

Federal Acquisition Regulation

25.602

STEP 2: Determine whether foreign offers are eligible or noneligible offers (see 25.503(c)(2)):

	Domestic + eligible [percent]	Determination
A	N/A	Domestic
B	81,800/91,800=89.1%	Eligible
C	20,600/90,800=22.7%	Noneligible

STEP 3: Determine whether to apply an evaluation factor (see 25.503(c)(3)). The low offer (Offer C) is a foreign offer. There is no eligible offer lower than the domestic offer. Therefore, apply the factor to the low offer. Addition of the 6 percent factor (use 12 percent if Offer A is a small business) to Offer C yields an evaluated price of \$96,248 (\$90,800 + 6 percent). Award on Offer A (see 25.502(c)(4)(ii)). Note that, if Offer A were greater than Offer B, an evaluation factor would not be applied and award would be on Offer C (see 25.502(c)(3)).

[64 FR 72419, Dec. 27, 1999; 65 FR 4633, Jan. 31, 2000]

Subpart 25.6—Trade Sanctions

25.600 Scope of subpart.

This subpart implements sanctions imposed by the President pursuant to Section 305(g)(1) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)), on European Union (EU) member states that discriminate against U.S. products or services (sanctioned EU member states). This subpart does not apply to contracts for supplies or services awarded and performed outside the United States, or to the Department of Defense. For thresholds unique to individual agencies, see agency regulations.

25.601 Policy.

(a) Except as provided in 25.602, agencies must not award contracts for—

(1) Sanctioned EU country end products with an estimated acquisition value less than \$177,000;

(2) Sanctioned EU country construction with an estimated acquisition value less than \$6,806,000; or

(3) Sanctioned EU country services as follows (Federal Service Code or Category from the Federal Procurement Data System Product/Service Code Manual is indicated in parentheses):

(i) Service contracts regardless of acquisition value for—

(A) All transportation services, including launching services (all V codes, J019, J998, J999, and K019);

(B) Dredging (Y216 and Z216);

(C) Management and operation of certain Government or privately owned facilities used for Government purposes, including federally funded research and development centers (all M codes);

(D) Development, production or co-production of program material for broadcasting, such as motion pictures (T006 and T016);

(E) Research and development (all A codes);

(F) Airport concessions (S203);

(G) Legal services (R418);

(H) Hotel and restaurant services (S203);

(I) Placement and supply of personnel services (V241 and V251);

(J) Investigation and security services (S206, S211, and R423);

(K) Education and training services (all U codes and R419);

(L) Health and social services (all O and G codes);

(M) Recreational, cultural, and sporting services (G003); or

(N) Telecommunications services (encompassing only voice telephony, telex, radio telephony, paging, and satellite services) (S1, D304, D305, D316, D317, and D399).

(ii) All other service contracts with an estimated acquisition value less than \$177,000.

(b) Determine the applicability of sanction thresholds in the manner provided at 25.403(b).

[64 FR 72419, Dec. 27, 1999, as amended at 65 FR 36026, June 6, 2000]

25.602 Exceptions.

(a) The sanctions in 25.601 do not apply to—

(1) Purchases at or below the simplified acquisition threshold awarded using simplified acquisition procedures;

(2) Total small business set-asides in accordance with 19.502-2;

(3) Contracts in support of U.S. national security interests; or

(4) Contracts for essential spare, repair, or replacement parts not otherwise available from nonsanctioned countries.

(b)(1) The head of the agency, without power of redelegation, may authorize the award of a contract or class of contracts for sanctioned EU country end products, services, and construction, the purchase of which is otherwise prohibited by 25.601(a), if the head of the agency determines that such action is necessary—

- (i) In the public interest;
- (ii) To avoid the restriction of competition in a manner that would limit the acquisition in question to, or would establish a preference for, the services, articles, materials, or supplies of a single manufacturer or supplier; or
- (iii) Because there would be or are an insufficient number of potential or actual offerors to ensure the acquisition of services, articles, materials, or supplies of requisite quality at competitive prices.

(2) When the head of the agency makes a determination in accordance with paragraph (b)(1) of this section, the agency must notify the U.S. Trade Representative within 30 days after contract award.

Subpart 25.7—Prohibited Sources

25.701 Restrictions.

(a)(1) The Government generally does not acquire supplies or services that cannot be imported lawfully into the United States. Therefore, except as provided in paragraph (a)(2) of this section, even for overseas use, agencies and their contractors and subcontractors must not acquire any supplies or services originating from sources within, or that were located in or transported from or through

- (i) Cuba (31 CFR part 515);
- (ii) Iran (31 CFR part 560);
- (iii) Iraq (31 CFR part 575);
- (iv) Libya (31 CFR part 550);
- (v) North Korea (31 CFR part 500);
- (vi) Sudan (31 CFR part 538);
- (vii) Territory of Afghanistan controlled by the Taliban (Executive Order 13129 of July 4, 1999, Blocking Property and Prohibiting Transactions With the Taliban); or
- (viii) Serbia, excluding the territory of Kosovo (Executive Order 13121 of April 30, 1999, Blocking Property of the Governments of the Federal Republic of Yugoslavia (Serbia and Montenegro),

the Republic of Serbia, and the Republic of Montenegro, and Prohibiting Trade Transactions Involving the Federal Republic of Yugoslavia (Serbia and Montenegro) in Response to the Situation in Kosovo).

(2)(i) Unless agency procedures require a higher level of approval, the contracting officer may, in unusual circumstances, acquire for use outside the United States supplies and services restricted in paragraph (a)(1) of this section. Examples of unusual circumstances are an emergency or when the supplies or services are not otherwise available and a substitute is not acceptable.

(ii) The contracting officer must provide documentation in the contract file whenever this exception is used.

(b) Agencies and their contractors and subcontractors must not acquire any supplies or services from entities controlled by the Government of Iraq or other specially designated nationals (31 CFR Chapter V, Appendix A).

[64 FR 72419, Dec. 27, 1999, as amended at 65 FR 36028, June 6, 2000]

25.702 Source of further information.

Refer questions concerning the restrictions in 25.701 to the Department of the Treasury, Office of Foreign Assets Control, Washington, D.C. 20220 (Telephone (202) 622-2520).

[65 FR 36028, June 6, 2000]

Subpart 25.8—Other International Agreements and Coordination

25.801 General.

Treaties and agreements between the United States and foreign governments affect the evaluation of offers from foreign entities and the performance of contracts in foreign countries.

25.802 Procedures.

(a) When placing contracts with contractors located outside the United States, for performance outside the United States, contracting officers must—

- (1) Determine the existence and applicability of any international agreements and ensure compliance with these agreements; and