

Sample Buy American Provision Language

For the School District Procurement Policy for Food Services:

The District will adhere to “Buy American” for the food service program. Therefore, Food Service is required to purchase, to the maximum extent possible, domestic products for use in meals served in our Child Nutrition Program. However, exceptions are allowed when:

- Food preferences can only be met with foreign goods such as Bananas, Mandarin Oranges, and Pineapple.
- Insufficient quantity and/or quality is available in the United States of America
- Domestic cost is **significantly** higher (*District should define “significantly” according to its budget, i.e. when the cost of a domestic item is 25% higher than a similar non-domestic item*)

Every solicitation will include a statement that the District requires bidders to comply with our domestic product use policy.

Samples for use in all product specifications, bid solicitations, requests for proposals (RFPs), contracts, purchase orders, and other procurement documents issued: (choose one that fits the situation.)

- As required by the Buy American provision, all products must be of domestic origin as required by 7 CFR Part 210.21(d). (210.21(d) is the Buy American Provision)

- The District participates in the National School Lunch Program and School Breakfast Program and is required to use the nonprofit food service funds, to the maximum extent practical, to buy domestic commodities or products for Program meals. A “domestic commodity or product” is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 CFR Part 210.21(d).

- Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved upon request. To be considered for the alternative or exception, the request must be submitted in writing to a designated official, a minimum of ___ day (s) in advance of delivery. The request must include the:
 - (a) Alternative substitute (s) that are domestic and meet the required specifications:
 - (i) Price of the domestic food alternative substitute (s); and
 - (ii) Availability of the domestic alternative substitute (s) in relation to the quantity ordered
 - (b) Reason for exception: limited/lack of availability or price (include price):
 - (i) Price of the domestic food product; and
 - (ii) Price of the non-domestic product that meets the required specification of the domestic product