

Federal Acquisition Regulation

52.225-2

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies—

(i) The systems of records; and

(ii) The design, development, or operation work that the contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the design, development, or operation of a system of records on individuals that is subject to the Act; and

(3) Include this clause, including this subparagraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor and any employee of the Contractor is considered to be an employee of the agency.

(c) (1) *Operation of a system of records*, as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

(2) *Record*, as used in this clause, means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) *System of records on individuals*, as used in this clause means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(End of clause)

52.225-1 Buy American Certificate.

As prescribed in 25.109(a), insert the following provision:

BUY AMERICAN CERTIFICATE (DEC 1989)

The offeror certifies that each end product, except those listed below, is a domestic end product (as defined in the clause entitled *Buy American Act—Supplies*), and that components of unknown origin are considered to have been mined, produced, or manufactured outside the United States.

Excluded End Products Country of Origin

(List as necessary)

Offerors may obtain from the contracting officer lists of articles, materials, and supplies excepted from the Buy American Act.

(End of provision)

[48 FR 42478, Sept. 19, 1983, as amended at 54 FR 48994, Nov. 28, 1989]

52.225-2 Waiver of Buy American Act for Civil Aircraft and Related Articles.

As prescribed in 25.109(c), insert the following provision:

WAIVER OF BUY AMERICAN ACT FOR CIVIL AIRCRAFT AND RELATED ARTICLES (JAN 1996)

(a) *Civil aircraft and related articles*, as used in this provision, means—

(1) All aircraft other than aircraft to be purchased for use by the Department of Defense or the U.S. Coast Guard;

(2) The engines (and parts and components for incorporation into the engines) of these aircraft;

(3) Any other parts, components, and sub-assemblies for incorporation into the aircraft; and

(4) Any ground flight simulators, and parts and components of these simulators, for use with respect to the aircraft, whether to be used as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of the aircraft, and without regard to whether the aircraft or articles receive duty-free treatment under section 601(a)(2) of the Trade Agreements Act of 1979.

(b) The U.S. Trade Representative has waived applying the Buy American Act to the acquisition of civil aircraft and related

articles (as defined in paragraph (a) of this clause) of countries or instrumentalities that are parties to the Agreement on Trade in Civil Aircraft. As of January 1, 1996, those countries and instrumentalities include Canada, the European Union (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom), Japan, Norway, Romania, and Switzerland.

(c) For the purpose of this waiver, an article is a product of a country or instrumentality only if—

(1) It is wholly the growth, product, or manufacture of that country or instrumentality; or

(2) In the case of an article that consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed 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 so transformed.

(d) The waiver is subject to modification or withdrawal by the U.S. Trade Representative.

(End of provision)

[48 FR 42478, Sept. 19, 1983, as amended at 60 FR 67517, Dec. 29, 1995]

52.225-3 Buy American Act—Supplies.

As prescribed in 25.109(d), insert the following clause:

BUY AMERICAN ACT—SUPPLIES (JAN 1994)

(a) The Buy American Act (41 U.S.C. 10) provides that the Government give preference to domestic end products.

Components, as used in this clause, means those articles, materials, and supplies incorporated directly into the end products.

Domestic end product, as used in this clause, means (1) an unmanufactured end product mined or produced in the United States, or (2) an end product manufactured in the United States, if 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 the products referred to in subparagraphs (b)(2) or (3) of this clause shall be treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

End products, as used in this clause, means those articles, materials, and supplies to be acquired for public use under this contract.

(b) The Contractor shall deliver only domestic end products, except those—

(1) For use outside the United States;

(2) That the Government determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality;

(3) For which the agency determines that domestic preference would be inconsistent with the public interest; or

(4) For which the agency determines the cost to be unreasonable (see section 25.105 of the Federal Acquisition Regulation).

(End of clause)

[48 FR 42478, Sept. 19, 1983, as amended at 51 FR 2666, Jan. 17, 1986; 53 FR 27468, July 20, 1988; 53 FR 36028, Sept. 16, 1988; 53 FR 53341, Dec. 30, 1988; 59 FR 547, Jan. 5, 1994]

52.225-4 Evaluation of Foreign Currency Offers.

As prescribed in 25.502, insert the following provision:

EVALUATION OF FOREIGN CURRENCY OFFERS (AUG 1996)

If offers are received in more than one currency, offers shall be evaluated by converting the foreign currency to United States currency using (*insert source of rate*) in effect on the (a) date of bid opening for sealed bid acquisitions, (b) closing date for negotiated acquisitions when award is based on initial offers, or (c) due date for receipt of best and final offers, for other acquisitions.

(End of provision)

[61 FR 31651, June 20, 1996]

52.225-5 Buy American Act—Construction Materials.

As prescribed in 25.205, insert the following clause in solicitations and contracts for construction inside the United States:

BUY AMERICAN ACT—CONSTRUCTION MATERIALS (MAY 1992)

(a) The Buy American Act (41 U.S.C. 10) provides that the Government give preference to domestic construction material.

Components, as used in this clause, means those articles, materials, and supplies incorporated directly into construction materials.

Construction material, as used in this clause, means an article, material, or supply brought to the construction site for incorporation into the building or work. Construction material also includes an item brought to the site pre-assembled from articles, materials or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems,