiple clustered "nodes" (small, commodity-based hardware devices).[2] The models at issue differ only in their storage capacity; the SN1000 holds 1 Terabyte worth of data, the SN2000 holds 2 Terabytes, and the SN4000 holds 4 Terabytes.

The ICS Units consist of the following components:

A. Hardware

1. A Central Processing Unit ("CPU"), which is used to provide the computing power;
2. An Application Specific Integrated Circuit ("ASIC") that provides the proper processing speeds;
3. A capacitor and resistors;
4. Electrically erasable programmable read-only memory ("EEPROM") to retain data in the event of power loss;
5. A "motherboard", which is a printed circuit board populated by transistors, diodes, capacitors, and communication board;
6. Additional motherboard components that provide additional data throughput;
7. A Western Digital brand Hard Disk Drive ("HDD") that stores data;
8. A memory module, which enhances overall throughput;
9. An air shroud, which helps with system cooling;
10. A heat sink that protects internal components from heat;
11. Two five foot patch cables, which connect to backplane for communication; and
12. A chassis that encloses all of the above listed components.

The components listed above are manufactured in several countries including China, India, Malaysia, Taiwan, and Thailand. (Significantly, the motherboard, which is the most expensive hardware component, is manufactured in China.) They are assembled in the U.S. upon importation "through a build and verification process that includes approximately 112 steps [summarized below]."

B. Software

The ICS Units also contain proprietary application software and firmware.[3] Together, they enable the ICS Units to (1) create a cluster of nodes which act in unison, and (2) independently control the entire cluster.[4]

The application software and the firmware were developed in the U.S. by Scale. You indicated that the development process entailed: (1) a requirements analysis; (2) product design; (3) code writing; (4) quality assurance testing; (5) bug fixing and maintenance; and (5) support. By your estimation, "at least 12,480 hours were invested in the development of the firmware and application software in question" with "at least 10,400 more hours invested each year in continued development and maintenance."

C. Assembly

The ICS Units are made from components manufactured in China, India, Malaysia, Taiwan, and Thailand. They are ultimately assembled in the U.S., according to the following process:

1. *Initial Quality Control:* personnel take component inventory and visually inspect each component. Serial numbers from each component are scanned into inventory and grouped with a particular ICS Unit. Serial numbers are verified for compatibility with other components in the group.
2. *Preparation of the System Chassis:* after clearing the system board area, the motherboard is secured to the chassis.
3. *The Serial Advanced Technology Attachment ("SATA") backplane cabling is attached:* after lining up the appropriate markings, the SATA cable is connected to the SATA Backplane by using a SATA cable tree.
4. *The molex connector and intrusion detectors are attached to the SATA backplane.*
5. *Preparation of the system board:* The CPU, CPU Cooler, and Random Access Memory ("RAM") are attached to the system board.
6. *Integration of the system board:* the system board is integrated into the chassis by aligning it with the mounting holes and ensuring proper alignment with the I/O shield. The system board, main power harness, and power connector are then secured to the chassis. The main power harness is attached to the system board.
7. *Fan kit assembly:* Fan connectors are plugged into internal ports.
8. *Routing and bundling of the front panel connectors:* Front panel connectors are appropriately routed and connected.
9. *Air shroud integration:* air shroud is positioned and attached to power cable.
10. *Signal Cables:* signal cables are connected to the system board in the appropriate order, from SATA 0 through SATA 3.
11. *Verify and ensure the cable routing and connections:* the intrusion detection cable is bundled and secured, and the "Chassis Intrusion" is attached next to the SATA connectors.
12. *Hard drive Integration:* hard drive fillers are removed from chassis.
13. *Install hard drives (parts from Bill of Materials) and secure:* the capacity of all hard drives is verified to ensure they are either 500 GB or 1000 GB. The hard drives are the systematically distributed on all order systems.
14. *Verify hardware integration:* the hardware is verified to ensure that the system boards with CPU, Heat sink, and RAM has been properly mounted; the heat sink has proper orientation and is properly mounted; the cable routing and connections are correctly implemented; the air-duct (black shroud) is properly attached to the system board; the hard drives are properly assembled in carrier and lock in place; and that the Intrusion Detection Switch and Connector has been properly integrated.
15. *Secure chassis:* the lid of chassis is secured with screws.
16. *First power on:* the system is connected to a power source. The Network Interface Card ("NIC") is connected to the "Staging Services". The keyboard and mouse are plugged in. The power system is turned and checked for any abnormalities. The boot process is checked. The POST of system is tested to verify that there are no acoustical warnings.
17. *BIOS Configuration:* each system is booted into BIOS and all of the BIOS variables are reset to their defaults. The BIOS is then customized to run Scale's firmware and application software by adjusting fifteen separate settings.
18. *Diagnostic Testing:* after the system is rebooted, a technician performs a general diagnostic test and reboots again.
19. *Scale Image Loading:* on this reboot, a technician connects the ICS Unit to power and checks that the system's configuration is correct. After connecting the ICS Unit to a network, the technician loads the Company's proprietary Operating System ("OS") application software image, which enables the ICS Unit to act as part of a Scale system. The technician must observe the entire load process to ensure

[1] *See* Newton's Telecom Dictionary (23rd Ed., 2007).

[2] Each node contains a number of physical hard disk drives. It is the underlying software technology, rather than the proprietary hardware and controllers, which manages the distribution of data across both individual drives and across nodes in the grid. *See* ICS White Paper 2009, available at *www.scalecomputing.com*.

[3] "Firmware" is a category of memory chips that hold their content without electrical power and include ROM, PROM, EPROM, and EEPROM technologies. Firmware becomes "hard software" when holding program code. *See* Alan Freedman's *The Computer Glossary* (9th Ed., 2001).

[4] You claim that, without the software, the ICS Units would behave like a standard, off-the-shelf rack storage unit.

that the ICS Unit is properly configured and accepts the OS load.

20. *Verification:* the technician now runs an MD5 Check-Sum program to confirm that the OS image on the ICS Unit is identical to Scale's proprietary OS image.

21. *Complete Integration and Verify:* the technician now reboots the ICS Unit again to verify the BIOS settings are correctly implemented. The ICS Unit is then shut down.

It takes approximately one hour to assemble each ICS Unit.

ISSUE:

What is the country of origin of the ICU Units for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

Pursuant to subpart B of Part 177, 19 C.F.R. § 177.21 *et seq.,* which implements Title III of the Trade Agreements Act of 1979, as amended ("TAA"; 19 U.S.C. § 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth at 19 U.S.C. § 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, 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 so transformed.

See also, 19 C.F.R. § 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with the Federal Procurement Regulations. *See* 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Procurement Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. *See* 48 C.F.R. § 25.403(c)(1).

In order to determine whether a substantial transformation occurs when components of various origins are assembled to form completed articles, CBP considers the totality of the circumstances and makes such decisions on a case-by-case basis. The country of origin of the article's components, the extent of the processing that occurs within a given country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, facts such as resources expended on product design and development, extent and nature of post-assembly inspection procedures, and worker skill required during the actual manufacturing process will be considered when analyzing whether a substantial transformation has occurred; however, no one such factor is determinative.

In *Data General v. United States,* 4 CIT 182 (1982), the court determined that for purposes of determining eligibility under item 807.00, Tariff Schedules of the United States, the programming of a foreign PROM (Programmable Read-Only Memory chip) substantially transformed the PROM into a U.S. article. In programming the imported PROMs, the U.S. engineers systematically caused various distinct electronic interconnections to be formed within each integrated circuit. The programming bestowed upon each circuit its electronic function. That is, its "memory" which could be retrieved. A distinct physical change was effected in the PROM by the opening or closing of the fuses, depending on the method of programming. This physical alteration, not visible to the naked eye, could be discerned by electronic testing of the PROM. The court noted that the programs were designed by a project engineer with many years of experience in "designing and building hardware." While replicating the program pattern from a "master" PROM may be a quick one-step process, the development of the pattern and the production of the "master" PROM required much time and expertise. The court noted that it was undisputed that programming alters the character of a PROM. The essence of the article, its interconnections or stored memory, was established by programming. The court concluded that altering the non-functioning circuitry comprising a PROM through technological expertise in order to produce a functioning read only memory device possessing a desired distinctive circuit pattern was no less a "substantial transformation" than the manual interconnection of transistors, resistors and diodes upon a circuit board creating a similar pattern.

In *Texas Instruments v. United States, supra,* the court observed that the substantial transformation issue is a "mixed question of technology and customs law."

In C.S.D. 84–86, CBP stated:

We are of the opinion that the rationale of the court in the *Data General* case may be applied in the present case to support the principle that the essence of an integrated circuit memory storage device is established by programming . . . . [W]e are of the opinion that the programming (or reprogramming) of an EPROM results in a new and different article of commerce which would be considered to be a product of the country where the programming or reprogramming takes place.

Accordingly, the programming of a device that changes or defines its use generally constitutes substantial transformation. *See also* HQ 733085, dated July 13, 1990; and HQ 558868, dated February 23, 1995 (programming of SecureID Card substantially transforms the card because it gives the card its character and use as part of a security system and the programming is a permanent change that cannot be undone); HQ 735027, dated September 7, 1993 (programming blank media (EEPROM) with instructions on it that allows it to perform certain functions of preventing piracy of software constituted substantial transformation); *but see* HQ 732870, dated March 19, 1990 (formatting a blank diskette did not constitute substantial transformation because it did not add value, did not involve complex or highly technical operations and did not create a new or different product); HQ 734518, dated June 28, 1993 (concluding that motherboards were not substantially transformed by the implanting of the central processing unit on the board because, whereas in *Data General* use was being assigned to the PROM, the use of the motherboard had already been determined when the importer imports it).

You claim that Scale takes several individual components and combines them in the United States to make otherwise dormant electronic components into a usable customized data storage device. The motherboard is imported from China with integrated circuits, an EEPROM, transistors, diodes, a capacitor, resistors and communication buses. From the information provided, the board is solely or principally used with an ADP storage unit. Once imported, the motherboard will be installed in a chassis from China, along with various other non-originating components including a CPU from Malaysia, HDD from Thailand, memory module, air shroud, cables, and heat sink from

China, to complete a rack mounted server. Each of these components is made into a rack mounted storage device, classifiable under 8471.70.40, Harmonized Tariff Schedule ("HTSUS").

The device does not have pairing capability until the U.S.-made software is downloaded to it, which enables the device to function as a cloud computing device similar to a network storage RAID array (HDDs strung together to allow redundancy in different locations). The software completes a network storage function instead of just a HDD found in a rack mounted storage device. The RAID array storage subsystem components and HDD canisters usually include a disk array controller frame which effects the interface between the subsystem's storage units and a CPU. In this case, the software effects the interconnection between the CPU and the storage units, and the classification of the finished item becomes 8471.80.10, HTSUS. Thus, the imported components become a new product with a new name and classification.

In summary, Scale imports several components of foreign-origin, including a blank storage medium in the form of a hard disk drive, combines them into a finished product and loads propriety software using skilled technical effort. The customization and installation of firmware and application software make what would otherwise be a non-functioning rack storage unit, into Scale's proprietary clustered technology. As a result of the U.S. processing, we find that the imported component parts are substantially transformed and therefore, the country of origin of the ICS Units is the United States.

Please be advised, however, that whether the ICS Units may be marked "Made in the U.S.A." or with similar words, is an issue under the authority of the Federal Trade Commission ("FTC"). We suggest that you contact the FTC, Division of Enforcement, 6th and Pennsylvania Avenue, NW., Washington, DC 20508, on the propriety of markings indicating that articles are made in the United States.

HOLDING:

Based on the facts provided, the processing operations performed in United States impart the essential character to the ICS Units. As such, the ICS Units will be considered products of the United States for the purpose of government procurement.

Notice of this final determination will be given in the Federal Register as required by 19 C.F.R. § 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 C.F.R. § 177.31, that CBP reexamine the matter anew and issue a new final determination. Any party-at-interest may, within 30 days after publication of the Federal Register notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,
William G. Rosoff
for
Sandra L. Bell, *Executive Director*
Regulations and Rulings
Office of International Trade

[FR Doc. 2010–11726 Filed 5–17–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5421–FA–01]

Announcement of Funding Awards for the Indian Community Development Block Grant Program for Fiscal Year 2009

AGENCY: Office of Native American Programs, Office of Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Fiscal Year 2009 (FY 2009) Notice of Funding Availability (NOFA) for the Indian Community Development Block Grant (ICDBG) Program. This announcement contains the consolidated names and addresses of this year's award recipients under the ICDBG.

FOR FURTHER INFORMATION CONTACT: For questions concerning the ICDBG Program awards, contact the Area Office of Native American Programs (ONAP) serving your area or Deborah M. Lalancette, Office of Native Programs, 1670 Broadway, 23rd Floor, Denver, CO 80202, telephone (303) 675–1600. Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: This program provides grants to Indian tribes and Alaska Native Villages to develop viable Indian and Alaska Native communities, including the creation of decent housing, suitable living environments, and economic opportunities primarily for persons with low and moderate incomes as defined in 24 CFR 1003.4.

The FY 2009 awards announced in this Notice were selected for funding in a competition posted on HUD's Web site on May 29, 2009 (*http://portal.hud.gov/portal/page/portal/HUD/program_offices/administration/grants/fundsavail*). Applications were scored and selected for funding based on the selection criteria in that notice and Area ONAP geographic jurisdictional competitions.

The amount appropriated in FY 2009 to fund the ICDBG was $65,000,000. Of this amount $3,960,000 of this amount was retained to fund imminent threat grants in FY 2009. In addition, a total of $2,076,159 in carryover funds from prior years was also available. The allocations for the Area ONAP geographic jurisdictions, including carryover, are as follows:

Alaska	$6,859,040
Eastern/Woodlands	6,928,622
Northern Plains	9,194,667
Northwest	3,662,163
Southern Plains	13,734,388
Southwest	22,737,279
Total	$63,116,159

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat.1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 83 awards made under the various regional competitions in Appendix A to this document.

Dated: May 4, 2010.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.