

# 52.225-3 Buy American-Free Trade Agreements-Israeli Trade Act.

As prescribed in 25.1101 (b)(1)(i), insert the following clause:

Buy American-Free Trade Agreements-Israeli Trade Act (Nov 2023)

(a) *Definitions*. As used in this clause—

*Bahraini, Moroccan, Omani, Panamanian, or Peruvian end product* means an article that—

- (1) Is wholly the growth, product, or manufacture of Bahrain, Morocco, Oman, Panama, or Peru; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain, Morocco, Oman, Panama, or Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the *end product* includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

*Commercially available off-the-shelf (COTS) item*—

(1) Means any item of supply (including *construction* material) that is-

(i) A *commercial product* (as defined in paragraph (1) of the definition of “*commercial product*” at Federal Acquisition Regulation (FAR) 2.101);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural *products* and petroleum *products*.

*Component* means an article, material, or supply incorporated directly into an *end product*.

*Cost of components* means—

(1) For *components* purchased by the Contractor, the *acquisition* cost, including transportation costs to the place of incorporation into the *end product* (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For *components* manufactured by the Contractor, all costs associated with the manufacture of the *component*, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. *Cost of components* does not include any costs associated with the manufacture of the *end product*.

*Critical component* means a *component* that is mined, produced, or manufactured in the *United States* and deemed critical to the U.S. supply chain. The list of *critical components* is at FAR 25.105.

*Domestic end product* means—

(1) For an *end product* that does not consist wholly or *predominantly of iron or steel or a combination of both*—

(i) An unmanufactured *end product* mined or produced in the *United States*;

(ii) An *end product* manufactured in the *United States*, if—

(A) The cost of its *components* mined, produced, or manufactured in the *United States* exceeds 60 percent of the cost of all its *components*, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029. *Components* of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. *Components* of unknown origin are treated as foreign. *Scrap* generated, collected, and prepared for processing in the *United States* is considered domestic; or

(B) The *end product* is a COTS item; or

(2) For an *end product* that consists wholly or *predominantly of iron or steel or a combination of both*, an *end product* manufactured in the *United States*, if the cost of *foreign iron and steel* constitutes less than 5 percent of the cost of all the *components* used in the *end product*. The cost of *foreign iron and steel* includes but is not limited to the cost of foreign iron or *steel mill products* (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the *end product* and a good faith estimate of the cost of all foreign iron or *steel components* excluding COTS *fasteners*. Iron or *steel components* of unknown origin are treated as foreign. If the *end product* contains multiple *components*, the cost of all the materials used in such *end product* is calculated in accordance with the definition of "*cost of components*".

*End product* means those articles, materials, and *supplies* to be acquired under the contract for public use.

*Fastener* means a hardware device that mechanically joins or affixes two or more objects together. Examples of *fasteners* are nuts, bolts, pins, rivets, nails, clips, and screws.

*Foreign end product* means an *end product* other than a *domestic end product*.

*Foreign iron and steel* means iron or *steel products* not produced in the *United States*. Produced in the *United States* means that all manufacturing processes of the iron or *steel must* take place in the *United States*, from the initial melting stage through the application of coatings, except metallurgical processes involving refinement of *steel* additives. The origin of the elements of the iron or *steel* is not relevant to the determination of whether it is domestic or foreign.

*Free Trade Agreement country* means Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore.

*Free Trade Agreement country end product* means an article that—

(1) Is wholly the growth, product, or manufacture of a *Free Trade Agreement country*; or

(2) In the case of an article that consists in whole or in part of materials from another country, has

been substantially transformed in a *Free Trade Agreement country* into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the *end product* includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

*Israeli end product* means an article that—

(1) Is wholly the growth, product, or manufacture of Israel; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Israel into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

*Predominantly of iron or steel or a combination of both* means that the cost of the iron and *steel* content exceeds 50 percent of the total cost of all its *components*. The cost of iron and *steel* is the cost of the iron or *steel* mill *products* (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or *steel components* excluding COTS *fasteners*.

*Steel* means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.

*United States* means the 50 States, the District of Columbia, and *outlying areas*.

(b) *Components of foreign origin*. Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.

(c) *Delivery of end products*. [41 U.S.C. chapter 83](#), Buy American statute, provides a preference for *domestic end products* for *supplies* acquired for use in the *United States*. In accordance with [41 U.S.C. 1907](#), the domestic content test of the Buy American statute is waived for an *end product* that is a COTS item (see [12.505\(a\)\(1\)](#)), except that for an *end product* that consists wholly or *predominantly of iron or steel or a combination of both*, the domestic content test is applied only to the iron and *steel* content of the *end product*, excluding COTS *fasteners*. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor *shall* deliver under this contract only *domestic end products* except to the extent that, in its *offer*, it specified delivery of *foreign end products* in the provision entitled "Buy American-Free Trade Agreements-Israeli Trade Act Certificate." If the Contractor specified in its *offer* that the Contractor would supply a *Free Trade Agreement country end product* (other than a *Bahraini, Moroccan, Omani, Panamanian, or Peruvian end product*) or an *Israeli end product*, then the Contractor *shall* supply a *Free Trade Agreement country end product* (other than a *Bahraini, Moroccan, Omani, Panamanian, or Peruvian end product*), an *Israeli end product* or, at the Contractor's *option*, a *domestic end product*.

(End of clause)

*Alternate I* [Reserved]

*Alternate II* (Dec 2022). As prescribed in [25.1101](#) (b)(1)(ii), substitute the following paragraph (c) for paragraph (c) of the basic clause:

(c) *Delivery of end products*. [41 U.S.C. chapter 83](#) provides a preference for *domestic end products*

for *supplies* acquired for use in the *United States*. In accordance with [41 U.S.C. 1907](#), the domestic content test of the Buy American statute is waived for an *end product* that is a COTS item (see [12.505\(a\)\(1\)](#)), except that for an *end product* that consists wholly or predominantly of iron or *steel* or a combination of both, the domestic content test is applied only to the iron and *steel* content of the *end product*, excluding COTS *fasteners*. In addition, the *Contracting Officer* has determined that the Israeli Trade Act applies to this *acquisition*. Unless otherwise specified, this trade agreement applies to all items in the Schedule. The Contractor *shall* deliver under this contract only domestic *end products* except to the extent that, in its *offer*, it specified delivery of *foreign end products* in the provision entitled “Buy American—Free Trade Agreements—Israeli Trade Act.” If the Contractor specified in its *offer* that the Contractor would supply an Israeli *end product*, then the Contractor *shall* supply an *Israeli end product* or, at the Contractor's *option*, a *domestic end product*.

*Alternate III* (Feb 2024). As prescribed in [25.1101](#) (b)(1)(iii), delete the definition of “Bahraini, Moroccan, Omani, Panamanian, or Peruvian *end product*” and add in its place the following definition of “Korean *end product*” in paragraph (a) of the basic clause; and substitute the following paragraph (c) for paragraph (c) of the basic clause:

*Korean end product* means an article that—

(1) Is wholly the growth, product, or manufacture of Korea (Republic of); or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Korea (Republic of) into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the *end product* includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(c) *Delivery of end products*. [41 U.S.C. chapter 83](#) provides a preference for *domestic end products* for *supplies* acquired for use in the *United States*. In accordance with [41 U.S.C. 1907](#), the domestic content test of the Buy American statute is waived for an *end product* that is a COTS item (see [12.505\(a\)\(1\)](#)), except that for an *end product* that consists wholly or predominantly of iron or *steel* or a combination of both, the domestic content test is applied only to the iron and *steel* content of the *end product*, excluding COTS *fasteners*. In addition, the *Contracting Officer* has determined that the Korea (Republic of) FTA and the Israeli Trade Act apply to this *acquisition*. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor *shall* deliver under this contract only domestic *end products* except to the extent that, in its *offer*, it specified delivery of *foreign end products* in the provision entitled “Buy American—Free Trade Agreements—Israeli Trade Act Certificate.” If the Contractor specified in its *offer* that the Contractor would supply a Korean *end product* or an *Israeli end product*, then the Contractor *shall* supply a Korean *end product*, an *Israeli end product*, or at the Contractor's *option*, a domestic *end product*.

*Alternate IV* (Oct 2022). As prescribed in [25.1101](#) (b)(1)(iv) substitute the following sentence for the first sentence of paragraph (1)(ii)(A) of the definition of *domestic end product* in paragraph (a):

(A) The cost of its *components* mined, produced, or manufactured in the *United States* exceeds \_\_\_ percent of the cost of all its *components*. [ *Contracting officer to insert the percentage.* ]

**Parent topic:** [52.225 \[Reserved\]](#)