



FAR FACTS
SEASON 2023, EPISODE FIFTEEN
FAR PART 25

1. Under the Buy American Act, a foreign end product may be purchased if the contracting officer determines that the price of the lowest domestic offer is unreasonable or if another exception applies. **FAR 25.001(a)(1)**.
2. Stated exceptions to the Buy American Act include:
 - Public Interest
 - Nonavailability
 - Unreasonable cost
 - Resale at a commissary
 - Information technology that is a commercial item.**FAR 25.103.**
3. The test to determine the “country of origin” for an end product under the Buy American Act is different from the test to determine country of origin for an end product under the trade agreements. It is also different from the criteria for the representation on end products manufactured outside the U.S. **FAR 25.001(c)**.
4. The Buy American statute uses a two-part test to define a domestic end product (manufactured in the United States and a formula based on cost of domestic components).
5. Under the trade agreements, the test to determine country of origin is “substantial transformation” (*i.e.*, transforming an article into a new and different article of commerce, with a name, character, or use distinct from the original article). **FAR 25.001(c)(2)**.
6. For contracts performed outside of the United States, the agency shall provide logistical or security support only when 1) the appropriate agency official determines that such support is available and needed to ensure continuation of essential contractor services and 2) the contractor cannot obtain adequate support from other sources at a reasonable cost. **FAR 25.301-2(a)**.
7. In accordance with the Trade Agreements Act, the President has waived the Buy American statute and other discriminatory provisions for eligible products from countries that have signed an international trade agreement with the U.S. or are a least developed country. **FAR 25.402**.
8. When evaluating foreign offers, the CO may rely on a contractor’s certification of end-product origin. **FAR 25.501(b)**.

6. Contract clauses that restrict country of origin should be flowed down from prime to subcontractor.
7. The prime is permitted to rely on the subcontractor's representations and certifications that the products supplied comply with the country-of-origin restrictions.
8. The CO must not use the Buy American statute evaluation factors prescribed in Subpart 25.500 to provide a preference for one foreign offer over another foreign offer. **FAR 25.501(d).**
9. Unless otherwise expressly permitted by the Office of Foreign Assets Control (OFAC), most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea into the United States or its outlying areas. **FAR 25.701.**
10. A list of individuals subject to economic sanctions is included in OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn>.