

components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. (In determining whether a construction material is domestic, only the construction material and its components shall be considered.) The cost of each component includes transportation costs to the place of incorporation into the construction material and any applicable duty (whether or not a duty-free entry certificate is issued). Components of foreign origin of the same class or kind for which determinations have been made in accordance with § 12.810(a)(3) are treated as domestic.

*Foreign construction material*, as used in this section, means as construction material other than a domestic construction material.

*United States* (see § 12.705).

#### § 12.810 Policy.

(a) The Buy American Act requires that only domestic construction materials be used in construction in the United States, except when—

(1) The cost would be unreasonable as determined in accordance with § 12.815;

(2) The head of the grantee organization or a designee at a level no lower than the grantee's designated awarding official determines that use of a particular domestic construction material would be impracticable; or

(3) The head of the grantee organization or a designee at a level no lower than the grantee's designated awarding official determines the construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality (see § 12.720).

(b) When it is determined for any reasons stated in this section that certain foreign construction materials may be used, the excepted materials shall be listed in the agreement. Findings justifying the exception shall be available for public inspection.

#### § 12.815 Evaluating offers.

(a) The restrictions of the Buy American Act do not apply when the head of the grantee organization or a designee at a level no lower than the grantee's designated awarding official deter-

mines that using a particular domestic construction material would unreasonably increase the cost or would be impracticable.

(b) When proposed awards are submitted to the head of the grantee organization or a designee at a level no lower than the grantee's designated awarding official for approval, each submission shall include a description of the materials, including unit and quantity, estimated costs, location of the construction project, name and address of the proposed contractor, and a detailed justification of the impracticability of using domestic materials.

#### § 12.820 Violations.

Violation of the Buy American Act in the performance of a procurement construction contract under a grant or cooperative agreement is a cause for debarment. Information concerning a failure to comply with the clause at § 12.830, Buy American Act—Construction Materials, shall be promptly reported, investigated, and referred, when appropriate to the appropriate U.S. Department of the Interior employee responsible for administering the grant or cooperative agreement. (For debarment procedures, see subpart D of this part).

#### § 12.825 Solicitation provision and contract clause.

The grantee awarding official shall insert the clause at § 12.830, Buy American Act—Construction Materials, in solicitations for procurement contracts awarded under a grant or cooperative agreement for construction inside the United States.

#### § 12.830 Buy American Act—Construction materials.

As prescribed in § 12.825, insert the following clause in solicitations for procurement contracts awarded under a grant or cooperative agreement for construction inside the United States:

##### BUY AMERICAN ACT—CONSTRUCTION MATERIALS

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