



Procurement – Part II

Buy American Provision

School Nutrition Programs

November 2020



Delaware
Department of Education



Buy American Provision

- Added to the National School Lunch Act by Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-786)
- Domestic commodity or product
 - An agricultural commodity or product that is produced or processed in the United States using substantial agricultural commodities that are produced in the United States.



Buy American Provision

Substantial

- Over 51 % of the final processed product must consist of agricultural commodities that were grown domestically

Applies to SFAs

- Purchasing commercial products for use in School Nutrition Programs



Buy American Provision

Unprocessed Foods

- For foods that are unprocessed, the agricultural commodities must be domestic

Processed Foods

- For foods that are processed, they must be processed domestically using domestic agricultural food components that are comprised of over 51% domestically grown items, by weight or volume



School Nutrition Funds

Funds in food service account include:

- Federal Funds
- Payment for meals
- Sales of competitive foods
- Other



Complying with Buy American

- Use Buy American Provision language
 - Product specifications
 - Bid solicitations
 - Invitation for Bid
 - Request for Proposal
 - Contracts
- Require suppliers to attest that their final food products are either 100% domestic commodities or a processed food product containing over 51% domestic food components
- Check products at time of delivery
- Monitor contractor performance



Complying with Buy American

Additional Formal Procurement Language Should Include:

- The need for documentation that requests consideration on the use of domestic alternative foods before approving an exception
- A requirement to document the use of a non-domestic food exception when competition reveals the cost of domestic food is significantly higher than non-domestic food
- A requirement to document the use of a non-domestic alternative food due to the domestic food not being produced or manufactured in sufficient and reasonable available quantities of a satisfactory quality



Exceptions to Buy American

There are two exceptions to the Buy American Provision:

- The food or food product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality
- Competitive bids reveal the cost of a United States food or food product is significantly higher than the nondomestic product

Note: It is up to each individual School Food Authority to determine if a domestic food item meets one of these two exceptions. SFAs must keep documentation justifying their use of the exception prior to purchase of the product.



USDA Foods

USDA Foods

- Are domestic
- Processed end products that contain USDA foods need to meet the 51% domestic requirement



Thank you!

This concludes the Procurement Part II - Buy American Provision training.

Be sure to take the short quiz and access the resources.

Professional Standards: 0.5 Hours

Training Topic:

2000 Operations; 2400 Purchasing/Procurement

