



The Buy American Provision Requirements

- WHO:** School food authorities (SFAs) purchasing food using the nonprofit food service account
- WHAT:** Must purchase, to the maximum extent practicable, domestic commodities or products.*
- WHERE:** Contiguous states, Hawaii and Puerto Rico (7 CFR 210.21(d)(3) and 42 USC 1760(n)(4))
- WHY:** Provides healthy choices for children in the school meals; supports American agriculture, local economies; local, or small, minority, and women-owned businesses as required by Federal regulations; promotes American jobs; food safety; foods from local farmers

*The product's food component is the agricultural commodity. FNS defines food component as one of the food groups which comprises reimbursable meals. Food components are: meats/meat alternates, grains, vegetables, fruits, and fluid milk.

*Any agricultural product processed for serving in schools must be processed in the U.S. and contain over 51% of the product's food component, by weight or volume, from U.S. origin.

*Products of Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are domestic products as these are territories of the U.S.

IMPLEMENTATION. SFAs are to:

- Include Buy American in written procurement procedures and food solicitations and contracts;
- Include domestic requirements in bid specifications; monitor contracts to ensure vendors comply with the terms, conditions, and specifications; verify cost and availability of domestic and alternatives prior to approving the purchase of non-domestic foods. SEE: <https://marketnews.usda.gov/mnp/fv-report-config-step1?type=termPrice>.

State agencies are to:

- Include Buy American in prototypes documents, if available.
- USDA Foods comply with Buy American. Processed end products that contain USDA Foods need to contain over 51% domestic food components, by weight or volume.

Two limited exceptions to Buy American: allows SFAs to purchase non-domestic foods after first considering domestic alternatives. Exceptions include when domestic foods are not reasonably available in quantity or quality; or are prohibitively costly by competitive bid.

KEY TIPS FOR ENSURING COMPLIANCE WITH THE BUY AMERICAN PROVISION: Include the Buy American requirement in written procurement procedures; Retain records documenting any exceptions; Ask supplier i.e., manufacturer/distributor, for specific % of U.S. content in processed end products; Include in the procurement process a requirement for certifying the domestic % of the agricultural food component of commodities and products, by weight or volume.