

Important Changes to the Buy American Act – Key Updates for Contractors

“The Buy American Act includes a preference for ‘domestic end products’ and ‘domestic construction materials’ on federal projects absent a waiver. Prior to recent revisions, domestic end products and domestic construction materials were those that were: 1) manufactured in the U.S.; and 2) made up of at least 50% domestic components or, alternatively, were Commercially Available Off-The-Shelf (COTS) items,” writes Casey J. McKinnon in *Cohen Seglias’ blog*.

“The FAR Council recently issued a final rule that makes substantial changes to the FAR’s Buy American requirements (FAR 52.225-1, 52.225-3, 52.225-9 and 52.225-11) in accordance with Executive Order 13881, ‘Maximizing Use of American-Made Goods, Products, and Materials.’ The revised FAR clauses became effective January 21, 2021, and are to be inserted in all new contracts beginning February 22, 2021. The final rule made three key changes to the FAR’s Buy American requirements:

- The domestic content requirement was increased from 50% to 55% for most products.
- The FAR will now impose a separate and more strict set of rules for any product that ‘consists wholly or predominantly’ of iron and/or steel. For such products, no COTS exception will apply, and costs for foreign iron and steel must be less than 5% of the total component costs (excluding costs for COTS fasteners).
- The price preferences for domestic products were increased from 6% to 20% for large businesses, and from 12% to 30% for small businesses.
- Contractors can use this flowchart to determine whether a product or material is ‘domestic’ under the revised

FAR provisions.”

Read the article.