

## 25.606 Postaward determinations.

(a) If a contractor requests a determination regarding the inapplicability of section 1605 of the Recovery Act or the Buy American statute after contract award, the contractor *must* explain why it could not request the determination before contract award or why the need for such determination otherwise was not reasonably foreseeable. If the *contracting officer* concludes that the contractor *should* have made the request before contract award, the *contracting officer* may deny the request.

(b) The *contracting officer* *must* base evaluation of any request for a determination regarding the inapplicability of section 1605 of the Recovery Act or the Buy American statute made after contract award on information required by paragraphs (c) and (d) of the applicable clause at [52.225-21](#) or [52.225-23](#) and/or other readily available information.

(c) If a determination, under [25.603\(a\)](#), is made after contract award that an exception to section 1605 of the Recovery Act or to the Buy American statute applies, the *contracting officer* *must* negotiate adequate consideration and modify the contract to allow use of the *foreign construction material*. When the basis for the exception is the unreasonable cost of a *domestic construction material*, adequate consideration is at least the differential established in [25.605\(a\)](#).

**Parent topic:** [Subpart 25.6 - American Recovery and Reinvestment Act-Buy American statute-Construction Materials](#)