

Purpose of Modification:

The purpose of this modification is to update Clause I-34, FAR 52.225-2 Buy American Act – Supplies and to update the Table of Contents for Section I.

Description of Modification:

The following changes are hereby incorporated into the contract:

1. Section I, "Contract Clauses", Clause I-34, FAR 52.225-2 Buy American Act – Supplies (Jun 2003) is deleted in its entirety and replaced with the following:

I-34 FAR 52.225-1 Buy American Act - Supplies (Feb 2009) (AL2002-06)

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

"Commercially available off-the-shelf (COTS) item" –

- (1) Means any item of supply (including construction material) that is –
 - (i) A commercial item (As defined in paragraph (1) of the definition at 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 section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), 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.

"Domestic end product" means--

- (1) An unmanufactured end product mined or produced in the United States;
- (2) An end product manufactured in the United States, if –
 - (i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. 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. Scrap generated, collected, and prepared for processing in the United States is considered domestic; or

(ii) The end product is a COTS item.

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

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

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

- (b) The Buy American Act (41 U.S.C. 10a-10d) provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with 41 U.S.C. 431, the component test of the Buy American Act is waived for an end product that is a COTS item (See 12.505(a)(1)).
- (c) Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.
- (d) **[AL 2002-06]** The Contractor shall use only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the solicitation entitled "Buy American Act Certificate."

(End of Clause)

2. Section I, Table of Contents, is revised to update Clause I-34, FAR 52.225-2 Buy American Act – Supplies (Feb 2009) (AL 2002-06).

3. There are no other changes to the terms and conditions of the contract. The contractor hereby releases the Government from any and all liability under this contract for equitable adjustments attributable to this contract modification.

(End of Contract Modification M506)