

25.604 Preaward determination concerning the inapplicability of section 1605 of the Recovery Act or the Buy American statute.

(a) For any *acquisition*, an *offeror* may request from the *contracting officer* a determination concerning the inapplicability of section 1605 of the Recovery Act or the Buy American statute for specifically identified *construction materials*. The time for submitting the request is specified in the *solicitation* in paragraph (b) of either [52.225-22](#) or [52.225-24](#), whichever applies. The information and supporting data that *must* be included in the request are also specified in the *solicitation* in paragraphs (c) and (d) of either [52.225-21](#) or [52.225-23](#), whichever applies.

(b) Before award, the *contracting officer* must evaluate all requests based on the information provided and may supplement this information with other readily available information.

(c) Determination based on unreasonable cost of *domestic construction material*.

(1) *Manufactured construction material*. The *contracting officer* must compare the offered price of the contract using foreign *manufactured construction material* (i.e., any *construction material* not manufactured in the *United States*, or *construction material* consisting predominantly of iron or *steel* and the iron or *steel* is not produced in the *United States*) to the estimated price if all domestic *manufactured construction material* were used. If use of domestic *manufactured construction material* would increase the overall offered price of the contract by more than 25 percent, then the *contracting officer* shall determine that the cost of the domestic *manufactured construction material* is unreasonable

(2) *Unmanufactured construction material*. The *contracting officer* must compare the cost of each foreign *unmanufactured construction material* to the cost of domestic *unmanufactured construction material*. If the cost of the domestic *unmanufactured construction material* exceeds the cost of the foreign *unmanufactured construction material* by more than 20 percent, then the *contracting officer* shall determine that the cost of the domestic *unmanufactured construction material* is unreasonable.

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