

**Washington State Homeland Security Section
Information Bulletin**

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Subject: **Buy American Act Guidelines**

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Approved:


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- I. What is the Buy American Act?**
- II. When to comply with the Buy American Act**
- III. Exceptions to the Buy American Act**
- IV. How to document compliance with the Buy American Act**

I. What is the Buy American Act?

The Buy American Act passed in 1954 restricts purchase with federal funds of equipment and supplies that are not “domestic end products.” Domestic end products are defined as:

- a. An article manufactured in the United States.
- b. An article where the cost of the U.S.-made components exceeds 50% of the cost of all of the components.

II. When to comply with the Buy American Act

Those grants authorized under the Stafford Act, such as the Emergency Management Performance Grant (EMPG), must comply with Buy American. Other Homeland Security Grant funded programs, however, do not need to comply with Buy American.

Compliance with the Buy American Act is required when purchasing supplies or equipment with EMPG funds unless the purchases fall under one of the exceptions described below.

III. Exceptions to the Buy American Act

Micro-Purchase Threshold: If the supplies or equipment purchased fall below the micro-purchase threshold the Buy American Act does not apply.

- For general equipment or supplies, if the total cost is less than \$2,500 the Buy American Act does not apply.

- For supplies or equipment used to support a contingency operation or facilitate defense against or recovery from chemical, biological, radiological, or nuclear (CBRN) attacks if the total cost is less than \$15,000 the Buy American Act does not apply.

Non-availability: Compliance with the Buy American Act is not required if the supplies or equipment being purchased are not produced or manufactured in the U.S. in sufficient and reasonable quantities or of good quality.

- Some standard non-available items include microprocessor chips and spare or replacement parts for equipment made outside the U.S.

Unreasonable Cost: The Buy American Act does not apply if it is determined that the cost of buying an American-made product is unreasonable.

- If the total cost of purchasing the cheapest U.S. made product is more than 6% higher than purchasing the cheapest foreign product, the cost can be considered unreasonable and therefore purchase of the foreign product is allowable.

Information Technology: The Buy American Act requirement to purchase American-made goods does not apply when purchasing information technology using FFY04 funds and later.

IV. How to document compliance with the Buy American Act

Documentation of compliance and non-compliance is an important part of the procurement process. It allows an auditor to see what factors were used to make the purchase decision. Documentation to show compliance or an exception allowing non-compliance should answer the following questions:

- Does the Buy American Act apply to this purchase?
- Why or why not? If it does not apply, what exception does it fall under?
- What is the rationale for purchasing this product?

This information could be incorporated into already existing procurement documents, approval forms, or an existing equipment inventory.

References

Office of Grants and Training Financial Management Guide
Title 41 U.S.C.
Federal Acquisition Regulation 25.1
48 CFR 2
48 CFR 13