DEPARTMENT OF HOMELAND SECURITY
Federal Emergency Management Agency


Missouri; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Missouri (FEMA–1961–DR), dated March 23, 2011, and related determinations.

DATES: Effective Date: April 11, 2011.


SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Missouri is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of March 23, 2011.

Camden County for Public Assistance.

Camden County for emergency protective measures (Category B), including snow assistance, under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.049, Disaster Housing Assistance to Individuals and Households—Presidentially Declared Disaster Areas; 97.049, Presidential Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidential Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,
Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–9351 Filed 4–15–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Certain Office Workstations


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 office workstations. Based upon the facts presented, CBP has concluded in the final determination that the U.S. is the country of origin of the office workstations for purposes of U.S. government procurement.

DATES: The final determination was issued on April 11, 2011. 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 on or before May 18, 2011.

FOR FURTHER INFORMATION CONTACT: Elif Erogulu, Valuation and Special Programs Branch: (202) 325–0277.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on April 11, 2011, 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 the Vivo and Ethospace office workstations which may be offered to the U.S. Government under an undesignated government procurement contract.

This final determination, Headquarters Ruling Letter (“HQ”) H134536, was issued at the request of Herman Miller, Inc. 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 assembly of the Vivo and Ethospace office workstations in the U.S., from parts made in China, Mexico, and the U.S., constitutes a substantial transformation, such that the U.S. 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: April 11, 2011.

Sandra L. Bell,
Executive Director, Regulations and Rulings, Office of International Trade.

Attachment

HQ H134536
April 11, 2011
OT:RR:CTF:VS H134536 EE
CATEGORY: Marking
Lisa A. Crosby, Sidley Austin, LLP, 1501 K Street, NW., Washington, D.C. 20005
RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. § 2511); Subpart B, Part 177, CBP Regulations; Office Workstations

Dear Ms. Crosby: This is in response to your correspondence of November 15, 2010, supplemented by your letter of March 10, 2011, requesting a final determination on behalf of Herman Miller, Inc. (“Herman Miller”), pursuant to subpart B of part 177, U.S. Customs and Border Protection (“CBP”) Regulations (19 C.P.R. § 177.21 et seq.).

Under the pertinent 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 as to 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 the Vivo and Ethospace office workstations. We note that Herman Miller 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:

Herman Miller is a U.S. supplier of furniture products and accessories for home, office, healthcare, and learning environments. The merchandise at issue is Herman Miller’s Vivo and Ethospace office workstations. You state that Herman Miller engineered and designed the office workstations wholly within the U.S. The assembly and installation of the office workstations, from U.S. and imported components, occurs in the U.S.

You state that the Vivo and Ethospace office workstations both feature “frame-and-tile” construction, which consists of a sturdy steel frame on which a variety of components can be hung, including shelving, storage units, drawer units, work surfaces, lighting, decorative tiles/panels, etc. The open frame also has a large capacity to house wiring and cable, permitting a workstation to accommodate computers, printers and other office equipment.

You state that the Vivo and Ethospace office workstations can be assembled in a
workstation, 83 percent is attributable to U.S. origin costs, including materials, labor, and overhead. Of the total cost of production for the Ethospace workstation, 98 percent is attributable to U.S. origin costs.

You state that Herman Miller self-manufactures many of the components used in its workstations at its Michigan facility. For example, with respect to the work surfaces used in its workstations, Herman Miller staff cut-to-size domestically-sourced raw particle board and then bond to each board a high pressure laminate top, a backer, and edge bands. With respect to the frames, Herman Miller staff roll form rolled steel (coils) from a domestic source into rails and stiles, which are then welded together using a special fixture to form the frames for its workstations. Staff then apply an autophoretic coating to the frames (requiring five stages) and attach glides to the bottoms of the frames. Herman Miller staff also manufacture the tiles used in workstations, using U.S.-origin raw materials.

You state that procedures for the Vivo and Ethospace office workstations are substantially similar. The first step in installing a workstation is to mark the perimeter for the workstation based on its layout. This is done by laying strips of tape on the ground in the form of the layout for the walls. Next, electrical and non-electrical wall bases are laid along the tape lines. The electrical bases are then wired, which entails running wires along the bases and connecting the wires to a power source and the electrical outlets in the bases.

Once the bases are in place, the frames for the wall panels, windows and other features of the workstation are installed. The frames are fitted on top of the bases and secured with brackets and hand-driven screws. As the frames are inserted, the electrical wiring is run through the interior of the frame as needed to accommodate the location of the power source.

The wall panels, windows and other special tiles are then installed in the bases and frames. The bottom of a wall panel is inserted into the slot of a base and the slots of the surrounding frame. This step is repeated until all of the wall panels are joined to their corresponding bases and frames. In some cases, a half-sized wall panel is used so that a window or special tile may be installed above it. A window/tile is attached to a half-size wall panel and the corresponding frame using brackets, hand-driven screws and other fasteners. This step is repeated until all wall panels and windows/tiles are securely connected.

Next, the frame connectors of the workstation are assembled. The connectors are slid into the frames. They are then secured with hand-driven screws and other fasteners. This step is repeated until all of the frames are connected.

The tops of the wall panels are then finished using the top edge caps and top plates to the top of each wall panel to eliminate rough edges. These items are then secured with hand-driven screws and other fasteners.

With the structure of the office workstation in place, the work surface is installed next. Brackets are mounted on the relevant panels and secured with hand-driven screws and other fasteners. The work surface is then placed on the brackets, adjusted to ensure that it is level, and secured with hand-driven screws and other fasteners. Open supports are added to either side of the work surface to enhance stability. They are secured to the work surface with hand-driven screws and other fasteners.

Shelves, flipper units, and sliding door storage units are then added to the office workstation in a similar manner. Brackets are first fitted and secured into place with hand-driven screws and other fasteners. Then, the shelves, flipper units and storage units are placed onto the brackets, leveled, and secured with hand-driven screws and other fasteners.

The bookcase is installed next by sliding it beside the relevant wall panels and ensuring that it is level. The leg glides are adjusted as necessary. A drawer handle also is added to the bookcase and installed using hand-driven screws.

You provided a copy of the product datasheets for the Vivo and Ethospace office workstations as well as photos of the representative configurations for a Vivo office workstation and an Ethospace office workstation. Additionally, you provided a copy of the design materials, the list of patents applicable to the Vivo and Ethospace office workstations, a video which depicts the installation procedures for the Vivo and Ethospace office workstations, the overview of Herman Miller’s installation certification program, the installation procedures, and a breakdown of the time typically required to install the representative Vivo and Ethospace workstations.

ISSUES:
1) What is the country of origin of the Vivo and Ethospace office workstations for the purpose of U.S. government procurement?
2) Whether Herman Miller is the ultimate purchaser of the imported components and whether only their outermost container needs to be marked.

LAW AND ANALYSIS:

Government Procurement

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 (19 U.S.C. § 2511 et seq.), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain “American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government.


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 Acquisition Regulations. See 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government’s purchase of products to U.S.-made or designated country end products for acquisition purposes under the TAA. See 48 C.F.R. § 25.403(c)(1). The Federal Acquisition Regulations define “U.S.-made end product” as:

* * * 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.

48 C.F.R. § 25.003.

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item’s components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, and use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, extent and nature of post-assembly inspection and testing procedures, and the degree of skill required during the actual manufacturing process may be relevant when determining whether a substantial transformation has occurred. No one factor is determinative.

In Carlstrom Furniture Industries v. United States, 65 Cust. Ct. 474 (1970), the U.S. Customs Court ruled that U.S. operations on imported chair parts constituted a substantial transformation, resulting in the creation of a new article of commerce. After importation, the importer assembled, fitted, and glued the wooden parts together, inserted steel pins into the key joints, cut the legs to length and leveled them, and in some instances, upholstered the chairs and fitted the legs with glides and casters. The court determined that the importer had to perform additional work on the imported chair parts and add materials to create a functional article of commerce. The court found that the operations were substantial in nature, and more than the mere assembly of the parts together.

In Headquarters Ruling Letter (“HQ”) 561258, dated April 15, 1999, CBP determined that the assembly of numerous imported workstation components with the U.S.-origin components, the essential and largest component of the workstation, into finished workstations constituted a substantial transformation. CBP found that the imported components lost their identity as leg brackets, drawer units, panels, etc. when they were assembled together to form a workstation.

In the instant case, the Vivo office workstation has approximately 40 components and the Ethospace office workstation has approximately 14 components which are proposed to be assembled in the U.S. Regarding both types of workstations, the major components such as the work surfaces, the frames, and the tiles are of U.S. origin. Regarding the Vivo workstation, the U.S.-sourced frames, connector covers, top cap connectors, finished ends, tiles, work surfaces, open supports, sliding door storage units, utility task lights, v-pull freestanding pedestals, and v-pull freestanding lateral files will be assembled with the imported components which will take approximately seven and a half hours. Regarding the Ethospace workstation, the U.S.-sourced frames, tiles, frames, connectors, finished ends, work surfaces, flipper door unit, shelf, task lights, and w-pull support pedestal will be assembled with the imported components which will take approximately seven hours. Under the described assembly process, we find that the foreign components lose their individual identities and become an integral part of a new article, the Vivo or the Ethospace office workstation, possessing a new name, character and use. Based upon the information before us, we find that the imported components that are used to manufacture the Vivo and the Ethospace office workstations, when combined with the U.S. origin components, are substantially transformed as a result of the assembly operations performed in the U.S., and that the country of origin of the Vivo and the Ethospace office workstations for government procurement purposes is the U.S.

**Marking**

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. §1304), provides that unless excepted, every article of foreign origin imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser and it will be acceptable to only mark the outer shipping container in which the foreign components were imported.

Similarly in this case, we find that Herman Miller is the ultimate purchaser since Herman Miller (or its distributor/representative) substantially transforms the imported components with U.S.-origin work surfaces into the finished workstations resulting in a substantial transformation and that provided the importer installed and assembled the components together, the importer would be the ultimate purchaser and it would be acceptable to only mark the outer shipping container in which the foreign components were imported.

**HOLDING:**

The imported components that are used to manufacture the Vivo and Ethospace office workstations are substantially transformed as a result of the assembly operations performed in the U.S. Therefore, we find that the country of origin of the Vivo and Ethospace office workstations for government procurement purposes is the U.S. Provided Herman Miller installs and assembles the components together, Herman Miller is the ultimate purchaser and it will be acceptable to only mark the outer shipping container in which the foreign components were imported.

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. Pursuant to 19 C.F.R. § 177.30, 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.
DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs

Renewal of Agency Information Collection for the Bureau of Indian Affairs Housing Improvement Program; Request for Comments

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is seeking comments on renewal of Office of Management and Budget (OMB) approval for the collection of information for the BIA Housing Improvement Program, 25 CFR 256. The information collection is currently authorized by OMB Control Number 1076–0084, which expires August 31, 2011.

DATES: Interested persons are invited to submit comments on or before June 17, 2011.

ADDRESSES: You may submit comments on the information collection to Les Jensen, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, Leslie.Jensen@bia.gov.

FOR FURTHER INFORMATION CONTACT: Les Jensen (907) 586–7397.

SUPPLEMENTARY INFORMATION:

I. Abstract

BIA is seeking renewal of the approval for the information collection conducted under 25 CFR 256, Housing Improvement Program, to determine applicant eligibility for housing improvement program services and to determine priority order in which eligible applicants may receive the program services. Approval for this collection expires on August 31, 2011. This information includes an application form. No changes are being made to the form or to the approved burden hours for this information collection.

II. Request for Comments

BIA requests that you send your comments on this collection to the location listed in the ADDRESSES section. Your comments should address: (a) The necessity of the information collection for the proper performance of the agencies, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

Please note that an agency may not sponsor or conduct, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the ADDRESSES section during the hours of 9 a.m.–5 p.m., Eastern Time, Monday through Friday except for legal holidays. Before including your address, phone number, e-mail address or other personally identifiable information, be advised that your entire comment—including your personally identifiable information—may be made public at any time. While you may request that we withhold your personally identifiable information, we cannot guarantee that we will be able to do so.

III. Data

OMB Control Number: 1076–0084.

Title: Bureau of Indian Affairs Housing Improvement Program, 25 CFR 256.

Brief Description of Collection: Submission of this information allows BIA to determine applicant eligibility for housing services based upon the criteria referenced in 25 CFR 256.9 (repairs and renovation assistance) and § 256.10 (replacement assistance). Enrolled members of Federally recognized Tribes, who live within a Tribe’s designated and approved service area, submit information on an application form. The information includes:

A. Applicant Information including: Name, current address, telephone number, date of birth, social security number, Tribe, roll number, reservation, marital status, name of spouse, date of birth of spouse, Tribe of spouse, and roll number of spouse.

B. Family Information including: Name, date of birth, relationship to applicant, and Tribe/roll number.

C. Income Information: Earned and unearned income.

D. Housing Information including: Location of the house to be repaired, constructed, or purchased; description of housing assistance for which applying; knowledge of receipt of prior Housing Improvement Program assistance, amount to whom and when; ownership or rental; availability of electricity and name of electric company; type of sewer system; water source; number of bedrooms; size of house, and bathroom facilities.

E. Land Information including: Landowner; legal status of land; or type of interest in land.

F. General Information including: Prior receipt of services under the Housing Improvement Program and description of such; ownership of other housing and description of such; identification of Housing and Urban Development-funded house and current status of project; identification of other sources of housing assistance for which the applicant has applied and been denied assistance, if applying for a new housing unit or purchase of an existing standard unit; and advisement and description of any severe health problem, handicap or permanent disability.

G. Applicant Certification including: Signature of applicant and date, and signature of spouse and date.

Response is required to obtain a benefit.

Type of Review: Extension without change of a currently approved collection.

Respondents: Individuals.

Number of Respondents: 8,000 per year, on average.

Total Number of Responses: 8,000 per year, on average.

Frequency of Response: Once.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden: 8,000 hours.

Dated: April 11, 2011.

Alvin Foster,
Acting Chief Information Officer—Indian Affairs.