



Buy American Provision:

Section 104 (d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336) added a provision, section 12(n) to the NSLA (42 USC 170 (n)), requiring school food authorities to purchase, to the maximum extent practicable, domestic commodity or product. Domestic commodity or product is defined as an agricultural commodity that is produced in the United States and a food product that is processed in the United States using substantial agricultural commodities that are produced in the United States.

Limited Exceptions:

Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved upon request. Exceptions include:

1. The product is not produced or manufactured in the U.S in sufficient and reasonable available quantities of a satisfactory quality; or
2. Competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product.

Limited exceptions to the Buy American Provision allow for the purchase of products not meeting the “domestic” standard. Before utilizing an exception, alternatives must be considered:

1. Are there other domestic sources for this product?
2. Is there a domestic product that could be easily substituted, if the non-domestic product is less expensive?
3. Am I soliciting bids for this product at the best time of year? If I contracted earlier or later in the season, would prices and/or availability change?

To be considered for the alternative or exception, the request must be submitted in writing to a designated official, in advance of delivery. The request must include the:

1. Alternative substitute (s) that are domestic and meet the required specifications:
 - a. Price of the domestic food alternative substitute (s); and
 - b. Availability of the domestic alternative substitute (s) in relation to the quantity ordered.
2. Reason for exception: limited/lack of availability or price (include price):
 - a. Price of the domestic food product; and
 - b. Price of the non-domestic product that meets the required specification of the domestic product.

Buy American Documentation Worksheet:

If using one of the above exceptions, documentation must be kept on file justifying the exceptions. Utilize this worksheet to document compliance with the Buy American Provision.

