

## 25.001 General.

(a) [41 U.S.C. chapter 83](#), Buy American-

(1) Restricts the purchase of *supplies*, that are not *domestic end products*, for use within the *United States*. A *foreign end product* may be purchased if the *contracting officer* determines that the price of the lowest *domestic offer* is unreasonable or if another exception applies (see [subpart 25.1](#)); and

(2) Requires, with some exceptions, the use of only *domestic construction materials* in contracts for *construction* in the *United States* (see [subpart 25.2](#)).

(b) The restrictions in the Buy American statute are not applicable in *acquisitions* subject to certain trade agreements (see [subpart 25.4](#)). In these *acquisitions*, *end products* and *construction materials* from certain countries receive nondiscriminatory treatment in evaluation with *domestic offers*. Generally, the dollar value of the *acquisition* determines which of the trade agreements applies. Exceptions to the applicability of the trade agreements are described in [subpart 25.4](#).

(c) The test to determine the country of origin for an *end product* under the Buy American statute (see the various country "*end product*" definitions in [25.003](#)) is different from the test to determine the country of origin for an *end product* under the trade agreements, or the criteria for the representation on *end products* manufactured outside the *United States* (see [52.225-18](#)).

(1) The Buy American statute uses a two-part test to define a "*domestic end product*" or "*domestic construction material*" (manufactured in the *United States* and a domestic content test). The domestic content test has been waived for *acquisition* of commercially available off-the-shelf (COTS) items, except a product that consists wholly or *predominantly of iron or steel or a combination of both* (excluding COTS *fasteners*) (see [25.101\(a\)](#) and [25.201\(b\)](#)).

(2) Under the trade agreements, the test to determine country of origin is "substantial transformation" (*i.e.*, transforming an article into a new and different article of commerce, with a name, character, or use distinct from the original article).

(3) For the representation at [52.225-18](#), the only criterion is whether the place of manufacture of an *end product* is in the *United States* or outside the *United States*, without regard to the origin of the *components*.

(4) When using funds appropriated under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5), the definition of "*domestic manufactured construction material*" requires manufacture in the *United States* but does not include a requirement with regard to the origin of the *components*. If the *construction material* consists wholly or predominantly of iron or *steel*, the iron or *steel* must be produced in the *United States*.

**Parent topic:** [Part 25 - Foreign Acquisition](#)